ORIGINAL

IN THE SUPREME COURT OF OHIO

National Solid Wastes Management Association,	:	
Appellant,	:	**Case No. 2009-0211**
v.	:	
Stark-Tuscarawas-Wayne Joint Solid Waste Management District,	:	**On Appeal from the Stark County Court of Appeals, Fifth Appellate District**
Appellee.	:	

MERIT BRIEF OF APPELLEE STARK-TUSCARAWAS-WAYNE JOINT SOLID WASTE MANAGEMENT DISTRICT

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STATEMENT OF FACTS

A. Nature of the Case

Appellant National Solid Waste Management Association (the "Association") filed a complaint on December 13, 2006 seeking a declaration that rules adopted by appellee Stark-Tuscarawas-Wayne Joint Solid Waste Management District (the "District") exceeded statutory authority and were unconstitutional. Appellee filed an amended answer on January 18, 2007 and counterclaimed for a declaration that Rule 9.04, which related to recycling, was legally valid.

Cross-summary judgment motions were filed and denied. A bench trial was held August 8-9, September 4-5 and October 4, 2007. The trial court's judgment was filed December 18, 2007 declaring that Rule 9.04, the recycling rule, was valid, but changing its effective date and denying the remainder of the relief requested by appellant. This case was appealed to the court of appeals, which reversed and remanded on December 15, 2008, on the grounds that failure to join the Ohio Environmental Protection Agency (the "Ohio EPA") deprived the court of jurisdiction. This court then granted appellant's motion to exercise jurisdiction on the propositions of law that the Ohio EPA was not an indispensable party and that the rules exceeded statutory authority.

B. Statutory Scheme

In 1988 Ohio's solid waste laws set up local solid waste districts to prepare solid waste management plans and provide for safe and sanitary management of solid waste within the district's territory. R.C. 3734.52(A). In furtherance of these objectives, local solid waste districts were authorized to plan for and adopt local rules for the purpose of, among other things, ensuring adequate capacity and governing the maintenance, protection and use of solid waste facilities within the district. R.C. 3734.53(C)(1) and (2); R.C. 343.01(G)(1) and (2).

Ohio law also requires a statewide solid waste management plan. Both the state and local waste management plans are required to contain certain provisions promoting and planning recycling activities. R.C. 3734.50 and R.C. 3734.53.

The solid waste laws detail a schedule for initial solid waste plans as well as subsequent periodic amended plans. R.C. 3734.55 and R.C. 3734.56. In the event of failure to meet these schedules, the Director of the Ohio EPA is authorized to prepare the plan. However, under Ohio EPA policy, the determination of whether the Director will prepare an untimely plan is a matter of discretion. Supp. pp. 114-115, 9/5/07 Tr. 254-255.

C. Statement of Pertinent Facts

The District's initial solid waste management plan was approved on February 24, 1993. On December 9, 1999, the District submitted an amended solid waste management plan to the Ohio EPA, which was disapproved on March 10, 2000. On June 1, 2004, the Ohio EPA notified the District that it was initiating the process of preparing an amended plan for the District. Later, in June 2004, the District commenced preparation of an amended plan with the Ohio EPA's approval. Supp.p. 74, 9/5/07 Tr. 137. However, in September 2004 the Ohio EPA advised that it would be hiring a consultant to prepare an amended plan for the District. Supp. p. 75, 9/5/07 Tr. 138. In early 2005, the District submitted its amended plan to the Ohio EPA, which was disapproved. Supp. p. 84, 9/5/07 Tr. 147. The District and the Ohio EPA negotiated a memorandum of understanding ("MOU") regarding preparation of a joint amended plan on September 26, 2005. The MOU provided for adoption of local rules by the District contemporaneous with the implementation of the amended plan. Local rules were adopted by the District on November 3, 2006. Supp. p. 17, Pl. Ex. 3. The joint amended plan was ordered implemented by agreement on December 22, 2006. Appellant's Brief, Appx. D, p.12.

The MOU arose from a dispute between the District and the Ohio EPA as to whether the Ohio EPA would exercise its discretion to allow the District to prepare its own amended plan. Under the solid waste planning laws, the Ohio EPA was authorized to prepare an amended plan when the District's proposal was not approved in 1999. Nonetheless, the Ohio EPA had exercised its discretion to allow the District to prepare its own plan as late as June 2004. However, the Ohio EPA changed its mind in September 2004 and the District prepared to meet with the governor of the State of Ohio to intervene and direct the Ohio EPA to allow the District to prepare its own plan. Supp. pp. 54, 59, Schuring trial depo. pp. 8, 25.

Senator Kirk Schuring contacted the director of the Ohio EPA, Joseph Koncelik, in June or July of 2005 to discuss a resolution of the dispute. Supp. p. 55, Schuring trial depo. pp. 9-12. Senator Schuring scheduled a meeting with the Director and representatives of the District, as well as himself, for this purpose. Senator Schuring testified that the local rules were something that the District wanted to accomplish and that this was very integral and a centerpiece of the discussion which took place at the meeting leading to the MOU. Supp. p. 57, Schuring trial depo. pp. 18-19. The result of the meeting was the MOU, which provided that the amended plan would be prepared jointly and that the District would be able to adopt and enforce local rules. Supp. p. 58, Schuring trial depo. p. 21; Supp. p. 1, Def. Ex. A.

David Held, the director of the District, testified that the Ohio EPA initially exercised it's discretion to allow the District to prepare its own plan in 2004. Supp. p. 81, 9/5/07 Tr. 144. Subsequently, the Ohio EPA changed its mind in September, 2004. Supp. p. 74, 9/5/07 Tr. 137. As a result, the county commissioners, serving on the District's board, as well as other elected officials, prepared to go to the governor. Supp. p. 83, 9/5/07 Tr. 146. At this point, Senator Schuring intervened setting the meeting which resulted in the above-discussed MOU. Supp. p.

90, 9/5/07 Tr. 153. Director Held described the discussions regarding the issue of the local rules as follows:

> "Q. Please just describe the nature of the conversation regarding the issue of local rules.
>
> A. Well, the, ah, the rules were actually a key in this whole joint planning process, because one of the reasons that the district was so adamant about having our own plan is that it did give the district the ability to adopt district rules and, ah, and allowed the district, obviously, then to implement those rules.
>
> If we were under an Ohio EPA plan, it was made clear to me that the district would not have the ability to adopt or enforce rules.
>
> And so a joint agreement was satisfactory, came across as being satisfactory to the board because they, ah, recognized that they would have input, that they would be able to represent the interest of the people in the three-county area and they would also have the ability to adopt and enforce rules under a joint plan." Supp. pp. 90-91, 9/5/07 Tr. 153-154.

Director Koncelik acknowledged in his testimony that the Ohio EPA had discretionary authority regarding whether the Ohio EPA or the District would prepare an amended plan when the District does not do so timely. Supp. p. 114-115, 9/5/07 Tr. 254-255. Director Koncelik acknowledged that Senator Schuring called him and that he was open to compromise regarding the subject dispute. Supp. p. 112, 9/5/07 Tr. 252. He further testified that the MOU was a compromise reached between the District and the Ohio EPA. Supp. pp. 124-125, 9/5/07 Tr. 264-265. He stated that he had served as chief legal counsel for the Ohio EPA for the six years prior to becoming its director. Supp. p. 123, 9/5/07 Tr. 263. He stated that he had full access to the Ohio EPA's historical positions and was not aware of any Ohio EPA position that rules adopted prior to the Ohio EPA preparing an amended plan would be rendered ineffective. Supp. p. 121, 9/5/07 Tr. 261. He acknowledged that during the discussions leading up to the MOU, the

District was very concerned that once the Ohio EPA adopted an amended plan, the District's local rules would have no legal effect. Supp. p. 118, 9/5/07 Tr. 258.

The MOU provided, in Article I, that its purpose was to provide a mechanism for the development of a joint amended plan to be drafted collaboratively by the Ohio EPA and the District, to be prepared no later than November 30, 2006. Supp. p. 1, Def. Ex. A, Article I. The MOU provided that the Ohio EPA was charged with the duty of administering Ohio's solid waste planning laws and that it had authority to enter the MOU pursuant to R.C. 3745.01(C). Supp. p. 1, Def. Ex. A, Article II. In Article IV of the MOU, captioned "Commitments", the MOU provided that "Ohio EPA and the Waste District agree to the following: ... (2) if the Waste District elects to adopt local rules, it shall do so no later than November 30, 2006." Supp. p. 2, Def. Ex. A, Article IV.

The joint amended plan that was implemented by agreement on December 22, 2006, provided that it did not contain provisions relating to rule-making authority. However, it attached, as an exhibit, the previously adopted local rules.

The trial court determined that the intent of the MOU was to allow the District to adopt and enforce local rules:

> "I reject the plaintiff's argument that the MOU only permitted the District to adopt local rules before the director issued his plan. And therefore left the rules with a lifespan of weeks. This is in clear contradiction to the intent of the Memorandum of Understanding." Appellant's Brief, Appx. D, p. 7

Immediately after the MOU was entered, the District began a lengthy process of preparing local rules. Supp. p. 97, 100, 9/5/07 Tr. 160, 163. This process included extensive internal District board meetings, District committee meetings, and public hearings in the District's three counties. Supp. p. 97-99, 9/5/07 Tr. pp. 160-162. Extensive input was received from the District's residents and businesses, the affected landfills, the Association, and the Stark

County Health Department. Supp. pp. 98, 104, 9/5/07 Tr. p. 161, 167. The District had at least weekly communication with the Ohio EPA during this process, providing copies of drafts of the local rules and the opportunity for input. Supp. p. 100, 9/5/07 Tr. p.163.

The number of solid waste disposal facilities in Ohio has been reduced from 360 to 57 during the period of 1971 through 2005. Supp. p. 36, Pl. Ex. 14, p. 2. The District is home to two of the four largest disposal facilities in Ohio. Supp. p. 38, Pl. Ex. 14, p. 17. In 2005, the total amount of waste accepted by facilities with the District exceeded the total waste accepted in any other waste district in Ohio. Supp. pp. 39-43, Pl. Ex. 14, pp. 37-41. Household hazardous waste comprises one percent by weight of the solid waste disposal stream. Supp. p. 52, Pl.'s Motion for Summary Judgment, Ex. B, p. 81.

Recycling goals for Ohio's waste districts are based on two strategies 1) the provision of access to recycling opportunities such as drop-offs, or 2) the achievement of specified recycling rates for residential and commercial waste. Supp. p. 46-51, Pl.'s Motion for Summary Judgment, Ex. B, pp. 29-34. Despite these goals, the amount of waste recycled in Ohio dropped from 2002 to 2005, from 44% to 42% of the total waste generated. Supp. p. 37, Pl. Ex. 14, p. 7.

In preparing its local rules, the District adopted a recycling rule, Rule 9.04, for the following reason:

Q. Let me ask you this: What's the bigger picture? Why the recycling rule?

A. Well, our district, we're about 5% of the state's population and we bring in about 20% of the state's waste. And so when you look at our district, we bring in, let's say, anywhere between 3-1/2 million to 4 million, ah, tons of waste, ah, at the district, and, ah, about 800,000 comes from the district. So, about 70% -- and,

again, I'm estimating – of the waste we get into our district comes from outside the district.

And so we've had residents complain to us, why are we promoting our recycling standard and our recycling processes, when everybody else throughout the State of Ohio can just bring their waste in.

And so we thought we would adopt a rule that says if you're bringing waste into our district, then you have to meet the same recycling standards that we have here for Stark, Wayne and Tuscarawas County." Supp. p. 105-106, 9/5/07 Tr. p. 179-180.

The recycling rule precludes acceptance of waste from an originating district unless it meets or exceeds the District's access rate or its recycling percentage, or a waiver is obtained. Supp. p. 30, Pl. Ex. 3, pp. 13-14.

ARGUMENT

A. Proposition of Law No. I:

Since the Ohio EPA director did not adopt and cannot enforce STW's local solid waste management rules, neither he nor his agency is a necessary or indispensible party in this case.

Appellee agrees that R.C. 343.01(G) and R.C. 3734.53(C) provide solid waste management districts with authority to adopt and enforce local rules within a district's jurisdiction. Appellee also acknowledges that the director of the Ohio EPA (the "Director") does not have the power to enforce the rules at issue in this case. Appellee therefore agrees that the Director is not a necessary or indispensible party in this case.

B. Proposition of Law No. II:

The appellee district vastly exceeded the power to adopt and enforce rules conferred upon it by the general assembly by enacting and seeking to enforce rules which extensively regulate the design, its siting and operation of solid waste facilities after its planning authority had expired or been terminated by operation of law.

1. Appellee's Contention No. 1

The trial court's finding that the intent of the memorandum of understanding (the "MOU") was to permit the District to enforce local rules after adoption of the amended solid waste plan, was supported by competent credible evidence.

(a) Summary.

The initial point at issue is whether the District could enforce local rules after the adoption of an amended solid waste management plan prepared jointly by the Director and the District. The parties dispute whether the District could enforce its local rules adopted just prior to adoption of an amended solid waste management plan. The District's contention, which was adopted by the trial court, is that the MOU entered by the District and the Director, as well as applicable law, permitted enforcement of the local rules after adoption of the amended plan. The

Association contends that the trial court's interpretation of the MOU is incorrect or that the Director exceeded his authority in entering the MOU, arguing that applicable law does not permit enforcement of the local rules under the circumstances. The District maintains that the MOU was unclear and ambiguous or had a special meaning under the circumstances and that the trial court's interpretation must be upheld because it is a determination of fact which is supported by competent credible evidence. The District also maintains that the Director's interpretation of the laws he was administering in entering the MOU was reasonable and therefore entitled to deference.

(b) Standard of review.

The determination of whether a contract is ambiguous or unclear is a question of law subject to *de novo* review on appeal. *Watkins v. Williams*, Summit App. No. 22162, 2004-Ohio-7171 at ¶23, citing *Longbeach Assn., Inc. v. Jones* (1998), 82 Ohio St.3d 574, 576. When a contract is unclear or ambiguous, its interpretation is a determination of fact which is reviewed under the deferential weight of the evidence standard. *Center Ridge Ganley, Inc. v. Stinn* (1987), 31 Ohio St.3d 310, 314, citing *Seasons Coal Co. v. Cleveland* (1984), 10 Ohio St.3d 77. A trial court's finding of fact must be upheld by an appellate court if it is supported by competent and credible evidence. *Seasons Coal Co., Inc.*, 10 Ohio St.3d at 80.

(c) The MOU was unclear, ambiguous or had a special meaning under the circumstances surrounding the agreement with respect to whether the District could enforce local rules after they were adopted.

"[I]f a term cannot be determined from the four corners of a contract, factual determination of intent or reasonableness may be necessary to supply the missing term." *Davis v. Loopco Industries, Inc.* (1993), 66 Ohio St.3d 64, 66; *Inland Refuse Transfer Co. v. Browning-*

Ferris Indus. of Ohio, Inc. (1984), 15 Ohio St.3d 321, 322, citing *Hallet & Davis Piano Co. v. Starr Piano Co.* (1911), 85 Ohio St. 196.

"[W]hen the language of a contract is unclear or ambiguous, or when the circumstances surrounding the agreement invest the language of the contract with a special meaning, extrinsic evidence may be considered in an effort to give effect to the parties' intentions." *Shifrin v. Forest City Enterprises, Inc.* (1992), 64 Ohio St.3d 635, 638; see, also, *Kelly v. Medical Life Ins. Co.* (1987), 31 Ohio St.3d 130, 132.

"... [W]here a contract is equally subject to several interpretations, one of which presupposes rational action upon the part of all parties thereto and the other irrational action upon the part of one of the parties thereto, courts in seeking to determine the intention of the parties will assume that the parties entering into the contract were each exercising reason, and give to the contract such reasonable construction as it will bear." *Ohio Crane Co. v. Hicks* (1924), 110 Ohio St. 168, 172. Moreover, when construing a contract, a court must attempt to give effect to every provision of a contract if possible. *Foster Wheeler Enviresponse, Inc. v. Franklin County Convention Facilities Authority* (1997), 78 Ohio St.3d 353, 362, citing *Farmers' Natl. Bank v. Delaware Ins. Co.* (1911), 83 Ohio St. 309, paragraph six of the syllabus.

"As a general rule of construction, a court may construe multiple documents together if they concern the same transaction." *Center Ridge Ganley, Inc. v. Stinn*, 31 Ohio St.3d at 314.

The MOU, as extended, provided that a "Joint Solid Waste Management Plan" would be drafted collaboratively by the Ohio EPA and the District no later than November 30, 2006, and that the District may adopt local rules no later than November 30, 2006. The MOU also provided that the Ohio EPA is authorized to enter the agreement pursuant to R.C. 3745.01(C), which authorizes the Director to "advise, consult, cooperate, and enter into contracts or

agreements with ... political subdivisions ... in furtherance of the purposes of this chapter and chapter ... 3734 ... of the Revised Code. ..." The MOU further acknowledged that the Ohio EPA had the duty of administering Ohio's solid waste planning laws pursuant to R.C. 3734.50 through R. C. 3734.575. These sections are governed by R.C. 3734.02, which reiterates and expands the Director's contract authority as follows:

> "... The director may cooperate with and enter into agreements with other state, local or federal agencies to carry out the purposes of this chapter. The director may exercise all incidental powers necessary to carry out the purposes of this chapter."

This court has made clear that the power to interpret an authorizing statute is an incidental power of an administrative agency:

> "It was clearly the intention of the General Assembly to invest SERB with broad authority to administer and enforce R.C. Chapter 4117. (Citations omitted.) This authority must necessarily include the power to interpret the Act to achieve its purposes."
>
> *Lorain City School Dist. Bd. of Educ. v. State Employment Relations Bd.* (1988), 40 Ohio St.3d 257, 260.

The central issue to the parties in negotiating the MOU was the effect an amended solid waste management plan would have on the District's authority to enforce local rules. The result of these negotiations was that the MOU provided that the District may adopt local rules as long as they did so no later than November 30, 2006, contemporaneous with the deadline for the preparation of the joint amended solid waste management plan. The amended joint solid waste management plan subsequently contained two references to this issue, providing that R.C. 3734.55(D) prohibited a plan prepared by the Ohio EPA from authorizing the subsequent adoption of rules under R.C. 343.01(G). Supp. pp. 15, 16, Pl. Ex. 11, pp. 2-11, 9-1. The plan also emphasized, however, that "District rules that were previously adopted are contained in Appendix H." Supp. Pp. 15, 16, Pl. Ex. 11, pp. 2-11, 9-1.

One of the issues in this case is whether the Director, in entering the MOU, was interpreting the solid waste planning laws as allowing enforcement of local rules after adoption of an amended plan prepared by the Director. (Whether the Director's statutory interpretation was reasonable, and therefore within his authority, is a separate issue which will be addressed below). A threshold issue in interpreting the MOU is whether it was unclear, ambiguous or had a special meaning under the circumstances regarding this point.

The Association argues that the MOU was silent on this point. Appellant's Brief, p. 19. The District would agree that the language of the MOU does not address this point with specificity, and therefore is unclear on this point. As a result, the MOU is ambiguous in that it could reasonably be interpreted in two ways: 1) that the Director is agreeing that the District may prepare local rules, which will be unenforceable immediately after they are adopted; or 2) that the Director is agreeing that the local rules adopted under the District's existing plan will remain enforceable after adoption of the amended plan.

Interpreting the MOU as agreeing to adoption of local rules which will be immediately unenforceable would presuppose irrationality, particularly since this was the central objective and the only apparent consideration obtained by the District in entering the MOU. This court's precedent requires the assumption that the parties were exercising reason. Moreover, the interpretation that local rules may be adopted, but immediately unenforceable, would contradict the rule that a court must attempt to give effect to every provision if possible. Another factor to be considered is that any ambiguity in the MOU is to be strictly construed against its drafter, which in this case was the Director.

In addition, the circumstances surrounding the MOU invest it with special meaning, because the Director represented that he was acting under his authority to enter agreements to

carry out the purposes of the solid waste planning laws. Such authority would include the power to interpret the statutes being administered, to the extent reasonable, as discussed below. Other pertinent circumstances include: 1) the parties' negotiation of the effectiveness of the local rules; 2) the provision for adoption of the local rules contemporaneous with adoption of the amended plan; 3) the lengthy efforts involved in preparing the plans and the Director's extensive involvement in that process; and 4) the Director's attachment of the local rules to the amended plan.

(d) The trial court's finding regarding the intent of the MOU was supported by competent and credible evidence.

In *Center Ridge Ganley Inc. v. Stinn*, 31 Ohio St.3d 310, 313, this court addressed a circumstance where extrinsic evidence was admitted to explain contract terms in a manner not inconsistent with or contradictory to the language of the contract. However, this court declined to second guess the proper weight to be ascribed to that evidence citing *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77. The *Seasons* court emphasized that a trial court's decision is presumed correct and entitled to deference by a reviewing court. "A reviewing court should not reverse a decision simply because it holds a different opinion concerning the credibility of the witnesses and evidence submitted before the trial court." *Id.* at 81.

The trial court specifically rejected the Association's argument that the MOU permitted the District to adopt rules which immediately became unenforceable, finding that "this is in clear contradiction to the intent of the Memorandum of Understanding." Appellant's Brief, Appx. D, p. 7.

The District's director testified at trial regarding the context of the negotiations of the MOU. He testified that the Ohio EPA initially exercised its discretion to allow the District to prepare its own plan in 2004, but changed its mind in September of that year. Supp. p. 74, 9/5/07

Tr. 137. As a result, the District's board, which included nine county commissioners, along with other elected officials, prepared to go to the governor to attempt to persuade him to change his administration's position on this point. Supp. p. 84, 9/5/07 Tr. 147. The Director acknowledged in his testimony that the Director's preparation of an amended plan, when the District had not timely prepared one, was a matter of discretion. Supp. pp. 114-115, 9/5/07 Tr. 254-255. The District's director explained in testimony that the District was adamant about having its own plan so that it would have the ability to adopt and enforce local rules. Supp. pp. 90-91, 9/5/07 Tr. 153-154.

Prior to the meeting with the governor, State Senator Kirk Schuring intervened and contacted the Director to discuss a resolution of the dispute. Supp. p. 55, Schuring Trial Depo pp. 9, 12. The Director acknowledged that Senator Schuring called him and that he was open to a compromise regard the subject dispute. Supp. pp. 111-112, 9/5/07 Tr. 251-252.

Senator Schuring scheduled a meeting with the Director and representatives of the District, as well as himself, to resolve the dispute. Senator Schuring testified that the local rules were something that the District wanted to accomplish and that this was very integral and a centerpiece of the discussion which took place at the meeting leading to the MOU. Supp. p. 57, Schuring Trial Depo pp. 18, 19. The Director testified that the MOU was a compromise reached between the District and the OEPA. Supp. pp. 124-125, 5-11; 9/5/07 Tr. 264-265; Def. Exs. C and R; Pl. Ex. 19.

The Ohio EPA acknowledged at trial that the District's initial plan which authorized the adoption of local rules, was effective through December of 2006 up until the time the amended plan was adopted. Supp. pp. 126, 5-11; 9/5/07 Tr. 341, 8/9/07 Tr. 227; Def. Exs. C and R; Pl. Ex. 19.

The MOU contained provisions stating that a Joint Solid Waste Management Plan would be drafted collaboratively by designees of the District and the Director and prepared no later than November 30, 2006 and that the District could adopt local rules no later than that same date. Supp. pp. 1-2, Def. Ex. A, Art. I, Art. IV. The MOU also provided that the District would pay the Ohio EPA's costs in developing the plan, not to exceed $65,000.00. Supp. p. 2, Def. Ex. A, Art. IV. The only consideration received by the District in entering the MOU was a provision for the collaborative drafting of a Joint Solid Waste Management Plan and what they understood was an agreement that local rules adopted contemporaneously with the plan would remain enforceable after the amended plan was adopted. This was made clear in the District director's testimony that "... a joint agreement ... came across as being satisfactory to the board because ... they would also have the ability to adopt and enforce rules under a joint plan." Supp. p. 91, 9/5/07 Tr. 154.

(e) The Director's interpretation of the solid waste planning laws in entering the MOU is entitled to deference.

The trial court held that the intention of the MOU entered by the Director was to allow the District to enforce local rules, after implementation of the joint amended solid waste plan. Appellant argues that the Director exceeded his statutory authority by allowing enforcement of local rules after preparation of the amended plan. The issue is whether allowing enforcement of local rules after preparation of a joint amended plan is consistent with a permissible or reasonable interpretation of statute, and therefore entitled to deference from this court.

It is undisputed that the District's initial plan authorized adoption of rules at the time they were adopted. Supp. pp. 126, 5-11; 9/5/07 Tr. 341; 8/9/07 Tr. 227; Def. Exs. C and R; Pl. Ex. 19. The applicable statutes are silent as to whether local rules are unenforceable if subsequent amended plans do not repeat authorization to adopt local rules.

R.C. 343.01(G) defines the District's power to adopt rules, which is conditioned on authority in a solid waste plan. R.C. 343.01(G) does not provide for rules to become ineffective, if subsequent amended plans do not repeat authorization to adopt rules. Logically there would be no reason to reiterate authorization to adopt rules, when such rules are already adopted. In any event, there is a gap in the solid waste planning laws on this subject.

This court has made clear that administrative agencies have the authority to fill such gaps:

> "Unlike the court of appeals, we do not find the legislative gap equivalent to a lack of authority for the agency to act. As the United States Supreme Court has noted, "[t]he power of an administrative agency to administer a *** *program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly,* "by the legislature. (Emphasis added.) *Morton v. Ruiz*, (1974), 415 U.S. 199, 231, 94 S.Ct. 1055, 1072, 39 L.Ed.2d 270, 292. Our own *Swallow* case implicitly recognized that no set of statutes and administrative rules will answer each and every administrative concern. *Id.*, 36 Ohio St.3d 55, 521 N.E.2d 778. When agencies promulgate and interpret rules to fill these gaps, as they must often do in order to function, "courts *** must give due deference to an administrative interpretation formulated by an agency that has accumulated substantial expertise, and to which the General Assembly has delegated the responsibility of implementing the legislative command." *Id.* at 57, 521 N.E.2d at 779. We accord due deference to the BWC's interpretation, so long as it is reasonable.
>
> *Northwestern Ohio Bldg. & Constr. Trades Council v. Conrad* (2001), 92 Ohio St.3d 282, 289, 2001-Ohio-190.

As discussed above, the Director has specific authority to consult, cooperate and enter agreements with political subdivisions, such as the District, to carry out the purposes of the solid waste statute. R.C. 3745.01(C); R.C. 3734.02(B). The Director is further authorized to exercise "... all incidental powers necessary ..." to further such purposes including the power to interpret solid waste planning laws. R.C. 3734.02(B); *Lorain City School Dist. Bd. of Educ.*, 40 Ohio St.3d at 260. This court's precedents require that such interpretation be given due deference so long as it is reasonable.

Appellant argues that the Director's intent in the MOU to allow enforcement of the local rules after adoption of the amended plan, was an unreasonable interpretation of the solid waste planning laws.

This argument fails because: 1) the solid waste plan statute (R.C. 3734.53(C)) permits a plan to provide for adoption of rules, but not enforcement of rules; 2) it is not clear that authorization to adopt rules under R.C. 343.01(G) requires reiteration in subsequent plans after rules are adopted; 3) the solid waste plan statute permits a plan to specify deletion of elements of rule-making authority; and 4) it is not clear what the effect of a joint amended solid waste plan is on rule-making authority. These factors support the interpretation that the District's local rules remain enforceable after the joint amended plan. Given the trial court finding that the MOU entered by the Director intended the local rules to remain enforceable, such interpretation is entitled to deference under this court's precedent.

(1) Plans may provide for adoption, but not enforcement, of local rules.

The contents of solid waste plans are defined by statute. R.C. 3734.53(C) only permits a plan to provide for adoption of local rules ("The solid waste management plan of a ... joint district may provide for the adoption of rules ..."). There is no statute allowing a plan to provide for enforcement of local rules. Since the contents of a solid waste plan are defined by statute, arguably, a plan may not provide authority for enforcement. Authority for enforcement of local rules is found in R.C. 343.01 (G) and is also authorized by court precedent as a power incidental to the power to adopt local rules. *Texas Dept. of Human Services v. Christian Care Centers, Inc.* (Tex. 1992), 826 S.W.2d 715, 719-720; *Motor Truck Transfer v. Southwestern Transfer Co.* (Ark. 1938), 122 S.W.2d 471, 473. The power to enforce local rules does not need to be specified in solid waste plans, and therefore is not lost if not contained in an amended plan.

(2) Once rules are adopted, there is no requirement to reiterate authority to adopt rules in subsequent plans.

One of the functions of solid waste plans is to authorize adoption of local rules, while the actual adoption of local rules is a separate step, taken pursuant to a district's power to adopt, publish and enforce rules under R.C. 343.01(G). Under Ohio's solid waste planning laws, the functions of authorization and adoption of local rules are separate and distinct.

R.C. 343.01(G) provides that "[t]o the extent authorized by the solid waste management plan ... or subsequent amended plans ... a joint district may adopt, publish, and enforce rules ..." While it is clear that a district must have authorization in either an initial or amended plan in order to exercise its power to adopt rules; it is unclear whether rules once adopted become unenforceable, if authorization to adopt rules is not repeated in all subsequent amended plans.

A reasonable interpretation of the solid waste planning laws and R.C. 343.01(G) would be that once local rules are adopted there is no requirement to reiterate authority to adopt in subsequent plans. Logically, there would be no need to reiterate authority to adopt rules since that authority has already been exercised. Moreover, the solid waste planning laws don't allow for provisions for authority to enforce, so there is no basis for the argument that such authority must be reiterated in subsequent plans.

(3) Plans must specify deletion of elements of rule-making authority.

The interpretation that rule authority is lost, if not reiterated, is not consistent with the language of the statutes regarding initial plans and amended plans. The contents of an initial solid waste management plan are described in R.C. 3734.53 which provides at division (C) that such plans may authorize the adoption of rules under R.C. 343.01(G).

The contents of amended plans are described in R.C. 3734.56 which provides in division (A) that "an amended plan may incorporate any of the elements under division (C) [regarding

rule-making authority in R.C. 3734.53(C)] of that section that are not included in the District's initial plan or previous amended plans and may delete any of those elements that were contained in the initial plan or previous amended plans. By specifically providing that an amended plan may delete elements of rule-authority, the legislature expressed an intent that such rule-making authority would remain unaffected unless deleted.

Appellant does not dispute that the joint amended plan did not delete any rule-making authority. The only language in the amended plan regarding rule authority was the following:

> "Division (D) of Section 3734.55 of the O.R.C. prohibits a solid waste management plan prepared by the Ohio EPA from containing provisions as authorized by Division (C) of Section 3734.53 of the O.R.C. either providing for or ***precluding*** the adoption of rules under Division (G) of Section 343.01 of the O.R.C." Supp. p. 15, Pl. Ex. 11, p. 2-11. (Emphasis added.)

> "Section 3734.55(D) of the Revised Code prohibits a solid waste management plan prepared by Ohio EPA from containing provisions, as authorized by section 3745.53(C) [sic] of the Ohio Revised Code, that provide for the adoption of rules under section 343.01(G) of the Ohio Revised Code. District rules that were previously adopted are contained in Appendix H." Supp. p. 16, Pl. Ex. 11, p. 9-1.

This language recognizes that an amended plan prepared by the Director cannot contain provisions under R.C. 3734.53(C) regarding rule-making authority. However, it also recognizes that the plan contains no provision precluding adoption of local rules, thereby indicating that no deletion of rule-making authority has occurred. The statutory provision for deletion of rule authority is subject to the interpretation that mere omission of rule authority in subsequent plans would not effect previously adopted rules. The withdrawal of previously adopted rules would require a specified deletion of the underlying rule authority.

The statutory principle that statutes should be construed so as not to render any part meaningless or ineffective is relevant. This principle has been described by this court as follows:

> "Statutory language 'must be construed as a whole and given such interpretation as well give effect to every word and clause in it. No part should be treated as superfluous unless

that is manifestly required, and the court should avoid that construction which renders a provision meaningless or inoperative.' *State ex rel. Myers*, 95 Ohio St. at 372-373, 116 N.E. 516."

D.A.B.E., Inc. v. Toledo-Lucas Cty. Bd. of Health (2002), 96 Ohio St.3d 250, 256, 2002-Ohio-4172 at ¶ 26.

The Association argues for an interpretation that renders provisions in a related statute meaningless or inoperative. If we accept the Association's interpretation that rule-making authority must be reiterated in amended plans or lost, then the provision regarding deleting such rule-making authority would be superfluous and without meaning. Ohio law requires that statutes be construed insofar as possible to avoid such a result.

(4) The effect of a joint amended plan on rule-making authority is unclear.

The amended plan statute, R.C. 3734.56(A), provides that if a district does not prepare an amended plan in a timely fashion the Director may prepare it. It further provides that, if the Director prepares the amended plan, it may not contain provisions for rule-making authority under R.C. 3734.53(C). However, the solid waste planning laws are silent as to the effect that a joint amended plan prepared by the Director and the District, would have on rule-making authority. This gap is subject to the reasonable interpretation that a joint amended plan does not limit provisions for rule-making authority. This interpretation is implicit in the intent of the MOU to allow enforcement of the local rules after adoption of the joint amended plan. It bears emphasis that the Director's agreement to the joint amended plan was the compromise to resolve the District's concerns regarding enforcing its local rules.

(5) Conclusion.

The above considerations demonstrate that the Director's interpretation allowing continued enforcement of the local rules is a permissible or reasonable interpretation of Ohio's solid waste planning laws. Therefore it is entitled to deference.

2. Appellee's Contention No. 2

Rule 9.04, the recycling rule, is authorized by applicable statutes.

(a) Standard of review; the District's interpretation of its rule-making authority is entitled to deference.

An administrative agency's interpretation of legislative rule-making authority must be given deference, unless it contravenes an express provision of statute:

> "It is axiomatic that administrative rules are valid unless they are unreasonable, or in clear conflict with the statutory intent of the legislation governing the subject matter. When the potential for conflict arises, the proper subject for determination is whether the rule contravenes an express provision of the statute."
>
> *Woodbridge Partners Group, Inc. v. Ohio Lottery Comm.* (1994), 99 Ohio App.3d 269, 273.
>
> "It is axiomatic that if a statute provides the authority for an administrative agency to perform a specified act, but does not provide the details by which the act should be performed, the agency is to perform the act in a reasonable manner based upon a reasonable construction of the statutory scheme. (Citations omitted.) A court must give due deference to the agency's reasonable interpretation of the legislative scheme. (Citations omitted.)"
>
> *Northwestern Ohio Bldg. and Constr. Trades Council v. Conrad* (2001), 92 Ohio St.3d 282, 287-288.

In *Neinast v. Board of Trustees of the Columbus Metro. Library* (2006) 165 Ohio App.3d 211, 2006-Ohio-287 at ¶17, the court relying on the *Woodridge Partners Group* case, upheld the adoption of a rule prohibiting bare feet in a library. The *Neinest* court noted that the library board had statutory authority "to make and publish rules for the 'proper operation and management' of the public library under its jurisdiction pursuant to former R.C. 3375.40(H)." The court held that the footwear requirement was reasonably related to the legislative authority to make rules for proper operation and management.

This court has long recognized the principle that broad discretion is vested in administrative bodies and local authorities. *St. Stephen's Club v. Youngstown Metro. Housing*

Authority (1953), 160 Ohio St. 194, 200. The *Northwestern Ohio Bldg.* case, discussed above, is consistent with this longstanding principle of deferring to an agency's reasonable interpretation of its legislative authority. In *Northwest Ohio Bldg.*, the court addressed the rule-making authority of the administrator of workers' compensation to authorize payment of incentive fees to managed care organizations. The court detailed numerous statutes providing general and specific rule-making authority and rejected the argument that a gap in legislative authorizing language meant lack of authority.

> "When agencies promulgate and interpret rules to fill these gaps, as they must often do in order to function," ... courts must give due deference to an administrative interpretation formulated by an agency that has accumulated substantial expertise, and to which the General Assembly has delegated the responsibility of implementing the legislative command.' (Citation omitted.) We accord due deference to the BWC's interpretation, so long as it is reasonable. (Citation omitted.)"
>
> *Northwestern Ohio Bldg.*, 92 Ohio St.3d at 289.

The *Northwestern Ohio Bldg.* court went on to find that the BWC acted reasonably when it authorized the use of funds to pay managed care organizations and held that no provisions of the worker's compensation scheme expressly prohibited such use. *Northwestern Ohio Bldg.*, 92 Ohio St.3d at 289.

(b) The District is entitled to deference in its interpretation that Rule 9.04 is authorized by the District's rule-making authority to govern the use of solid waste facilities.

In the present case, R.C. 3734.52(A) provides that a joint solid waste management district has jurisdiction "... for the purposes of preparing, adopting, submitting, and implementing the solid waste management plan ... and for the purposes of providing for ... the safe and sanitary management of solid waste within all of the ... territory of the ... joint solid waste management district."

R.C. 343.01(G) builds upon the districts' authority under R.C. 3734.52(A) by providing:

> "(G) To the extent authorized by the solid waste management plan of the district ... the ... board of directors of a joint district may adopt, publish, and enforce rules doing any of the following:
>
> (2) Governing the maintenance, protection, and use of solid waste collection or other solid waste facilities located within its district. ..."

The District's recycling rule, Rule 9.04, is a reasonable interpretation of its legislative authority, which is entitled to this court's deference. The District has broad authority to provide for the safe and sanitary management of solid wastes and broad rule-making authority to govern the use of solid waste facilities within its boundaries. As this court has held "[t]he first rule of statutory construction is to give effect to the plain meaning of the words employed in the statute. *State ex. rel. Ohio Dept. of Health v. Sowald* (1992), 65 Ohio St.3d 338, 342. The plain meaning of the term 'use' clearly encompasses the use regulation contemplated by the recycling rule.

This court should defer to the District's interpretation in this regard, because it does have a reasonable relationship to the authorizing statutes. Moreover, R.C. 343.01(G)(1) does not expressly contravene Rule 9.04, as discussed below.

(c) Rule 9.04 is not precluded by rule-making authority to ensure adequate capacity.

The Association argues that Rule 9.04 is barred by R.C. 343.01(G)(1) and 3734.53(C)(1) which authorizes rules limiting solid waste from outside the district consistent with projections under R.C. 3734.53(A)(6) and (7).

However, Ohio case law provides that a provision granting a district authority to ensure adequate capacity does not limit the provision granting a district authority to govern the maintenance, protection and use of solid waste facilities. In *Clark County Solid Waste Management District v. Danis Clarkco Landfill Company* (1996), 109 Ohio App.3d 19, the court

rejected an argument similar to appellant's argument. *Danis* argued that R.C. 3734.53(A)(8), which authorized identifying sites to handle projected waste, precluded rule-making authority over sites not needed for projected waste. The *Danis* court held that the requirement to address one concern did not preclude addressing other concerns under the authority to govern maintenance, protection and use of solid waste facilities.

> "We disagree with Danis's statutory interpretation. The primary purpose of R.C. 3734.53(A) *is* assuring the long-term availability of solid waste disposal facilities. Indeed, the provision states that district plans *shall* address such concerns. However, R.C. 3734.53(C) states that district plans *may* address other concerns. Specifically, R.C. 3734.53(C)(2) grants districts rulemaking authority to govern the maintenance, protection, and use of solid waste facilities. ... This diverse rulemaking authority is consistent with R.C. 3734.52, which places all county territory 'under the jurisdiction of the county or joint solid waste management district for the purposes of preparing, adopting, submitting, and implementing the solid waste management plan for the county or joint district *and* for the purposes of providing for, or causing to be provided for, the safe and sanitary management of solid waste ....' (Emphasis added.)
>
> Consequently, we agree with the District that R.C. 3734.53(C)(2) and 343.01(G)(2) grants the District discretion to enforce rules subjecting all proposed facilities to its plan, which includes the detailed siting strategy. The language of this legislation is clear, and we find no relevant limitations on the express authority granted to the District. Indeed, through these statutes the Ohio General Assembly has afforded county districts the authority to require any proposed facility to comply with its solid waste plan.
>
> In the present case, the District's plan provides that all proposed facilities must meet the District's siting requirements. We find this provision entirely appropriate. The location of a proposed landfill, identified or not, certainly is a matter of local District concern, and we find nothing in the Revised Code prohibiting the District's action." *Id.* at 27-28.

The *Clark County* case makes clear that a district's authority to regulate is not limited to ensuring capacity but is also based on its delegated responsibility to provide for "the safe and sanitary management of solid waste" along with rule-making authority to "govern the maintenance, protection and use of solid waste facilities". Accordingly, there is no basis in

Ohio law for the Association's argument that the District's authority to regulate is limited to fulfilling projected needs for a plan.

While it is true that R.C. 343.01(G)(1) and 3734.53(C)(1) grant rule-making authority to ensure adequate capacity consistent with the District's plan, it is also true that the District has rule-making authority under R.C. 343.01(G)(2) and 3734.53(C)(2) to address other concerns such as providing for the maintenance, protection and use of solid waste facilities in furtherance of its statutory responsibility to provide for safe and sanitary management of solid waste. The rationale of the *Clark County* case demonstrates that the specification of one element of authority dos not necessarily preclude an exercise of authority consistent with another element of rule-making authority and the District's general statutory responsibilities.

(d) The District is entitled to deference in its interpretation that Rule 9.04 is also authorized by rule-making authority to ensure capacity.

Authority for Rule 9.04 may also be reasonably found in R.C. 343.01 (G)(1) and R.C. 3734.53(C)(1), which provides authority to adopt rules limiting receipt of solid wastes generated outside the District consistent with the projections under R.C. 3734.53(A)(6) and (7). These projections are subject to amendment under R.C. 3734.56. As a result, assessment of whether limitations on receipt of waste are consistent with the projections depends on the circumstances existing at the time of application of the rule.

The trial court held that the "... District did not exceed [its] lawful authority" and found "... Rule 9.04 to be valid as written." The Association had the burden of proving the factual issue of whether Rule 9.04 was being applied under circumstances where it was inconsistent with projections. Moreover, the Association failed to present proposed findings on this issue, despite having the opportunity to do so. The trial court did not specifically address this question of fact. "When the findings of fact leave some material fact undetermined, a reviewing court will

presume that the issue of fact was not proved by the party having the burden of proof." *Casto v. State Farm Mutual Automobile Insurance Company* (1991), 72 Ohio App.3d 410, 415.

Accordingly, this court should presume that the Association failed to prove that Rule 9.04 was being applied under circumstances inconsistent with projections. As a result, the trial court's judgment on this point should be upheld.

(e) The recent amendment to R.C. 343.01 (G)(1) and R.C. 3734.53(C)(1) is invalid because it violates the Ohio constitution's one-subject rule and therefore does not affect Rule 9.04.

The General Assembly recently amended R.C. 343.01(G)(1) and 3734.53(C)(1), effective October 16, 2009, to limit rule-making authority to ensure capacity by making it subject to the Director's prior agreement that there is insufficient capacity. The amendment does not effect rule-making authority to govern use of solid waste facilities set forth in R.C. 343.01(G)(2) and 3734.53(C)(2) and therefore does not effect the District's authority for Rule 9.04 under these provisions. Moreover, the amendment is invalid and does not effect the District's rule-making authority for Rule 9.04 under the provision to ensure capacity, because it violates the Ohio constitution's one-subject rule. Ohio Constitution, Section 15, Article II.

The amendment to R.C. 343.01(G)(1) and 3734.53(C)(1) is contained in Am. Sub. H. B. 1 of the 128th General Assembly. Appx. p. 1. Am. Sub H. B. 1 is the 2010-2011 biennial appropriations bill signed into law by the governor on July 17, 2009. The House forwarded the initial version of the bill to the House Finance and Appropriations Committee chaired by Vernon Sykes, a state representative from Akron, on February 12, 2009, without the local rule authority provision.[1] It was amended to include the local rule authority provision and reported out of committee on April 29, 2009. 128th GA Comparison Document – HB 1, Ohio Leg. Serv. Comm.

[1] The Summit/Akron Solid Waste Management Authority is opposing Rule 9.04 before the Environmental Review Appeals Commission in ERAC Case No. 776022, and has submitted an *amicus curiae* brief in this case.

Appx. p. 103. The local rule authority provision was removed by the Senate Finance Committee on June 3, 2009, but was placed back in the bill by the Conference Committee on July 13, 2009. 128th GA Comparison Document – HB 1, Ohio Leg. Serv. Comm. Appx. p. 109; Appx. p. 125.

The amendment is clearly a rider, which has been defined by this court as "... provisions that are included in a bill that is 'so certain of adoption that the rider will secure adoption not on its own merits but on [the merits of] the measure to which it is attached.'" *Simmons-Harris v. Goff* (1999), 86 Ohio St.3d 1, 16, quoting *Dix v. Celeste* (1984), 11 Ohio St.3d at 143, quoting Ruud, "No Law Shall Embrace More Than One Subject" (1958), 42 Minn. L. Rev. 389, 391. This court has recognized that riders on appropriations bills are a particular concern: "The danger of riders is particularly evident where a bill as important and likely of passage as are appropriations bill is at issue". *Simmons-Harris*, 86 Ohio St.3d at 16.

Riders to appropriations bills have been invalidated for violating the one-subject rule in Section 15 (D), Article II of the Ohio constitution in numerous cases. *Simmons-Harris*, 86 Ohio St.3d at 17; *State ex rel. Ohio Civ. Serv. Employees Assn.*, AFSCME, Local 11, *AFL-CIO v. State Emp. Relations Bd.* (2004), 104 Ohio St.3d 122, 132, 2004-Ohio-6363; *Holzer Consolidated Health System v. Ohio Dept. of Health*, Franklin App. 10th Dist. No. 03AP-1020, 2004-Ohio-5533 at ¶ 36; *City of Dublin v. State* (2002), 118 Ohio Misc 2d 18, 2002-Ohio-2431 at ¶ 54. Section 15 (D) provides that "[n]o bill shall contain more than one subject, which shall be clearly expressed in its title". The test for determining whether an act would be violative of the one-subject rule is "whether there is an absence of common purpose or relationship between specific topics in an act." *In re Nowak* (2004), 104 Ohio St.3d 466, ¶ 69, 2004-Ohio-6777. The *Nowak* court rejected the argument that the test should include a determination of whether the disunity was a result of logrolling or whether the act involved controversial policies. *Id.* at ¶¶

71-72. The *Nowak* court specified that "the one-subject provision does not require evidence of fraud or logrolling beyond the unnatural combinations themselves." *Id.* at ¶ 71.

This court has observed that while it must afford the legislature great latitude, and presume that statutes are constitutional, it must nonetheless invalidate a statute where there is a manifestly gross and fraudulent violation of the one-subject rule. *Ohio Civ. Serv. Emps. Assn.*, 104 Ohio St.3d at ¶ 27; *Nowak*, 104 Ohio St.3d at ¶ 47. This court has emphasized that "embrac[ing] more than one topic is not fatal, as long as a common purpose or relationship exists between the topics." *Ohio Civ. Serv. Emps.*, 104 Ohio St.3d ¶ 28. This court has emphasized that where there is "no discernible practical, rational or legitimate reason for combining the provisions in one Act" that "[t]he one-subject rule is part of our Constitution and therefore must be enforced." *Ohio Civ. Serv. Emps. Assn.* 104 Ohio St.3d at ¶¶ 28, 29, quoting *Beagle v. Waldin* (1997), 78 Ohio St.3d 59, 62 and *Simmons-Harris v. Goff*, 86 Ohio St.3d 1, 15.

The rule-authority amendment in this case is similar to the invalidated statutes in the *Simmons-Harris* and *Ohio Civ. Serv. Emps. Assn.* cases, in that it was unrelated to numerous other topics in Am. Sub. H.B. 1 and was not otherwise bound by the thread of appropriations.

In *Simmons-Harris*, this court addressed the biennial operating appropriations bill for the years 1996 and 1997, Am. Sub. H.B. 117. The purpose of the Am. Sub. H.B. 117 was described in words almost identical to Am. Sub H.B. 1, as being "... to make appropriations for the biennium beginning July 1, 1995 and ending June 30, 1997, and to provide authorization and conditions for the operation of state programs." Baldwin's Ohio Legislative Service (1995), L-621, Appx. p. 150; 128th General Assembly, 2009 Ohio Laws File 9 (Am. Sub. H.B. 1). Appx. p. 1. In its analysis, this court described numerous provisions which were clearly unrelated to each other and to the provision being challenged, which was the school voucher program. The court

concluded that there was "... considerable disunity in subject matter between the school voucher program and the vast majority of the provisions of Am. Sub H.B. 117." *Simmons-Harris*, 86 Ohio St.3d at 15. This court then went on to analyze whether the school voucher program could be considered bound with the other provisions of Am. Sub H.B. 117 by "the thread of appropriations." *Id.* at 16. This court concluded that because the school voucher program involved the creation of a substantive program it was not "... immune from a one-subject rule challenge" simply because funds were also appropriated for that program in the same bill. *Id.* at 17.

The *Ohio Civ. Serv. Emps. Assn.* case also involved an appropriations bill with numerous unrelated provisions, along with a provision excluding Ohio School Facilities Commission employees from the collective bargaining process. This court rejected the argument that the exemption from the collective bargaining process provision impacted the state budget, even if only slightly, and therefore constituted a single subject with the other provisions in the bill which also impacted the budget. This court held that that argument stretched the one-subject concept to the point of breaking and would render the one-subject rule meaningless in the context of appropriations bills because virtually any statute arguably impacts the state budget, even if only tenuously. *Ohio Civ. Serv. Empl. Assn.*, 104 Ohio St.3d at ¶ 33.

The local rule authority amendment in the present case is similar to the school voucher plan in the *Simmons-Harris* case, and the collective bargaining exemption provision in the *Ohio Civ. Serv. Empl. Assn.* case. It is obviously unrelated to numerous other provisions in Am. Sub. H.B. 1, which includes provisions regarding the department of rehabilitation and correction's authority to contract for private operation of programs (R.C. 9.06), limiting a political subdivision's authority to purchase supplies at a reverse auction (R.C. 9.314), creating and

funding a joint legislative ethics committee investigative fund (R.C. 101.34 and R.C. 102.02), creating a legislative agency telephone usage fund (R.C. 103.24), defining funding for local development districts (R.C. 107.21) and many others. 128th General Assembly, 2009 Ohio Laws File 9 (Am. Sub. H.B. 1). Appx. pp. 1-50.

Moreover, the amendment to R.C. 343.01 and R.C. 3734.53 has even less connection to appropriations than the school voucher program in *Simmons-Harris*, where funding was explicitly appropriated for the school voucher program.

It is also instructive to note that the amendment to R.C. 3734.53 has no connection to financial matters while other amendments to R.C. 3734 do have such a connection. The amendment to R.C. 3734.28 involved authority to expend money from the hazardous waste clean-up fund; the amendment to R.C. 3734.281 involved what funds must be paid into the environmental protection remediation fund; the amendment to R.C. 3734.282 directed money to be paid into the natural resource damages fund; the amendment to R.C. 3734.57 involved an increase in waste disposal fees to be deposited into the environmental protection fund; the amendment to R.C. 3734.573 involved who should collect certain waste disposal fees; the amendment to R.C. 3734.82 provided authority to the director to expend amounts to enforce scrap tire provisions; the amendment to R.C. 3734.901 involved payment of fees into the scrap tire management fund; and the amendment to R.C. 3734.9010 also involved fees deposited in the scrap tire management fund. 128th General Assembly, 2009 Ohio Laws File 9 (Am. Sub. H.B. 1). Appx. pp. 55-97.

The local rule authority amendment in the subject case is similar to an amendment waiving limits on relocating nursing home beds for one specific transaction, which was struck down as violative of the one-subject rule in *Holzer Consolidated Health System v. Ohio*

Department of Health, Frank. App. No. 03AP-1020, 2004-Ohio-5533. Holzer's initial request for a waiver to relocate the nursing home beds was denied by the director of the Ohio Department of Health. Subsequently, Holzer contacted a state representative and a provision was inserted into an appropriations bill which authorized the waiver. The *Holzer* court explained its reasoning as follows:

> Section 26 of Am.Sub.S.B. No. 261 is, in essence, a rider attached to an appropriations bill that contains many unrelated subjects. Section 26 does not share a common purpose with and has no discernible practical or rational relationship to the other provisions in the enacted bill. Section 26 is buried among pages of provisions that relate to government spending, bears no relation to the topics preceding and following the provision, and unlike other provisions in the bill, it bears no relation to the utilization of governmental resources or how budgetary funds are to be disbursed. Additionally, the record indicates that the section was inserted into the bill late in the process and for what appear to be tactical reasons. Thus, Section 26 of Am.Sub.S.B. No. 261 that provides for the relocation of long term nursing home beds is unconstitutional in that it violates the one-subject provision of Section 15(D), Article II of the Ohio Constitution.
>
> *Id.* at ¶ 37.

The circumstances of the present case are similar to those in the *Simmons-Harris*, *Ohio Civ. Serv. Empl. Assn.* and *Holzer* cases. The local rule authority amendment is clearly a rider attached to an appropriations bill that contains many unrelated subjects. It does not share a common purpose or relationship with the other provisions in the bill and bears no relation to budgetary matters. Moreover, the provision was inserted into the bill late in the process for what appear to be tactical reasons. As a result, the amendment to R.C. 343.01(G)(1) and R.C. 3734.53(C)(1) violates the one-subject rule and is therefore unconstitutional.

3. Appellee's Contention No. 3

The trial court did not abuse its discretion in determining that declaratory relief did not lie regarding appellant's claim that Rules 9.02 and 9.03 exceeded statutory authority.

(a) **Standard of review.**

This court has established that the decision whether to grant declaratory relief is reviewed under an abuse of discretion standard as follows:

> "The granting or denying of declaratory relief is a matter for judicial discretion, and where a court determines that a controversy is so contingent that declaratory relief does not lie, this court will not reverse unless the lower court's determination is clearly unreasonable."
>
> *Bilyeu v. Motorists Mut. Ins. Co.* (1973), 36 Ohio St.2d 35, syllabus.
>
> "Dismissal of a declaratory judgment action is reviewed under an abuse-of-discretion standard. (*Bilyeu v. Motorists Mut. Ins. Co.* (1973), 36 Ohio St.2d 35, 37, 65 O.O. 2d 179, 303 N.E. 2d 871, followed.)"
>
> *Mid-American Fire & Casualty Co. v. Heasley* (2007), 113 Ohio St.3d 133, paragraph two of the syllabus.

This court has emphasized that a reviewing court should not substitute its judgment for a trial court's determination regarding whether to provide declaratory relief, unless such determination was unreasonable:

> "[A] determination as to the granting or denying of declaratory relief is one of degree. Although this court might agree or disagree with that determination, our decision must be whether such a determination is reasonable."
>
> *Bilyeu*, 36 Ohio St.2d at 37.

(b) The trial court did not abuse its discretion.

The trial court declined to provide declaratory relief regarding appellant's long list of claims that Rules 9.02 and 9.03 exceeded statutory authority. Rule 9.02 involves operational standards and Rule 9.03 involves siting criteria. None of these rules had actually been applied to any of the landfills within the District's jurisdiction, and there was therefore no particular context of facts regarding how the rules exceeded statutory authority. The trial court determined that a justiciable controversy did not exist sufficient to justify declaratory relief at this point. This determination is in accordance with this court's guidance in the *Heasley* case:

> "Although broad in scope, the declaratory judgment statutes are not without limitation. Most significantly, in keeping with the longstanding tradition that a court does not render advisory opinions, they allow the filing of a declaratory judgment only to decide an actual controversy, the resolution of which will confer certain rights or status upon the litigants. *Corron v. Corron* (1988), 40 Ohio St.3d 75, 79, 531 N.E. 2d 708. Not every conceivable controversy is an actual one. As the First District aptly noted, in order for a justiciable question to exist, '[t]he danger or dilemma of the plaintiff must be present, not contingent on the happening of hypothetical future events *** and the threat to his position must be actual and genuine and not merely possible or remote.' *League for Preservation of Civil Rights v. Cincinnati* (1940), 64 Ohio App. 195, 197, 17 O.O. 424, 28 N.E.2d 660, quoting Borchard, Declaratory Judgments (1934) 40."
>
> *Mid-American Fire & Casualty Company v. Heasley*, 113 Ohio St.3d at 136.

The trial court relied on *White Consolidated Industries v. Nichols* (1984), 15 Ohio St.3d 7, which declined to rule on a challenge to Ohio EPA rules absent a specific factual setting:

> "Until the parties can come forward with a specific factual setting, without strictly resorting to hypotheticals and speculation, this cause does not present a justiciable controversy. This court is not inclined to decide cases on entirely hypothetical facts and render purely advisory opinions. We therefore hold that the appeal from the EBR to the court of appeals and from the court of appeals to this court presented no justiciable cause."
>
> *White Consolidated Industries v. Nichols* (1984), 15 Ohio St.3d 7, 9.

Rule 9.03 involves siting criteria for new landfills. The siting rules do not apply to any landfill permits in existence prior to the adoption of the rules in November, 2006. Supp. p. 22, 27, Pl. Ex. 3, pp. 6, 11, Rule 9.03, Articles I, II and IV. There was no evidence at trial, that any permit applications would be presented in the foreseeable future.

With respect to Rule 9.02's operational rules, appellant did not present any evidence at trial regarding the application of these rules in any specific factual context.

The trial court also noted that the rules provided a waiver provision in Article VII of Rule 9.03. Appellant's Brief, Appx. D, p. 9. This waiver provision allowed affected parties to request waivers of the application of the provisions of the rules, and thereby possibly avoid many of the

issues concerning appellant. All of the representatives for the landfills within the District's jurisdiction acknowledged at trial that they had not requested any such waivers. Supp. pp. 66-69, 8/9/07 Tr. 82, 142-143, 178. (Waivers were granted subsequent to trial. Appellee's Memorandum in Opposition to Motion for Stay, p. 2. These waivers are not relevant to the trial court's order since they occurred after trial.)

As a result, the trial court was presented with a barrage of highly technical matters, which were so contingent that it was not clear whether they would ever present an actual issue. No actual application of the rules had yet occurred, and no specific factual context had been developed in response. Moreover, given the complexity of the technical matters involved, it became clear that whatever determinations the trial court made on such matters, it could not anticipate numerous contingencies, and therefore would not ultimately resolve the potential issues between the parties.

The trial court is invested with discretion to determine whether declaratory relief is appropriate under the circumstances of the complex facts presented to him. Abuse of discretion connotes more than an error of law or judgment; it implies that the court's action was unreasonable, arbitratory or unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219. The evidence does not demonstrate that there was no rational basis for the trial court's determination. Accordingly, his decision should be upheld.

4. Appellee's Contention No. 4

There is competent credible evidence supporting the trial court's determination that appellant has not met the burden required to show that the recycling rule, Rule 9.04, on its face, violates the due process clause.[2]

[2] This issue was not part of the propositions of law for which this court accepted jurisdiction. Appellant's Memorandum in Support of Jurisdiction, pp. 11-14. The issues presented by appellant in proposition of law no. 2 related to whether the local rules were authorized by statute, not whether they were unconstitutional. Accordingly, appellee moves the court to strike this issue from appellant's merit brief.

(a) Standard of review.

In reviewing a trial court's decision regarding constitutionality of a statute or ordinance, this court has held that appellate courts:

> "... are guided by the principle that judgments supported by competent, credible evidence going to all the material elements of the case must not be reversed as being against the manifest weight of the evidence. (Citation omitted.) If the evidence is susceptible to more than one interpretation, [a reviewing court] must give it the interpretation consistent with the trial court's judgment. (Citation omitted.)
>
> *Central Motors Corporation v. The City of Pepper Pike* (1995), 73 Ohio St.3d 581, 584.

(b) Burden of proof.

To prove that Rule 9.04 violates due process on its face, appellant must prove beyond a reasonable doubt that there is no set of circumstances under which it would be valid:

> "We begin our analysis with the principle that statutes carry a strong presumption of constitutionality. *State v. Thompkins* (1996), 75 Ohio St.3d 558, 560, 664 N.E.2d 926; *Sorrell v. Thevenir* (1994), 69 Ohio St.3d 415, 418-419, 633 N.E.2d 504. The party challenging the statutes bears the burden of proving that the legislation is unconstitutional beyond a reasonable doubt. *Thompkins* at 560, 664 N.E.2d 926; *Arnold v. Cleveland* (1993), 67 Ohio St.3d 35, 38-39, 616 N.E.2d 163.
>
> A party may challenge a statute as unconstitutional on its face or as applied to a particular set of facts. *Belden v. Union Cent. Life Ins. Co.* (1994), 143 Ohio St. 329, 28 O.O. 295, 55 N.E.2d 629, paragraph four of the syllabus. A facial challenge to a statute is the most difficult to bring successfully because the challenger must establish that there exists no set of circumstances under which the statute would be valid. *United States v. Salerno* (1987), 481 U.S. 739, 745, 107 S.Ct. 2095, 95 L.Ed.2d 697. The fact that a statute might operate unconstitutionally under some plausible set of circumstances is insufficient to render it wholly invalid. *Id.*
>
> Further, where statutes are challenged on the ground that they are unconstitutional as applied to a particular set of facts, the party making the challenge bears the burden of presenting clear and convincing evidence of a presently existing set of facts that make the statutes unconstitutional and void when applied to those facts. *Belden*, 143 Ohio St. 329, 28 O.O. 295, 55 N.E.2d 629, at paragraph six of the syllabus."

Harrold v. Collier, 107 Ohio St.3d 44, 50, 2005-Ohio-5334 at ¶ 36-38

This court has also held that "... when interpreting an ordinance this court will, where possible, give the ordinance 'such construction as will permit it to operate lawfully and constitutionally.'" *Hausman v. City of Dayton* (1995), 73 Ohio St.3d 671, 678. Moreover, this court has provided that if a portion of an ordinance is unconstitutional, that part can be severed where such removal "'will not fundamentally disrupt the statutory scheme of which the unconstitutional provision is a part.'" *Id.* at 679.

(c) Failure to exhaust administrative remedies.

A further consideration in constitutional interpretation is that "[i]t is a fundamental principle of law that constitutional questions will not be decided until the necessity for the decision arises." *State ex rel. Lieux v. Village of Westlake* (1951), 154 Ohio St. 412, 415. In *Lieux*, this court dismissed a claim of unconstitutionality for failure to exhaust administrative remedies. Claimant challenged the constitutionality of a zoning ordinance by which he was denied a building permit. The *Lieux* court noted that the zoning ordinance allowed claimant to apply for a special permit, which might enable the claimant to secure the desired building permit. Since claimant failed to exhaust his administrative remedies, the court declined to consider his constitutional challenge to the zoning ordinance. In the present case, the challenged rules provide at Rule 9.03 (VII) that any member of the Association may request a waiver to any part of the rules:

> "The Board may waive, by majority vote of the full Board, the requirement for submission and Board approval of General Plans and Specifications or otherwise grant waivers to these rules if the Board concludes such waiver is in the best interest of the STW District and will assist the Board in the successful implementation of the Plan and further STW District goals with respect to solid waste management and solid waste reduction activities."

Supp. p. 29, Pl. Ex. 3, District's Rules, p. 13.

Neither the Association nor any of its members or other affected parties applied for waiver of the provisions which they are challenging in this lawsuit. Supp. pp. 65-67, 69, 8/9/07 Tr. 33, 82, 142, 178. Accordingly, the Association's constitutional claims fail, by reason of a failure to exhaust administrative remedies. Appellant's Brief, Appx. D, p. 9, trial court's judgment.

(d) Rule 9.04 is not arbitrary and capricious.

The Association argues that the recycling rule, Rule 9.04, violates the United States and Ohio constitutions' due process clauses because it is vague, arbitrary and capricious. The test for due process violations by solid waste management districts was described in *Maharg, Inc. v. Van Wert Solid Waste Management District* (6th Cir. 2001), 249 F.3d 544, 556:

> "Section 1 of the Fourteenth Amendment also provides that no state may deprive any person of life, liberty, or property, without due process of law." It has come to be understood that this provision has a "substantive" component under which "a state or local legislative measure is judicially voidable on its face if it necessarily compels results in all cases which are 'arbitrary and capricious, bearing no relation to the police power.' " *Sam & Ali, Inc. v. Ohio Dept. of Liquor Control*, 158 F.3d 397 (6th Cir.1998) (quoting *Eastlake v. Forest City Enterprises, Inc.*, 426 U.S. 668, 676, 96 S.Ct. 2358, 49 L.Ed.2d 132 (1976)).
>
> The power to provide by legislation for safe and sanitary management of solid waste is obviously a "police power". Van Wert County's waste management scheme bears an obvious relation to this police power. *Maharg* contends that the county was being "arbitrary and capricious" in the adoption of its waste management scheme, but the contention, as far as we can see, is utterly devoid of merit.
>
> Reasonable people might question the wisdom of the particular method chosen by Van Wert County to protect the health and welfare of its citizens insofar as the management of their solid waste is concerned. It is, nonetheless, "absolutely clear that the Due Process Clause does not empower the judiciary 'to sit as a "superlegislature to weigh the wisdom of legislation" ...' " *Exxon*, 437 U.S. at 124, 98 S.Ct. 2207, (quoting *Ferguson v. Skrupa*, 372 U.S. 726, 731, 83 S.Ct. 1028, 10 L.Ed.2d 93 (1963)). If Maryland did not violate the Due Process Clause by its outright prohibition of the operation of retail gasoline stations by integrated

> oil companies-and the Supreme Court had "no hesitancy" in rejecting the integrated oil companies' due process challenge to the Maryland statute, see *Exxon*, 437 U.S. at 124, 98 S.Ct. 2207-it follows *a fortiori* that we should have no hesitancy in rejecting Maharg's due process challenge to the Van Wert County scheme. And, in point of fact, we have none."

The *Sam & Ali, Inc.* case, cited by the Maharg court, emphasized that "... *if any conceivable legitimate governmental interest* supports the contested ordinance, that measure is not 'arbitrary and capricious' and hence cannot offend substantive due process." *Sam & Ali, Inc.*, 158 F.3d at 403. (Krupansky, concurring).

In order for the Association to prevail on its due process claim, the Association must prove that the provisions of the rules challenged by the Association necessarily compel results in all cases which are arbitrary and bear no relation to the police power, or are not supported by any conceivable legitimate governmental interest.

The central responsibilities of a solid waste management district are "implementing [its] solid waste plan" and "... providing for the safe and sanitary management of solid wastes within the joint solid waste management district." R.C. 3734.52. There can be no question that solid waste planning and management is a legitimate governmental interest. It is equally clear that setting recycling standards is rationally related to that purpose. Just as in the *Maharg* case, the power to provide for safe and sanitary management of solid waste is obviously a police power and a rule designed to encourage recycling is obviously related to this police power. It is simply implausible to argue that the recycling rule necessarily compels results in all cases which are arbitrary and bear no relation to the police power.

Given the stringent standards which must be met to challenge a statute as unconstitutional on its face, i.e. the presumption of constitutionality, the burden of proving unconstitutionality beyond a reasonable doubt, and the requirement of establishing that there exist no set of

circumstances under which the rules would be valid, it is clear that the Association's argument on this issue is completely without merit.

(e) Rule 9.04 is not void for vagueness.

The test for whether a regulation is unconstitutionally vague is less stringent when the context of its enforcement is a civil procedure not a criminal statute. Moreover, the standard for constitutionality is less stringent where a permit relationship is involved, as in the present case. These principles were explained by this court in *Salem v. Liquor Control Commission* (1993), 34 Ohio St.2d 244, 245-246 as follows:

> "At the outset, it should be noted that (in addition to the special 'license' relationship between the state and permit holder) what is in evidence here is an administrative regulation which is applied in a civil proceeding, not a criminal statute. If the wording of the regulation is general in nature, the needed specificity commanded constitutionally in a criminal statute is not required. (Citations omitted.)
>
> Appellant's principal assertion is confined to the wording of the regulation, and, specifically, the phrase 'improper conduct'-the claim being that the regulation does not sufficiently apprise a permit holder of the explicit standards needed to guide in the proper supervision of appellant's establishment.
>
> We are of the opinion that to comply with appellant's assertion, that Regulation LCC-1-52 must be less vague, would required the commission to spell out in detail not only the proper attire to be worn in permit premises, but also to detail in its regulations the host of other conditions surrounding the regulation of the industry. We find appellant's contention to be without merit, because the statutory relationship created between commission and licensee never intended such a result.
>
> To the contrary, in our opinion a licensee, by consenting to abide by the liquor statutes and regulations when applying for his license, has thereby bound himself to operate as the Liquor Control Commission believes is consistent with 'public decency, sobriety, and good order.'"

The present case, like the *Salem* case, involves administrative regulations not criminal statutes, and therefore, the specificity commanded constitutionally in a criminal statute is not required. Moreover, appellant's members are subject to permits, in a manner similar to the

plaintiff in the *Salem* case. Appellant's members have applied for permits, thereby consenting to abide by the regulatory scheme of chapter R.C. 3734, which includes authorization of the rules in this case. R.C. 3734.40 emphasizes that public policy interests require the strict regulation of permit activities regarding handling of solid waste. Appellant's members have voluntarily submitted themselves to a statutory relationship which precludes the void for vagueness arguments presented by the Association.

Rule 9.04 requires originating districts to meet or exceed appellee's recycling standards, which are based on an average of the recycling rates for the previous three years as reported by the Ohio EPA. The rule contemplates a comparison of three-year averages starting in 2005, with annual adjustments. These averages are calculated from Ohio EPA reports, which are not available until almost a year after the year being reported. The rule begins with a baseline year of 2005, and was scheduled to be effective January 1, 2008, based on an average of the years 2005, 2006 and 2007. The trial court barred enforcement of the rule until July 2009 to ensure that information for the three-year average would be published and available before the rule's effective date. The trial court did not engage in judicial rulemaking as argued by the Association. He followed the general rule of constitutional construction by preventing application of the rule to the extent it was not valid, but upholding it to the extent that it was valid. *Hausman v. City of Dayton*, 73 Ohio St.3d at 679; *Yajnik v. Akron Department of Health, Housing Division* (2004), 101 Ohio St.3d 106, 109 at ¶14; See *Ayotte v. Planned Parenthood of Northern New England* (2006), 126 S.Ct. 961.

The Association argues that Rule 9.04 is void for vagueness claiming that it is based on an originating district's current year recycling rate which is unknown until over a year later. The rule specifies that an originating district's recycling rates will be compared to a rolling three-year

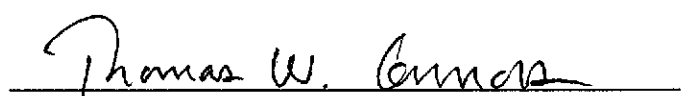
average of the District's recycling rates. There is nothing in the rule indicating that this comparison involves an originating district's current year rate as opposed to its historical three-year average. The District's director testified that the comparison would involve the originating district's three-year average and not merely a single year. Supp. pp. 107, 109-110, 9/5/07 Tr. pp. 237, 239, 240. The commissioner, who served as chairman of the committee drafting the rule, testified that the intent of the rule was to determine the recycling rates for the districts prior to the rule's application. Supp. p. 127, 9/5/07 Tr. 352. He testified further that the rule contemplated an administrative process whereby recycling rate information would be available prior to the rule's application. Supp. p. 128, 9/5/07 Tr. 356. This court requires that ordinances be interpreted to operate constitutionally where possible. *Hausman*, 73 Ohio St.3d at 678. The interpretation that the rule involves a comparison of three-year historical averages is reasonable, and therefore appellant's constitutional challenge must fail.

CONCLUSION

For the foregoing reasons, appellee respectfully requests that the judgment of the court of appeals be reversed, and that the judgment of the trial court be reinstated.

Respectfully submitted,

BLACK, McCUSKEY, SOUERS & ARBAUGH



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PROOF OF SERVICE

I certify that a copy of this Merit Brief was sent by ordinary U.S. mail to counsel of record for appellant, Terrence M. Fay, Frost Brown Todd LLC, One Columbus, Suite 2300, 10 West Broad Street, Columbus, OH 43215-3467 on September 8th, 2009.

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Management District

APPENDIX

SEE VETO INFORMATION AT END OF DOCUMENT

OHIO 2009 SESSION LAW SERVICE

Additions are indicated by **Text**; deletions by ~~Text~~.

File 9
Am. Sub. H.B. No. 1
APPROPRIATIONS--FISCAL YEAR 2010-2011 STATE BUDGET

< **Section Effective Date(s)**: This Act contains provisions which are not subject to the referendum and go into effect when this act becomes law. See Act sections 812.10, 812.20 and 812.30, 812.50, 815.20. >

< **Section Effective Date(s)**: This Act contains provisions which take effect on dates different from the effective date of the Act itself. See Act sections 105.10, 110.10, 110.12, 110.20, 110.22, 640.24 and 812.50. >

< **Future Repeal**: This Act repeals certain provisions of law, the repeal of which takes effect on dates different from the effective date of the Act itself. See Act section 125.10. >

< **Line item Veto**: Pursuant to O Const Art II, § 16, the Governor disapproved certain provisions of this Act. Vetoes appear as <<**VETOED MATERIAL** multiple strike-through **VETOED MATERIAL**>> text. >

To amend sections <<**VETOED MATERIAL** 7.12, **VETOED MATERIAL**>> 9.06, 9.24, 9.314, 101.34, 101.72, 102.02, <<**VETOED MATERIAL** 105.41, **VETOED MATERIAL**>> 107.21, <<**VETOED MATERIAL** 107.40, **VETOED MATERIAL**>> 109.57, 109.572, 109.73, 109.731, 109.742, 109.744, 109.751, 109.761, 109.77, 109.802, 109.803, <<**VETOED MATERIAL** 117.13, **VETOED MATERIAL**>> 118.05, 120.08, 121.04, 121.07, 121.08, 121.083, 121.084, 121.31, 121.37, 121.40, 121.401, 121.402, 122.011, 122.05, 122.051, 122.075, 122.151, 122.17, 122.171, 122.40, 122.603, 122.71, 122.751, 122.76, 122.89, 123.01, 124.03, 124.04, 124.07, 124.11, 124.134, 124.14, 124.152, 124.181, 124.183, 124.22, 124.23, 124.27, 124.321, 124.324, 124.325, 124.34, 124.381, 124.382, 124.385, 124.386, 124.392, 124.81, <<**VETOED MATERIAL** 125.11, **VETOED MATERIAL**>> 125.18, 125.831, 126.05, 126.21, 126.35, 127.16, 131.23, 131.33, 133.01, 133.02, 133.06, 133.18, 133.20, 133.21, 133.34, 135.03, 135.06, 135.08, 135.32, 141.04, 145.012, 145.298, 148.02, 148.04, 149.43, 149.45, 150.01, 150.02, 150.03, 150.04, 150.05, 150.07, 152.09, 152.10, 152.12, 152.15, 152.33, 156.01, 156.02, 156.03, 156.04, 166.02, 166.07, 166.08, 166.11, 166.25, 169.08, 173.08, 173.35, 173.392, 173.40, 173.401, 173.42, 173.43, 173.50, 173.71, 173.76, 173.99, 174.02, 174.03, 174.06, 175.01, 176.05, 303.213, 307.626, 307.629, 307.79, 311.17, 311.42, 319.28, 319.301, 319.302, 319.54, 321.24, 321.261, 323.01, 323.121, 323.156, 323.73, 323.74, 323.77, 323.78, 329.03, 329.04, 329.042, 329.051, 329.06, 340.033, 343.01, 351.01, 351.021, 504.21, 505.82, 711.001, 711.05, 711.10, 711.131, 718.04, 721.15, 901.20, 901.32, 901.43, 903.082, 903.11, 903.25, 905.32, 905.33, 905.331, 905.36, 905.50, 905.51, 905.52, 905.56, 907.13, 907.14, 907.30, 907.31, 915.24, 918.08, 918.28, 921.02, 921.06, 921.09, 921.11, 921.13, 921.16, 921.22, 921.27, 921.29, 923.44, 923.46, 927.51, 927.52, 927.53, 927.56, 927.69, 927.70, 927.701, 927.71, 942.01, 942.02, 942.06, 942.13, 943.01, 943.02, 943.04, 943.05, 943.06, 943.07, 943.13, 943.14, 943.16, 953.21, 953.22, 953.23, 955.201, 1321.20, 1321.51, 1321.52, 1321.53,

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3717.23, 3717.25, 3717.43, 3717.45, 3718.03, 3718.06, 3721.01, 3721.02, 3721.071, 3721.23, 3721.50, 3721.51, 3721.53, 3721.55, 3721.56, 3722.01, 3722.011, 3722.02, 3722.021, 3722.04, 3722.041, 3722.05, 3722.06, 3722.08, 3722.09, 3722.10, 3722.13, 3722.14, 3722.15, 3722.16, 3722.17, 3722.18, 3722.99, 3727.02, 3729.07, 3733.02, 3733.04, 3733.25, 3733.43, 3734.05, 3734.28, 3734.281, 3734.53, 3734.57, 3734.573, 3734.82, 3734.901, 3734.9010, 3737.71, 3743.04, 3743.25, 3745.015, 3745.05, 3745.11, 3748.01, 3748.04, 3748.07, 3748.12, 3748.13, 3749.04, 3767.41, 3770.03, 3770.05, 3773.35, 3773.36, 3773.43, 3773.45, 3773.53, 3781.03, 3781.07, 3781.10, 3781.102, 3781.11, 3781.12, 3781.19, 3783.05, 3791.02, 3791.04, 3791.05, 3791.07, 3793.02, 3793.04, 3901.381, 3901.3812, 3923.021, 3923.022, 3923.11, 3923.122, 3923.24, 3923.58, 3923.581, 3923.66, 3923.67, 3923.68, 3923.75, 3923.76, 3923.77, 3924.06, 3929.43, 3937.41, 3951.01, 4104.01, 4104.02, 4104.06, 4104.07, 4104.08, 4104.09, 4104.10, 4104.101, 4104.12, 4104.15, 4104.16, 4104.17, 4104.18, 4104.19, 4104.21, 4104.33, 4104.42, 4104.43, 4104.44, 4104.48, 4105.01, 4105.02, 4105.03, 4105.04, 4105.05, 4105.06, 4105.09, 4105.11, 4105.12, 4105.13, 4105.15, 4105.16, 4105.17, 4105.191, 4105.20, 4105.21, 4112.01, 4112.04, 4112.05, 4112.051, 4117.01, 4117.02, 4117.07, 4117.12, 4117.24, 4123.27, 4141.01, 4141.08, 4141.162, 4141.31, 4169.02, 4169.03, 4169.04, 4171.04, 4301.333, 4301.334, 4301.351, 4301.354, 4301.355, 4301.356, 4301.361, 4301.364, 4301.365, 4301.366, 4301.43, 4303.181, 4303.182, 4303.331, 4501.06, 4501.24, 4501.271, 4503.068, 4503.10, 4503.103, 4503.182, 4503.19, 4503.191, 4503.235, 4503.40, 4503.42, 4503.44, 4505.01, 4505.06, 4505.062, 4505.09, 4505.111, 4505.181, 4505.20, 4507.02, 4507.03, 4507.23, 4507.24, 4507.45, 4509.101, 4510.11, 4510.12, 4510.16, 4510.22, 4511.191, **<<VETOED MATERIAL** 4511.69, 4513.021, **VETOED MATERIAL>>** 4513.03, 4513.04, 4513.05, 4513.06, 4513.07, 4513.071, 4513.09, 4513.11, 4513.111, 4513.12, 4513.13, 4513.14, 4513.15, 4513.16, 4513.17, 4513.171, 4513.18, 4513.19, 4513.21, 4513.22, 4513.23, 4513.24, 4513.242, 4513.28, 4513.60, 4513.65, 4513.99, 4517.01, 4517.02, 4517.03, 4517.30, 4517.33, 4517.43, 4519.02, 4519.03, 4519.04, 4519.44, 4519.59, 4549.10, 4549.12, 4582.07, 4582.08, 4582.32, 4582.33, 4709.12, 4713.32, 4713.63, 4713.64, 4717.31, 4729.42, 4729.99, 4731.10, 4731.26, 4731.38, 4731.65, 4731.71, 4733.10, 4734.25, 4735.06, 4735.09, 4735.12, 4735.13, 4735.15, 4736.01, 4740.03, 4740.11, 4740.14, 4741.41, 4741.44, 4741.45, 4741.46, 4751.07, 4755.06, 4755.12, 4757.10, 4757.31, 4757.36, 4763.01, 4763.03, 4763.04, 4763.05, 4763.06, 4763.07, 4763.09, 4763.11, 4763.13, 4763.14, 4763.17, 4765.11, 4765.17, 4765.23, 4765.30, 4766.09, 4767.05, 4767.07, 4767.08, 4776.02, 4781.01, 4781.02, 4781.04, 4781.05, 4781.06, 4781.07, 4905.801, 4928.01, 5101.11, 5101.16, 5101.162, 5101.181, 5101.24, 5101.26, 5101.31, 5101.33, 5101.34, 5101.36, 5101.47, **<<VETOED MATERIAL** 5101.50, 5101.5212, 5101.5213, **VETOED MATERIAL>>** 5101.54, 5101.541, 5101.544, 5101.571, 5101.573, 5101.58, 5101.60, 5101.61, 5101.84, **<<VETOED MATERIAL** 5103.02, 5103.03, **VETOED MATERIAL>>** 5104.04, 5104.041, 5104.051, 5104.30, 5104.32, 5104.341, 5104.35, 5104.39, 5104.42, 5107.05, 5107.16, 5107.17, 5107.78, 5108.04, 5108.07, 5111.01, 5111.028, 5111.032, 5111.033, 5111.034, 5111.06, 5111.084, 5111.16, 5111.176, 5111.20, 5111.21, 5111.211, 5111.231, 5111.232, 5111.24, 5111.243, 5111.25, 5111.261, **<<VETOED MATERIAL** 5111.65, 5111.651, 5111.68, 5111.681, 5111.685, 5111.686, 5111.688, **VETOED MATERIAL>>** 5111.705, 5111.85, 5111.851, 5111.874, 5111.875, 5111.89, 5111.891, 5111.894, 5111.971, 5112.03, 5112.08, 5112.17, 5112.30, 5112.31, 5112.37, 5112.39, 5115.20, 5115.22, 5115.23, 5119.16, 5119.61, 5120.032, 5120.033, 5120.09, 5122.31, 5123.049, 5123.0412, 5123.0413, 5123.0417, 5123.19, 5126.044, 5126.05, 5126.054, 5126.055, 5126.0512, 5126.19, 5126.24, 5139.43, 5153.163, 5501.04, 5502.01, 5502.12, 5502.14, 5502.15, 5505.15, 5701.11, 5703.21, 5703.37, 5703.80, 5705.01, 5705.211, 5705.214, 5705.25, 5705.29, 5705.341, 5705.37, 5709.62, 5709.63, 5709.632, 5711.33, 5715.02, 5715.251, 5715.26, 5717.03, 5717.04, **<<VETOED MATERIAL** 5721.01, **VETOED MATERIAL>>** 5721.32, 5721.33, 5722.02, 5722.04, 5722.21, 5723.04, 5725.18, 5725.98, 5727.81, 5727.811, 5727.84, 5728.12, 5729.03, 5729.98, 5733.01, 5733.04, 5733.47, 5733.98, 5735.142, 5739.01, 5739.02, 5739.03, 5739.033, 5739.09, 5739.131, 5743.15, 5743.61, 5747.01, 5747.13, 5747.16, 5747.18, 5747.76, 5747.98, 5748.02, 5748.03, 5749.02, 5749.12, 5751.01, 5751.011, 5751.012, 5751.013, 5751.02, 5751.03, 5751.04, 5751.05, 5751.051, 5751.06, 5751.08, 5751.09, 5751.20, 5751.21, **<<VETOED MATERIAL** 5751.22, 5751.23, **VE-**

TOED MATERIAL>> 5911.10, 5913.051, 5913.09, 6103.01, 6103.02, 6109.21, 6111.04, 6111.044, 6111.44, 6117.01, 6117.02, 6119.011, and 6301.03; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 173.43 (173.422), 1517.14 (1547.81), 1517.16 (1547.82), 1517.17 (1547.83), 1517.18, (1547.84), 3313.174 (3313.82), 3319.233 (3333.049), **<<VETOED MATERIAL** 5101.5110 (5101.5111), **VETOED MATERIAL>>** 5111.019 (5111.0120)**<<VETOED MATERIAL** , and 5111.688 (5111.689) **VETOED MATERIAL>>**; to enact new sections 173.43, 3301.0712, 3319.222, **<<VETOED MATERIAL** 5101.5110, 5111.688, **VETOED MATERIAL>>** and 5112.371 and sections 5.2265, 9.317, 103.24, 107.19, 111.26, 111.27, 121.375, 122.042, 122.12, 122.121, 122.85, 124.393, 124.821, 124.822, 124.86, 125.181, 125.20, **<<VETOED MATERIAL** 126.10, **VETOED MATERIAL>>** 126.50, 126.501, 126.502, 126.503, 126.504, 126.505, 126.506, 126.507, 131.38, 133.022, 148.05, 150.051, 153.013, 166.22, 166.28, 173.28, 173.402, 173.403, 173.421, 173.423, 173.424, 173.425, 173.431, 173.432, 173.433, 173.434, 173.501, 173.70, 175.052, 175.30, 175.31, 175.32, **<<VETOED MATERIAL** 305.20, 319.24, **VETOED MATERIAL>>** 717.25, 901.041, 901.91, 927.54, 943.031, 1321.521, 1321.522, 1321.531, 1321.532, 1321.533, 1321.534, 1321.535, 1321.536, 1321.552, 1321.591, 1321.592, 1321.593, 1321.594, 1322.022, 1322.023, 1322.024, 1322.025, 1322.065, 1547.02, 1547.85, 1547.86, 1547.87, 1733.252, **<<VETOED MATERIAL** 2505.122, **VETOED MATERIAL>>** 3119.371, 3301.041, 3301.076, 3301.0719, 3301.0721, 3301.122, 3301.60, 3301.61, 3301.62, 3301.63, 3301.64, 3301.82, 3301.90, 3301.95, 3304.181, 3304.182, 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, 3306.13, 3306.18, 3306.19, 3306.191, 3306.192, 3306.21, 3306.22, 3306.25, 3306.29, 3306.291, 3306.292, 3306.30, 3306.31, 3306.33, 3306.34, 3306.35, 3306.40, 3306.50, 3306.51, 3306.52, 3306.53, 3306.54, 3306.55, 3306.56, 3306.57, 3306.58, 3310.15, **<<VETOED MATERIAL** 3311.0510, **VETOED MATERIAL>>** 3313.6015, 3313.719, 3313.821, 3313.822, 3313.83, 3313.86, 3314.028, 3314.088, 3314.44, 3317.018, 3318.312, 3319.223, 3319.611, 3319.612, 3319.70, 3319.71, 3321.041, 3326.39, 3333.048, 3333.39, 3333.391, 3333.392, 3333.90, 3334.111, 3345.36, 3353.09, 3353.20, 3354.24, 3365.12, 3375.79, **<<VETOED MATERIAL** 3701.0211, 3701.136, **VETOED MATERIAL>>** 3701.611, 3702.592, 3702.593, 3702.594, **<<VETOED MATERIAL** 3705.031, **VETOED MATERIAL>>** 3709.092, 3715.041, 3721.511, 3721.512, 3721.513, 3722.022, 3734.282, 3770.21, 3793.21, 3903.77, 3923.241, 3923.582, 3923.90, 3923.91, 4113.11, 4123.446, **<<VETOED MATERIAL** 4301.85, **VETOED MATERIAL>>** 4501.243, 4501.29, 4503.548, 4503.563, 4582.71, 4755.061, 4781.16, 4781.17, 4781.18, 4781.19, 4781.20, 4781.21, 4781.22, 4781.23, 4781.24, 4781.25, 4781.99, 5101.073, **<<VETOED MATERIAL** 5101.504, 5101.5210, **VETOED MATERIAL>>** 5101.542, 5111.0121, 5111.0210, 5111.092, 5111.233, **<<VETOED MATERIAL** 5111.236, **VETOED MATERIAL>>** 5111.262, 5111.861, 5111.88, 5111.881, 5111.882, 5111.883, 5111.884, 5111.885, 5111.886, 5111.887, 5111.888, 5111.889, 5111.8810, 5111.8811, 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, 5112.48, 5119.613, 5119.621, 5123.193, 5123.197, 5155.38, 5505.152, 5525.26, **<<VETOED MATERIAL** 5537.051, **VETOED MATERIAL>>** 5705.219, 5705.2110, 5705.2111, 5725.33, 5729.16, 5733.58, 5733.59, 5739.051, 5747.66, 5751.014, 5911.11, 5919.20, 5919.36, and 6119.091; to repeal sections 117.102, 173.71, 173.72, 173.721, 173.722, 173.723, 173.724, 173.73, 173.731, 173.732, 173.74, 173.741, 173.742, 173.75, 173.751, 173.752, 173.753, 173.76, 173.77, 173.771, 173.772, 173.773, 173.78, 173.79, 173.791, 173.80, 173.801, 173.802, 173.803, 173.81, 173.811, 173.812, 173.813, 173.814, 173.815, 173.82, 173.83, 173.831, 173.832, 173.833, 173.84, 173.85, 173.86, 173.861, 173.87, 173.871, 173.872, 173.873, 173.874, 173.875, 173.876, 173.88, 173.89, 173.891, 173.892, 173.90, 173.91, 905.38, 905.381, 905.66, 907.16, 927.74, 1504.01, 1504.02, 1504.03, 1504.04, 1517.15, 1521.02, 1711.58, 3301.0712, 3301.41, 3301.42, 3301.43, 3302.032, 3313.473, 3314.15, 3319.0810, 3319.222, 3319.23, 3319.261, 3319.302, 3319.304, 3333.27, 3701.77, 3701.771, 3701.772, 3701.93, 3701.931, 3701.932, 3701.933, 3701.934, 3701.935, 3701.936, 3702.511, 3702.523, 3702.527, 3702.528, 3702.529, 3702.542, 3704.143, 3724.01, 3724.02, 3724.021, 3724.03, 3724.04, 3724.05, 3724.06, 3724.07, 3724.08, 3724.09, 3724.10, 3724.11, 3724.12, 3724.13, 3724.99, 4517.052, 4517.27, 4735.22, 4735.23,

5101.072, 5103.54, 5111.263, 5112.371, 5115.10, 5115.11, 5112.12, 5115.13, 5115.14, 5145.32, and 5923.141 of the Revised Code; to amend Sections 205.10, 321.10, 325.20, and 327.10 of Am. Sub. H.B. 2 of the 128th General Assembly; to amend Section 309.10 of Am. Sub. H.B. 2 of the 128th General Assembly; to amend Section 317.10 of Am. Sub. H.B. 2 of the 128th General Assembly; to amend Sections 120.01 and 120.02 of Am. Sub. H.B. 119 of the 127th General Assembly; to amend Sections 103.80.80, 103.80.90, 301.10.50, and 301.30.30 of H.B. 496 of the 127th General Assembly; to amend Sections 301.20.20 and 301.60.50 of H.B. 496 of the 127th General Assembly, as subsequently amended; to amend Section 11 of Am. Sub. H.B. 554 of the 127th General Assembly; to amend Sections 233.30.20, 233.30.50, 233.40.30, 235.10, and 701.20 of H.B. 562 of the 127th General Assembly; to amend Sections 227.10 and 233.50.80 of H.B. 562 of the 127th General Assembly, as subsequently amended; to amend Sections 217.11 and 231.20.30 of Am. Sub. H.B. 562 of the 127th General Assembly, as subsequently amended; to amend Section 831.06 of H.B. 530 of the 126th General Assembly; to amend Section 4 of H.B. 516 of the 125th General Assembly, as subsequently amended; to amend Section 6 of H.B. 364 of the 124th General Assembly and to amend Section 6 of H.B. 364 of the 124th General Assembly to codify the Section as section 3314.027 of the Revised Code; to amend Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as subsequently amended; to repeal Section 3 of Am. Sub. H.B. 203 of the 126th General Assembly; to repeal Section 325.05 of Am. Sub. H.B. 2 of the 128th General Assembly; to further amend sections 711.001, 711.05, 711.10, 711.131, 4736.01, 6111.04, and 6111.44 of the Revised Code effective January 1, 2010; to amend the version of section 2949.111 of the Revised Code that is scheduled to take effect January 1, 2010, to continue the provisions of this act on and after that effective date; to amend the version of section 5739.033 of the Revised Code that is scheduled to take effect January 1, 2010, to continue the provisions of this act on and after that effective date; to repeal sections 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised Code, effective October 1, 2011; to repeal the version of sections 1753.53 and 3923.38 of the Revised Code that were scheduled to take effect January 1, 2010; to make operating appropriations for the biennium beginning July 1, 2009, and ending June 30, 2011, and to provide authorization and conditions for the operation of state programs.

Be It Enacted by the General Assembly of the State of Ohio:

SECTION 101.01. That sections <<**VETOED MATERIAL** 7.12, **VETOED MATERIAL**>> 9.06, 9.24, 9.314, 101.34, 101.72, 102.02, <<**VETOED MATERIAL** 105.41, **VETOED MATERIAL**>> 107.21, <<**VETOED MATERIAL** 107.40, **VETOED MATERIAL**>> 109.57, 109.572, 109.73, 109.731, 109.742, 109.744, 109.751, 109.761, 109.77, 109.802, 109.803, <<**VETOED MATERIAL** 117.13, **VETOED MATERIAL**>> 118.05, 120.08, 121.04, 121.07, 121.08, 121.083, 121.084, 121.31, 121.37, 121.40, 121.401, 121.402, 122.011, 122.05, 122.051, 122.075, 122.151, 122.17, 122.171, 122.40, 122.603, 122.71, 122.751, 122.76, 122.89, 123.01, 124.03, 124.04, 124.07, 124.11, 124.134, 124.14, 124.152, 124.181, 124.183, 124.22, 124.23, 124.27, 124.321, 124.324, 124.325, 124.34, 124.381, 124.382, 124.385, 124.386, 124.392, 124.81, <<**VETOED MATERIAL** 125.11, **VETOED MATERIAL**>> 125.18, 125.831, 126.05, 126.21, 126.35, 127.16, 131.23, 131.33, 133.01, 133.02, 133.06, 133.18, 133.20, 133.21, 133.34, 135.03, 135.06, 135.08, 135.32, 141.04, 145.012, 145.298, 148.02, 148.04, 149.43, 149.45, 150.01, 150.02, 150.03, 150.04, 150.05, 150.07, 152.09, 152.10, 152.12, 152.15, 152.33, 156.01, 156.02, 156.03, 156.04, 166.02, 166.07, 166.08, 166.11, 166.25, 169.08, 173.08, 173.35, 173.392, 173.40, 173.401, 173.42, 173.43, 173.50, 173.71, 173.76, 173.99, 174.02, 174.03, 174.06, 175.01, 176.05, 303.213, 307.626, 307.629, 307.79, 311.17, 311.42, 319.28, 319.301, 319.302, 319.54, 321.24, 321.261, 323.01, 323.121, 323.156, 323.73, 323.74, 323.77, 323.78, 329.03, 329.04, 329.042, 329.051, 329.06, 340.033, 343.01, 351.01, 351.021, 504.21, 505.82, 711.001, 711.05, 711.10, 711.131, 718.04, 721.15, 901.20, 901.32, 901.43, 903.082, 903.11, 903.25, 905.32, 905.33, 905.331, 905.36, 905.50, 905.51, 905.52, 905.56, 907.13, 907.14, 907.30, 907.31, 915.24, 918.08, 918.28, 921.02, 921.06, 921.09, 921.11, 921.13, 921.16, 921.22, 921.27, 921.29, 923.44, 923.46, 927.51, 927.52, 927.53, 927.56, 927.69, 927.70, 927.701, 927.71, 942.01, 942.02, 942.06, 942.13, 943.01, 943.02,

943.04, 943.05, 943.06, 943.07, 943.13, 943.14, 943.16, 953.21, 953.22, 953.23, 955.201, 1321.20, 1321.51, 1321.52, 1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 1321.59, 1321.60, 1321.99, 1322.01, 1322.02, 1322.03, 1322.031, 1322.04, 1322.041, 1322.05, 1322.051, 1322.052, 1322.06, 1322.061, 1322.062, 1322.063, 1322.064, 1322.07, 1322.071, 1322.072, 1322.074, 1322.075, 1322.08, 1322.081, 1322.09, 1322.10, 1322.11, 1322.99, 1332.24, 1332.25, 1343.011, 1345.01, 1345.05, 1345.09, 1347.08, 1349.31, 1349.43, 1501.01, 1501.05, 1501.07, 1501.30, 1502.12, 1506.01, 1507.01, 1511.01, 1511.02, 1511.021, 1511.022, 1511.03, 1511.04, 1511.05, 1511.06, 1511.07, 1511.071, 1511.08, 1514.08, 1514.10, 1514.13, 1515.08, 1515.14, 1515.183, 1517.02, 1517.10, 1517.11, 1517.14, 1517.16, 1517.17, 1517.18, 1519.03, 1520.02, 1520.03, 1521.03, 1521.031, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.063, 1521.064, 1521.07, 1521.10, 1521.11, 1521.12, 1521.13, 1521.14, 1521.15, 1521.16, 1521.18, 1521.19, 1523.01, 1523.02, 1523.03, 1523.04, 1523.05, 1523.06, 1523.07, 1523.08, 1523.09, 1523.10, 1523.11, 1523.12, 1523.13, 1523.14, 1523.15, 1523.16, 1523.17, 1523.18, 1523.19, 1523.20, 1533.11, 1541.03, 1547.01, 1547.51, 1547.52, 1547.531, 1547.54, 1547.542, 1547.73, 1547.99, 1548.10, 1707.17, 1707.18, 1707.37, 1710.01, 1710.02, 1710.03, 1710.04, 1710.06, 1710.07, 1710.10, 1710.13, 1721.211, 1724.02, 1724.04, 1733.26, 1739.05, 1751.03, 1751.04, 1751.05, 1751.14, 1751.15, 1751.16, 1751.18, 1751.19, 1751.32, 1751.321, 1751.34, 1751.35, 1751.36, 1751.45, 1751.46, 1751.48, 1751.831, 1751.84, 1751.85, 1753.09, 1901.121, 1901.26, 1901.31, 1907.14, 1907.24, 2101.01, 2301.02, 2301.03, 2303.201, 2305.234, 2317.422, 2503.17, **<<VETOED MATERIAL** 2505.09, 2505.12, **VETOED MATERIAL>>** 2743.51, 2744.05, 2903.214, 2903.33, 2907.27, 2911.21, 2913.46, 2915.01, 2921.13, 2921.51, 2923.125, 2923.1210, 2923.1213, 2923.16, 2937.22, 2949.091, 2949.111, 2949.17, 2981.13, 3105.87, 3111.04, 3119.01, 3119.54, 3121.03, 3121.035, 3121.037, 3121.0311, 3121.19, 3121.20, 3121.898, 3123.952, 3125.25, 3301.07, 3301.075, 3301.079, 3301.0710, 3301.0711, 3301.0714, 3301.0715, 3301.0716, 3301.0718, 3301.12, 3301.16, 3301.42, 3301.46, 3301.55, 3301.57, 3302.01, 3302.02, 3302.021, 3302.03, 3302.031, 3302.05, 3302.07, 3304.16, 3304.231, 3307.31, 3307.64, 3309.41, 3309.48, 3309.51, 3310.03, 3310.08, 3310.09, 3310.11, 3310.14, 3310.41, **<<VETOED MATERIAL** 3311.059, **VETOED MATERIAL>>** 3311.06, 3311.19, 3311.21, 3311.29, 3311.52, 3311.76, 3313.483, 3313.53, 3313.532, 3313.536, 3313.55, 3313.60, 3313.602, 3313.603, 3313.605, 3313.608, 3313.6013, 3313.61, 3313.611, 3313.612, 3313.614, 3313.615, 3313.64, 3313.642, 3313.6410, 3313.65, 3313.713, **<<VETOED MATERIAL** 3313.843, **VETOED MATERIAL>>** 3313.976, 3313.978, 3313.98, 3313.981, 3314.012, 3314.015, 3314.016, 3314.02, 3314.021, 3314.03, 3314.08, 3314.085, 3314.087, 3314.091, 3314.10, 3314.13, 3314.19, 3314.25, 3314.26, 3314.35, 3314.36, 3315.37, 3316.041, 3316.06, 3316.20, 3317.01, 3317.011, 3317.013, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.025, 3317.0210, 3317.0211, 3317.0216, 3317.03, 3317.031, 3317.04, 3317.061, 3317.063, 3317.08, 3317.081, 3317.082, 3317.12, 3317.16, 3317.18, 3317.20, 3317.201, **<<VETOED MATERIAL** 3318.011, **VETOED MATERIAL>>** 3318.051, 3318.061, 3318.36, 3318.38, 3318.44, 3319.073, 3319.08, 3319.081, 3319.088, 3319.11, 3319.151, 3319.16, 3319.161, 3319.22, 3319.221, 3319.233, 3319.234, 3319.235, 3319.24, 3319.25, 3319.26, 3319.28, 3319.291, 3319.303, 3319.36, 3319.391, 3319.41, 3319.51, 3319.56, 3319.57, 3319.60, 3319.61, 3319.63, 3321.01, 3321.05, 3323.05, 3323.091, 3323.14, 3323.142, 3324.05, 3325.08, 3326.02, 3326.03, 3326.04, 3326.05, 3326.06, 3326.07, 3326.08, 3326.11, 3326.14, 3326.20, 3326.23, 3326.33, 3326.36, 3326.37, 3326.51, 3327.02, 3327.04, 3327.05, 3327.10, 3329.16, 3333.04, 3333.122, 3333.123, 3333.16, 3333.28, 3333.35, 3333.38, 3333.42, 3333.61, 3333.62, 3333.66, 3334.03, 3334.07, 3334.08, 3334.11, 3334.12, 3343.04, 3345.011, 3345.062, 3345.12, 3345.32, 3345.61, 3345.62, 3345.63, 3345.64, 3345.65, 3345.66, 3349.242, 3351.07, 3354.26, 3365.01, 3365.04, 3365.041, 3365.07, 3365.08, 3365.09, 3365.10, 3501.17, 3503.18, 3503.21, 3701.045, 3701.07, 3701.242, 3701.247, 3701.344, 3701.78, 3702.30, 3702.51, 3702.52, 3702.524, 3702.525, 3702.53, 3702.532, 3702.54, 3702.544, 3702.55, 3702.57, 3702.59, 3702.60, 3702.61, 3702.74, 3702.87, 3702.89, 3702.90, 3702.91, 3702.92, 3702.93, 3702.94, 3703.01, 3703.03, 3703.04, 3703.05, 3703.06, 3703.07, 3703.08, 3703.10, 3703.21, 3703.99, 3704.03, 3704.14, 3704.144, **<<VETOED MATERIAL** 3705.03, **VETOED MATERIAL>>** 3705.24, 3706.04, 3706.25, 3707.26, 3709.09, 3712.01, 3712.03, 3713.01, 3713.02, 3713.03, 3713.04,

3713.05, 3713.06, 3713.07, 3713.08, 3713.09, 3713.10, 3714.03, 3714.07, 3715.87, 3715.871, 3715.873, 3717.07, 3717.23, 3717.25, 3717.43, 3717.45, 3718.03, 3718.06, 3721.01, 3721.02, 3721.071, 3721.23, 3721.50, 3721.51, 3721.53, 3721.55, 3721.56, 3722.01, 3722.011, 3722.02, 3722.021, 3722.04, 3722.041, 3722.05, 3722.06, 3722.08, 3722.09, 3722.10, 3722.13, 3722.14, 3722.15, 3722.16, 3722.17, 3722.18, 3722.99, 3727.02, 3729.07, 3733.02, 3733.04, 3733.25, 3733.43, 3734.05, 3734.28, 3734.281, 3734.53, 3734.57, 3734.573, 3734.82, 3734.901, 3734.9010, 3737.71, 3743.04, 3743.25, 3745.015, 3745.05, 3745.11, 3748.01, 3748.04, 3748.07, 3748.12, 3748.13, 3749.04, 3767.41, 3770.03, 3770.05, 3773.35, 3773.36, 3773.43, 3773.45, 3773.53, 3781.03, 3781.07, 3781.10, 3781.102, 3781.11, 3781.12, 3781.19, 3783.05, 3791.02, 3791.04, 3791.05, 3791.07, 3793.02, 3793.04, 3901.381, 3901.3812, 3923.021, 3923.022, 3923.11, 3923.122, 3923.24, 3923.58, 3923.581, 3923.66, 3923.67, 3923.68, 3923.75, 3923.76, 3923.77, 3924.06, 3929.43, 3937.41, 3951.01, 4104.01, 4104.02, 4104.06, 4104.07, 4104.08, 4104.09, 4104.10, 4104.101, 4104.12, 4104.15, 4104.16, 4104.17, 4104.18, 4104.19, 4104.21, 4104.33, 4104.42, 4104.43, 4104.44, 4104.48, 4105.01, 4105.02, 4105.03, 4105.04, 4105.05, 4105.06, 4105.09, 4105.11, 4105.12, 4105.13, 4105.15, 4105.16, 4105.17, 4105.191, 4105.20, 4105.21, 4112.01, 4112.04, 4112.05, 4112.051, 4117.01, 4117.02, 4117.07, 4117.12, 4117.24, 4123.27, 4141.01, 4141.08, 4141.162, 4141.31, 4169.02, 4169.03, 4169.04, 4171.04, 4301.333, 4301.334, 4301.351, 4301.354, 4301.355, 4301.356, 4301.361, 4301.364, 4301.365, 4301.366, 4301.43, 4303.181, 4303.182, 4303.331, 4501.06, 4501.24, 4501.271, 4503.068, 4503.10, 4503.103, 4503.182, 4503.19, 4503.191, 4503.235, 4503.40, 4503.42, 4503.44, 4505.01, 4505.06, 4505.062, 4505.09, 4505.111, 4505.181, 4505.20, 4507.02, 4507.03, 4507.23, 4507.24, 4507.45, 4509.101, 4510.11, 4510.12, 4510.16, 4510.22, 4511.191, **<<VETOED MATERIAL** 4511.69, 4513.021, **VETOED MATERIAL>>** 4513.03, 4513.04, 4513.05, 4513.06, 4513.07, 4513.071, 4513.09, 4513.11, 4513.111, 4513.12, 4513.13, 4513.14, 4513.15, 4513.16, 4513.17, 4513.171, 4513.18, 4513.19, 4513.21, 4513.22, 4513.23, 4513.24, 4513.242, 4513.28, 4513.60, 4513.65, 4513.99, 4517.01, 4517.02, 4517.03, 4517.30, 4517.33, 4517.43, 4519.02, 4519.03, 4519.04, 4519.44, 4519.59, 4549.10, 4549.12, 4582.07, 4582.08, 4582.32, 4582.33, 4709.12, 4713.32, 4713.63, 4713.64, 4717.31, 4729.42, 4729.99, 4731.10, 4731.26, 4731.38, 4731.65, 4731.71, 4733.10, 4734.25, 4735.06, 4735.09, 4735.12, 4735.13, 4735.15, 4736.01, 4740.03, 4740.11, 4740.14, 4741.41, 4741.44, 4741.45, 4741.46, 4751.07, 4755.06, 4755.12, 4757.10, 4757.31, 4757.36, 4763.01, 4763.03, 4763.04, 4763.05, 4763.06, 4763.07, 4763.09, 4763.11, 4763.13, 4763.14, 4763.17, 4765.11, 4765.17, 4765.23, 4765.30, 4766.09, 4767.05, 4767.07, 4767.08, 4776.02, 4781.01, 4781.02, 4781.04, 4781.05, 4781.06, 4781.07, 4905.801, 4928.01, 5101.11, 5101.16, 5101.162, 5101.181, 5101.24, 5101.26, 5101.31, 5101.33, 5101.34, 5101.36, 5101.47, **<<VETOED MATERIAL** 5101.50, **VETOED MATERIAL>>** 5101.5212, 5101.5213, 5101.54, 5101.541, 5101.544, 5101.571, 5101.573, 5101.58, 5101.60, 5101.61, 5101.84, **<<VETOED MATERIAL** 5103.02, 5103.03, **VETOED MATERIAL>>** 5104.04, 5104.041, 5104.051, 5104.30, 5104.32, 5104.341, 5104.35, 5104.39, 5104.42, 5107.05, 5107.16, 5107.17, 5107.78, 5108.04, 5108.07, 5111.01, 5111.028, 5111.032, 5111.033, 5111.034, 5111.06, 5111.084, 5111.16, 5111.176, 5111.20, 5111.21, 5111.211, 5111.231, 5111.232, 5111.24, 5111.243, 5111.25, 5111.261, **<<VETOED MATERIAL** 5111.65, 5111.651, 5111.68, 5111.681, 5111.685, 5111.686, 5111.688, **VETOED MATERIAL>>** 5111.705, 5111.85, 5111.851, 5111.874, 5111.875, 5111.89, 5111.891, 5111.894, 5111.971, 5112.03, 5112.08, 5112.17, 5112.30, 5112.31, 5112.37, 5112.39, 5115.20, 5115.22, 5115.23, 5119.16, 5119.61, 5120.032, 5120.033, 5120.09, 5122.31, 5123.049, 5123.0412, 5123.0413, 5123.0417, 5123.19, 5126.044, 5126.05, 5126.054, 5126.055, 5126.0512, 5126.19, 5126.24, 5139.43, 5153.163, 5501.04, 5502.01, 5502.12, 5502.14, 5502.15, 5505.15, 5701.11, 5703.21, 5703.37, 5703.80, 5705.01, 5705.211, 5705.214, 5705.25, 5705.29, 5705.341, 5705.37, 5709.62, 5709.63, 5709.632, 5711.33, 5715.02, 5715.251, 5715.26, 5717.03, 5717.04, **<<VETOED MATERIAL** 5721.01, **VETOED MATERIAL>>** 5721.32, 5721.33, 5722.02, 5722.04, 5722.21, 5723.04, 5725.18, 5725.98, 5727.81, 5727.811, 5727.84, 5728.12, 5729.03, 5729.98, 5733.01, 5733.04, 5733.47, 5733.98, 5735.142, 5739.01, 5739.02, 5739.03, 5739.033, 5739.09, 5739.131, 5743.15, 5743.61, 5747.01, 5747.13, 5747.16, 5747.18, 5747.76, 5747.98, 5748.02, 5748.03, 5749.02, 5749.12, 5751.01, 5751.011, 5751.012, 5751.013, 5751.02,

5751.03, 5751.04, 5751.05, 5751.051, 5751.06, 5751.08, 5751.09, 5751.20, 5751.21, **<<VETOED MATERIAL** 5751.22, 5751.23, **VETOED MATERIAL>>** 5911.10, 5913.051, 5913.09, 6103.01, 6103.02, 6109.21, 6111.04, 6111.044, 6111.44, 6117.01, 6117.02, 6119.011, and 6301.03 be amended; sections 173.43 (173.422), 1517.14 (1547.81), 1517.16 (1547.82), 1517.17 (1547.83), 1517.18 (1547.84), 3313.174 (3313.82), 3319.233 (3333.049), **<<VETOED MATERIAL** 5101.5110 (5101.5111), **VETOED MATERIAL>>** 5111.019 (5111.0120)**<<VETOED MATERIAL** , and 5111.688 (5111.689) **VETOED MATERIAL>>** be amended for the purpose of adopting new section numbers as indicated in parentheses; new sections 173.43, 3301.0712, 3319.222, **<<VETOED MATERIAL** 5101.5110, 5111.688, **VETOED MATERIAL>>** and 5112.371 and sections 5.2265, 9.317, 103.24, 107.19, 111.26, 111.27, 121.375, 122.042, 122.12, 122.121, 122.85, 124.393, 124.821, 124.822, 124.86, 125.181, 125.20, **<<VETOED MATERIAL** 126.10, **VETOED MATERIAL>>** 126.50, 126.501, 126.502, 126.503, 126.504, 126.505, 126.506, 126.507, 131.38, 133.022, 148.05, 150.051, 153.013, 166.22, 166.28, 173.28, 173.402, 173.403, 173.421, 173.423, 173.424, 173.425, 173.431, 173.432, 173.433, 173.434, 173.501, 173.70, 175.052, 175.30, 175.31, 175.32, **<<VETOED MATERIAL** 305.20, 319.24, **VETOED MATERIAL>>** 717.25, 901.041, 901.91, 927.54, 943.031, 1321.521, 1321.522, 1321.531, 1321.532, 1321.533, 1321.534, 1321.535, 1321.536, 1321.552, 1321.591, 1321.592, 1321.593, 1321.594, 1322.022, 1322.023, 1322.024, 1322.025, 1322.065, 1547.02, 1547.85, 1547.86, 1547.87, 1733.252, **<<VETOED MATERIAL** 2505.122, **VETOED MATERIAL>>** 3119.371, 3301.041, 3301.076, 3301.0719, 3301.0721, 3301.122, 3301.60, 3301.61, 3301.62, 3301.63, 3301.64, 3301.82, 3301.90, 3301.95, 3304.181, 3304.182, 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, 3306.13, 3306.18, 3306.19, 3306.191, 3306.192, 3306.21, 3306.22, 3306.25, 3306.29, 3306.291, 3306.292, 3306.30, 3306.31, 3306.33, 3306.34, 3306.35, 3306.40, 3306.50, 3306.51, 3306.52, 3306.53, 3306.54, 3306.55, 3306.56, 3306.57, 3306.58, 3310.15, 3311.0510, 3313.6015, 3313.719, 3313.821, 3313.822, 3313.83, 3313.86, 3314.028, 3314.088, 3314.44, 3317.018, 3318.312, 3319.223, 3319.611, 3319.612, 3319.70, 3319.71, 3321.041, 3326.39, 3333.048, 3333.39, 3333.391, 3333.392, 3333.90, 3334.111, 3345.36, 3353.09, 3353.20, 3354.24, 3365.12, 3375.79, **<<VETOED MATERIAL** 3701.0211, 3701.136, **VETOED MATERIAL>>** 3701.611, 3702.592, 3702.593, 3702.594, **<<VETOED MATERIAL** 3705.031, **VETOED MATERIAL>>** 3709.092, 3715.041, 3721.511, 3721.512, 3721.513, 3722.022, 3734.282, 3770.21, 3793.21, 3903.77, 3923.241, 3923.582, 3923.90, 3923.91, 4113.11, 4123.446, **<<VETOED MATERIAL** 4301.85, **VETOED MATERIAL>>** 4501.243, 4501.29, 4503.548, 4503.563, 4582.71, 4755.061, 4781.16, 4781.17, 4781.18, 4781.19, 4781.20, 4781.21, 4781.22, 4781.23, 4781.24, 4781.25, 4781.99, 5101.073, **<<VETOED MATERIAL** 5101.504, 5101.5210, **VETOED MATERIAL>>** 5101.542, 5111.0121, 5111.0210, 5111.092, 5111.233, **<<VETOED MATERIAL** 5111.236, **VETOED MATERIAL>>** 5111.262, 5111.861, 5111.88, 5111.881, 5111.882, 5111.883, 5111.884, 5111.885, 5111.886, 5111.887, 5111.888, 5111.889, 5111.8810, 5111.8811, 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, 5112.48, 5119.613, 5119.621, 5123.193, 5123.197, 5155.38, 5505.152, 5525.26, **<<VETOED MATERIAL** 5537.051, **VETOED MATERIAL>>** 5705.219, 5705.2110, 5705.2111, 5725.33, 5729.16, 5733.58, 5733.59, 5739.051, 5747.66, 5751.014, 5911.11, 5919.20, 5919.36, and 6119.091 of the Revised Code be enacted; and Section 6 of H.B. 364 of the 124th General Assembly be amended and Section 6 of H.B. 364 of the 124th General Assembly be amended to codify as section 3314.027 of the Revised Code to read as follows:

<< OH ST 5.2265 >>

The month of August is designated as "Ohio Military Family Month."

<< OH ST 7.12 >>

< This section contains vetoed provisions. >

Whenever any legal publication is required by law to be made in a newspaper published in a municipal corporation, county, or other political subdivision, the newspaper shall also be a newspaper of general circulation in the municipal corporation, county, or other political subdivision, without further restriction or limitation upon a selection of the newspaper to be used. If no newspaper is published in such municipal corporation, county, or other political subdivision, such legal publication shall be made in any newspaper of general circulation therein. If there are less than two newspapers published in any municipal corporation, county, or other political subdivision in the manner defined by this section, then any legal publication required by law to be made in a newspaper published in a municipal corporation, county, or other political subdivision may be made in any newspaper regularly issued at stated intervals from a known office of publication located within the municipal corporation, county, or other political subdivision. As used in this section, a known office of publication is a public office where the business of the newspaper is transacted during the usual business hours, and such office shall be shown by the publication itself.

In addition to all other requirements, a newspaper or newspaper of general circulation, except those publications performing the functions described in section 2701.09 of the Revised Code for a period of one year immediately preceding any such publication required to be made, shall be a publication bearing a title or name, regularly issued as frequently as once a week **<<VETOED MATERIAL** ~~for a definite price or consideration paid for by not less than fifty per cent of those to whom distribution is made, having a second class mailing privilege~~ **VETOED MATERIAL>>**, being not less than four pages, published continuously during the immediately preceding one-year period, and circulated generally in the political subdivision in which it is published. Such publication must be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, current happenings, announcements, miscellaneous reading matter, advertisements, and other notices**<<VETOED MATERIAL , that has at least twenty-five per cent editorial, nonadvertising content, exclusive of inserts, measured relative to total publication space, and an audited circulation to at least fifty per cent of the households in the newspaper's retail trade zone as defined by the audit VETOED MATERIAL>>**.

<<VETOED MATERIAL Any notice required to be published in a newspaper of general circulation may appear on an insert placed in such a newspaper. A responsible party who is required to publish such a notice shall consider various advertising media to determine which media might reach the intended public most broadly. The responsible party need publish the notice in only one qualified medium to meet the requirements of law. VETOED MATERIAL>>

<< OH ST 9.06 >>

(A)(1) The department of rehabilitation and correction ~~shall~~ **may** contract for the private operation and management pursuant to this section of the initial intensive program prison established pursuant to section 5120.033 of the Revised Code **, if one or more intensive program prisons are established under that section,** and may contract for the private operation and management of any other facility under this section. Counties and municipal corporations to the extent authorized in sections 307.93, 341.35, 753.03, and 753.15 of the Revised Code, may contract for the private operation and management of a facility under this section. A contract entered into under this section shall be for an initial term of not more than two years, with an option to renew for additional periods of two years.

(2) The department of rehabilitation and correction, by rule, shall adopt minimum criteria and specifications that a person or entity, other than a person or entity that satisfies the criteria set forth in division (A)(3)(a) of this section and subject to

division (I) of this section, must satisfy in order to apply to operate and manage as a contractor pursuant to this section the initial intensive program prison established pursuant to section 5120.033 of the Revised Code , **if one or more intensive program prisons are established under that section.**

(3) Subject to division (I) of this section, any person or entity that applies to operate and manage a facility as a contractor pursuant to this section shall satisfy one or more of the following criteria:

(a) The person or entity is accredited by the American correctional association and, at the time of the application, operates and manages one or more facilities accredited by the American correctional association.

(b) The person or entity satisfies all of the minimum criteria and specifications adopted by the department of rehabilitation and correction pursuant to division (A)(2) of this section, provided that this alternative shall be available only in relation to the initial intensive program prison established pursuant to section 5120.033 of the Revised Code , **if one or more intensive program prisons are established under that section.**

(4) Subject to division (I) of this section, before a public entity may enter into a contract under this section, the contractor shall convincingly demonstrate to the public entity that it can operate the facility with the inmate capacity required by the public entity and provide the services required in this section and realize at least a five per cent savings over the projected cost to the public entity of providing these same services to operate the facility that is the subject of the contract. No out-of-state prisoners may be housed in any facility that is the subject of a contract entered into under this section.

(B) Subject to division (I) of this section, any contract entered into under this section shall include all of the following:

(1) A requirement that the contractor retain the contractor's accreditation from the American correctional association throughout the contract term or, if the contractor applied pursuant to division (A)(3)(b) of this section, continue complying with the applicable criteria and specifications adopted by the department of rehabilitation and correction pursuant to division (A)(2) of this section;

(2) A requirement that all of the following conditions be met:

(a) The contractor begins the process of accrediting the facility with the American correctional association no later than sixty days after the facility receives its first inmate.

(b) The contractor receives accreditation of the facility within twelve months after the date the contractor applies to the American correctional association for accreditation.

(c) Once the accreditation is received, the contractor maintains it for the duration of the contract term.

(d) If the contractor does not comply with divisions (B)(2)(a) to (c) of this section, the contractor is in violation of the contract, and the public entity may revoke the contract at its discretion.

(3) A requirement that the contractor comply with all rules promulgated by the department of rehabilitation and correction that apply to the operation and management of correctional facilities, including the minimum standards for jails in Ohio and policies regarding the use of force and the use of deadly force, although the public entity may require more stringent standards, and comply with any applicable laws, rules, or regulations of the federal, state, and local governments, including, but not limited to, sanitation, food service, safety, and health regulations. The contractor shall be re-

quired to send copies of reports of inspections completed by the appropriate authorities regarding compliance with rules and regulations to the director of rehabilitation and correction or the director's designee and, if contracting with a local public entity, to the governing authority of that entity.

(4) A requirement that the contractor report for investigation all crimes in connection with the facility to the public entity, to all local law enforcement agencies with jurisdiction over the place at which the facility is located, and, for a crime committed at a state correctional institution, to the state highway patrol;

(5) A requirement that the contractor immediately report all escapes from the facility, and the apprehension of all escapees, by telephone and in writing to all local law enforcement agencies with jurisdiction over the place at which the facility is located, to the prosecuting attorney of the county in which the facility is located, to the state highway patrol, to a daily newspaper having general circulation in the county in which the facility is located, and, if the facility is a state correctional institution, to the department of rehabilitation and correction. The written notice may be by either facsimile transmission or mail. A failure to comply with this requirement regarding an escape is a violation of section 2921.22 of the Revised Code.

(6) A requirement that, if the facility is a state correctional institution, the contractor provide a written report within specified time limits to the director of rehabilitation and correction or the director's designee of all unusual incidents at the facility as defined in rules promulgated by the department of rehabilitation and correction or, if the facility is a local correctional institution, that the contractor provide a written report of all unusual incidents at the facility to the governing authority of the local public entity;

(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction, for state correctional institutions, or pursuant to the minimum standards for jails along with any additional standards established by the local public entity, for local correctional institutions, and that records pertaining to these funds be made available to representatives of the public entity for review or audit;

(8) A requirement that the contractor prepare and distribute to the director of rehabilitation and correction or, if contracting with a local public entity, to the governing authority of the local entity, annual budget income and expenditure statements and funding source financial reports;

(9) A requirement that the public entity appoint and supervise a full-time contract monitor, that the contractor provide suitable office space for the contract monitor at the facility, and that the contractor allow the contract monitor unrestricted access to all parts of the facility and all records of the facility except the contractor's financial records;

(10) A requirement that if the facility is a state correctional institution, designated department of rehabilitation and correction staff members be allowed access to the facility in accordance with rules promulgated by the department;

(11) A requirement that the contractor provide internal and perimeter security as agreed upon in the contract;

(12) If the facility is a state correctional institution, a requirement that the contractor impose discipline on inmates housed in a state correctional institution, only in accordance with rules promulgated by the department of rehabilitation and correction;

(13) A requirement that the facility be staffed at all times with a staffing pattern approved by the public entity and ad-

equate both to ensure supervision of inmates and maintenance of security within the facility, and to provide for programs, transportation, security, and other operational needs. In determining security needs, the contractor shall be required to consider, among other things, the proximity of the facility to neighborhoods and schools.

(14) If the contract is with a local public entity, a requirement that the contractor provide services and programs, consistent with the minimum standards for jails promulgated by the department of rehabilitation and correction under section 5120.10 of the Revised Code;

(15) A clear statement that no immunity from liability granted to the state, and no immunity from liability granted to political subdivisions under Chapter 2744. of the Revised Code, shall extend to the contractor or any of the contractor's employees;

(16) A statement that all documents and records relevant to the facility shall be maintained in the same manner required for, and subject to the same laws, rules, and regulations as apply to, the records of the public entity;

(17) Authorization for the public entity to impose a fine on the contractor from a schedule of fines included in the contract for the contractor's failure to perform its contractual duties, or to cancel the contract, as the public entity considers appropriate. If a fine is imposed, the public entity may reduce the payment owed to the contractor pursuant to any invoice in the amount of the imposed fine.

(18) A statement that all services provided or goods produced at the facility shall be subject to the same regulations, and the same distribution limitations, as apply to goods and services produced at other correctional institutions;

(19) Authorization for the department to establish one or more prison industries at a facility operated and managed by a contractor for the department;

(20) A requirement that, if the facility is an intensive program prison established pursuant to section 5120.033 of the Revised Code, the facility shall comply with all criteria for intensive program prisons of that type that are set forth in that section;

(21) If the institution is a state correctional institution, a requirement that the contractor provide clothing for all inmates housed in the facility that is conspicuous in its color, style, or color and style, that conspicuously identifies its wearer as an inmate, and that is readily distinguishable from clothing of a nature that normally is worn outside the facility by non-inmates, that the contractor require all inmates housed in the facility to wear the clothing so provided, and that the contractor not permit any inmate, while inside or on the premises of the facility or while being transported to or from the facility, to wear any clothing of a nature that does not conspicuously identify its wearer as an inmate and that normally is worn outside the facility by non-inmates.

(C) No contract entered into under this section may require, authorize, or imply a delegation of the authority or responsibility of the public entity to a contractor for any of the following:

(1) Developing or implementing procedures for calculating inmate release and parole eligibility dates and recommending the granting or denying of parole, although the contractor may submit written reports that have been prepared in the ordinary course of business;

(2) Developing or implementing procedures for calculating and awarding earned credits, approving the type of work in-

mates may perform and the wage or earned credits, if any, that may be awarded to inmates engaging in that work, and granting, denying, or revoking earned credits;

(3) For inmates serving a term imposed for a felony offense committed prior to July 1, 1996, or for a misdemeanor offense, developing or implementing procedures for calculating and awarding good time, approving the good time, if any, that may be awarded to inmates engaging in work, and granting, denying, or revoking good time;

(4) For inmates serving a term imposed for a felony offense committed on or after July 1, 1996, extending an inmate's term pursuant to the provisions of law governing bad time;

(5) Classifying an inmate or placing an inmate in a more or a less restrictive custody than the custody ordered by the public entity;

(6) Approving inmates for work release;

(7) Contracting for local or long distance telephone services for inmates or receiving commissions from those services at a facility that is owned by or operated under a contract with the department.

(D) A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized services, as described in division (I) of this section, relative to an intensive program prison established pursuant to section 5120.033 of the Revised Code to be operated by a contractor that has been approved to operate the prison under this section, shall provide an adequate policy of insurance specifically including, but not limited to, insurance for civil rights claims as determined by a risk management or actuarial firm with demonstrated experience in public liability for state governments. The insurance policy shall provide that the state, including all state agencies, and all political subdivisions of the state with jurisdiction over the facility or in which a facility is located are named as insured, and that the state and its political subdivisions shall be sent any notice of cancellation. The contractor may not self-insure.

A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized services, as described in division (I) of this section, relative to an intensive program prison established pursuant to section 5120.033 of the Revised Code to be operated by a contractor that has been approved to operate the prison under this section, shall indemnify and hold harmless the state, its officers, agents, and employees, and any local government entity in the state having jurisdiction over the facility or ownership of the facility, shall reimburse the state for its costs in defending the state or any of its officers, agents, or employees, and shall reimburse any local government entity of that nature for its costs in defending the local government entity, from all of the following:

(1) Any claims or losses for services rendered by the contractor, person, or entity performing or supplying services in connection with the performance of the contract;

(2) Any failure of the contractor, person, or entity or its officers or employees to adhere to the laws, rules, regulations, or terms agreed to in the contract;

(3) Any constitutional, federal, state, or civil rights claim brought against the state related to the facility operated and managed by the contractor;

(4) Any claims, losses, demands, or causes of action arising out of the contractor's, person's, or entity's activities in this

state;

(5) Any attorney's fees or court costs arising from any habeas corpus actions or other inmate suits that may arise from any event that occurred at the facility or was a result of such an event, or arise over the conditions, management, or operation of the facility, which fees and costs shall include, but not be limited to, attorney's fees for the state's representation and for any court-appointed representation of any inmate, and the costs of any special judge who may be appointed to hear those actions or suits.

(E) Private correctional officers of a contractor operating and managing a facility pursuant to a contract entered into under this section may carry and use firearms in the course of their employment only after being certified as satisfactorily completing an approved training program as described in division (A) of section 109.78 of the Revised Code.

(F) Upon notification by the contractor of an escape from, or of a disturbance at, the facility that is the subject of a contract entered into under this section, the department of rehabilitation and correction and state and local law enforcement agencies shall use all reasonable means to recapture escapees or quell any disturbance. Any cost incurred by the state or its political subdivisions relating to the apprehension of an escapee or the quelling of a disturbance at the facility shall be chargeable to and borne by the contractor. The contractor shall also reimburse the state or its political subdivisions for all reasonable costs incurred relating to the temporary detention of the escapee following recapture.

(G) Any offense that would be a crime if committed at a state correctional institution or jail, workhouse, prison, or other correctional facility shall be a crime if committed by or with regard to inmates at facilities operated pursuant to a contract entered into under this section.

(H) A contractor operating and managing a facility pursuant to a contract entered into under this section shall pay any inmate workers at the facility at the rate approved by the public entity. Inmates working at the facility shall not be considered employees of the contractor.

(I) In contracting for the private operation and management pursuant to division (A) of this section of ~~the initial~~ **any** intensive program prison established pursuant to section 5120.033 of the Revised Code ~~or of any other intensive program prison established pursuant to that section~~, the department of rehabilitation and correction may enter into a contract with a contractor for the general operation and management of the prison and may enter into one or more separate contracts with other persons or entities for the provision of specialized services for persons confined in the prison, including, but not limited to, security or training services or medical, counseling, educational, or similar treatment programs. If, pursuant to this division, the department enters into a contract with a contractor for the general operation and management of the prison and also enters into one or more specialized service contracts with other persons or entities, all of the following apply:

(1) The contract for the general operation and management shall comply with all requirements and criteria set forth in this section, and all provisions of this section apply in relation to the prison operated and managed pursuant to the contract.

(2) Divisions (A)(2), (B), and (C) of this section do not apply in relation to any specialized services contract, except to the extent that the provisions of those divisions clearly are relevant to the specialized services to be provided under the specialized services contract. Division (D) of this section applies in relation to each specialized services contract.

(J) As used in this section:

(1) "Public entity" means the department of rehabilitation and correction, or a county or municipal corporation or a combination of counties and municipal corporations, that has jurisdiction over a facility that is the subject of a contract entered into under this section.

(2) "Local public entity" means a county or municipal corporation, or a combination of counties and municipal corporations, that has jurisdiction over a jail, workhouse, or other correctional facility used only for misdemeanants that is the subject of a contract entered into under this section.

(3) "Governing authority of a local public entity" means, for a county, the board of county commissioners; for a municipal corporation, the legislative authority; for a combination of counties and municipal ~~corporation~~ **corporations**, all the boards of county commissioners and municipal legislative authorities that joined to create the facility.

(4) "Contractor" means a person or entity that enters into a contract under this section to operate and manage a jail, workhouse, or other correctional facility.

(5) "Facility" means the specific county, multicounty, municipal, municipal-county, or multicounty-municipal jail, workhouse, prison, or other type of correctional institution or facility used only for misdemeanants, or a state correctional institution, that is the subject of a contract entered into under this section.

(6) "Person or entity" in the case of a contract for the private operation and management of a state correctional institution, includes an employee organization, as defined in section 4117.01 of the Revised Code, that represents employees at state correctional institutions.

<< OH ST 9.24 >>

(A) Except as may be allowed under division (F) of this section, no state agency and no political subdivision shall award a contract as described in division (G)(1) of this section for goods, services, or construction, paid for in whole or in part with state funds, to a person against whom a finding for recovery has been issued by the auditor of state on and after January 1, 2001, if the finding for recovery is unresolved.

A contract is considered to be awarded when it is entered into or executed, irrespective of whether the parties to the contract have exchanged any money.

(B) For purposes of this section, a finding for recovery is unresolved unless one of the following criteria applies:

(1) The money identified in the finding for recovery is paid in full to the state agency or political subdivision to whom the money was owed;

(2) The debtor has entered into a repayment plan that is approved by the attorney general and the state agency or political subdivision to whom the money identified in the finding for recovery is owed. A repayment plan may include a provision permitting a state agency or political subdivision to withhold payment to a debtor for goods, services, or construction provided to or for the state agency or political subdivision pursuant to a contract that is entered into with the debtor after the date the finding for recovery was issued.

(3) The attorney general waives a repayment plan described in division (B)(2) of this section for good cause;

(4) The debtor and state agency or political subdivision to whom the money identified in the finding for recovery is owed have agreed to a payment plan established through an enforceable settlement agreement.

(5) The state agency or political subdivision desiring to enter into a contract with a debtor certifies, and the attorney general concurs, that all of the following are true:

(a) Essential services the state agency or political subdivision is seeking to obtain from the debtor cannot be provided by any other person besides the debtor;

(b) Awarding a contract to the debtor for the essential services described in division (B)(5)(a) of this section is in the best interest of the state;

(c) Good faith efforts have been made to collect the money identified in the finding of recovery.

(6) The debtor has commenced an action to contest the finding for recovery and a final determination on the action has not yet been reached.

(C) The attorney general shall submit an initial report to the auditor of state, not later than December 1, 2003, indicating the status of collection for all findings for recovery issued by the auditor of state for calendar years 2001, 2002, and 2003. Beginning on January 1, 2004, the attorney general shall submit to the auditor of state, on the first day of every January, April, July, and October, a list of all findings for recovery that have been resolved in accordance with division (B) of this section during the calendar quarter preceding the submission of the list and a description of the means of resolution. The attorney general shall notify the auditor of state when a judgment is issued against an entity described in division (F)(1) of this section.

(D) The auditor of state shall maintain a database, accessible to the public, listing persons against whom an unresolved finding for recovery has been issued, and the amount of the money identified in the unresolved finding for recovery. The auditor of state shall have this database operational on or before January 1, 2004. The initial database shall contain the information required under this division for calendar years 2001, 2002, and 2003.

Beginning January 15, 2004, the auditor of state shall update the database by the fifteenth day of every January, April, July, and October to reflect resolved findings for recovery that are reported to the auditor of state by the attorney general on the first day of the same month pursuant to division (C) of this section.

(E) Before awarding a contract as described in division (G)(1) of this section for goods, services, or construction, paid for in whole or in part with state funds, a state agency or political subdivision shall verify that the person to whom the state agency or political subdivision plans to award the contract has no unresolved finding for recovery issued against the person. A state agency or political subdivision shall verify that the person does not appear in the database described in division (D) of this section or shall obtain other proof that the person has no unresolved finding for recovery issued against the person.

(F) The prohibition of division (A) of this section and the requirement of division (E) of this section do not apply with respect to the companies, payments, or agreements described in divisions (F)(1) and (2) of this section, or in the circumstance described in division (F)(3) of this section.

(1) A bonding company or a company authorized to transact the business of insurance in this state, a self-insurance pool, joint self-insurance pool, risk management program, or joint risk management program, unless a court has entered a final judgment against the company and the company has not yet satisfied the final judgment.

(2) To medicaid provider agreements under Chapter 5111. of the Revised Code ~~, payments or provider agreements under disability assistance medical assistance established under Chapter 5115. of the Revised Code,~~ or payments or provider agreements under the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.

(3) When federal law dictates that a specified entity provide the goods, services, or construction for which a contract is being awarded, regardless of whether that entity would otherwise be prohibited from entering into the contract pursuant to this section.

(G)(1) This section applies only to contracts for goods, services, or construction that satisfy the criteria in either division (G)(1)(a) or (b) of this section. This section may apply to contracts for goods, services, or construction that satisfy the criteria in division (G)(1)(c) of this section, provided that the contracts also satisfy the criteria in either division (G)(1)(a) or (b) of this section.

(a) The cost for the goods, services, or construction provided under the contract is estimated to exceed twenty-five thousand dollars.

(b) The aggregate cost for the goods, services, or construction provided under multiple contracts entered into by the particular state agency and a single person or the particular political subdivision and a single person within the fiscal year preceding the fiscal year within which a contract is being entered into by that same state agency and the same single person or the same political subdivision and the same single person, exceeded fifty thousand dollars.

(c) The contract is a renewal of a contract previously entered into and renewed pursuant to that preceding contract.

(2) This section does not apply to employment contracts.

(H) As used in this section:

(1) "State agency" has the same meaning as in section 9.66 of the Revised Code.

(2) "Political subdivision" means a political subdivision as defined in section 9.82 of the Revised Code that has received more than fifty thousand dollars of state money in the current fiscal year or the preceding fiscal year.

(3) "Finding for recovery" means a determination issued by the auditor of state, contained in a report the auditor of state gives to the attorney general pursuant to section 117.28 of the Revised Code, that public money has been illegally expended, public money has been collected but not been accounted for, public money is due but has not been collected, or public property has been converted or misappropriated.

(4) "Debtor" means a person against whom a finding for recovery has been issued.

(5) "Person" means the person named in the finding for recovery.

(6) "State money" does not include funds the state receives from another source and passes through to a political subdivi-

sion.

<< OH ST 9.314 >>

(A) As used in this section:

(1) "Contracting authority" has the same meaning as in section 307.92 of the Revised Code.

(2) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state and also includes a contracting authority.

(3) "Reverse auction" means a purchasing process in which offerors submit proposals in competing to sell services or supplies in an open environment via the internet.

(4) "Services" means the furnishing of labor, time, or effort by a person, not involving the delivery of a specific end product other than a report which, if provided, is merely incidental to the required performance. "Services" does not include services furnished pursuant to employment agreements or collective bargaining agreements.

(5) "Supplies" means all property, including, but not limited to, equipment, materials, other tangible assets, and insurance, but excluding real property or interests in real property.

(B) **(1)** Whenever any political subdivision determines that the use of a reverse auction is advantageous to the political subdivision, the political subdivision, in accordance with this section and rules the political subdivision shall adopt, may purchase services or supplies by reverse auction.

(2) A political subdivision shall not purchase supplies or services by reverse auction if the contract concerns the design, construction, alteration, repair, reconstruction, or demolition of a building, highway, road, street, alley, drainage system, water system, waterworks, ditch, sewer, sewage disposal plant, or any other structure or works of any kind.

(C) A political subdivision shall solicit proposals through a request for proposals. The request for proposals shall state the relative importance of price and other evaluation factors. The political subdivision shall give notice of the request for proposals in accordance with the rules it adopts.

(D) As provided in the request for proposals and in the rules a political subdivision adopts, and to ensure full understanding of and responsiveness to solicitation requirements, the political subdivision may conduct discussions with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. The political subdivision shall accord offerors fair and equal treatment with respect to any opportunity for discussion regarding any clarification, correction, or revision of their proposals.

(E) A political subdivision may award a contract to the offeror whose proposal the political subdivision determines to be the most advantageous to the political subdivision, taking into consideration factors such as price and the evaluation criteria set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(F) The rules that a political subdivision adopts under this section may require the provision of a performance bond, or

another similar form of financial security, in the amount and in the form specified in the rules.

(G) If a political subdivision is required by law to purchase services or supplies by competitive sealed bidding or competitive sealed proposals, a purchase made by reverse auction satisfies that requirement.

<< OH ST 9.317 >>

As used in this section, "reverse auction" has the meaning defined in section 9.314 of the Revised Code, and "state agency" has the meaning defined in section 9.23 of the Revised Code.

A state agency shall not purchase supplies or services by reverse auction if the contract concerns the design, construction, alteration, repair, reconstruction, or demolition of a building, highway, road, street, alley, drainage system, water system, waterworks, ditch, sewer, sewage disposal plant, or any other structure or works of any kind.

<< OH ST 101.34 >>

(A) There is hereby created a joint legislative ethics committee to serve the general assembly. The committee shall be composed of twelve members, six each from the two major political parties, and each member shall serve on the committee during the member's term as a member of that general assembly. Six members of the committee shall be members of the house of representatives appointed by the speaker of the house of representatives, not more than three from the same political party, and six members of the committee shall be members of the senate appointed by the president of the senate, not more than three from the same political party. A vacancy in the committee shall be filled for the unexpired term in the same manner as an original appointment. The members of the committee shall be appointed within fifteen days after the first day of the first regular session of each general assembly and the committee shall meet and proceed to recommend an ethics code not later than thirty days after the first day of the first regular session of each general assembly.

In the first regular session of each general assembly, the speaker of the house of representatives shall appoint the chairperson of the committee from among the house members of the committee, and the president of the senate shall appoint the vice-chairperson of the committee from among the senate members of the committee. In the second regular session of each general assembly, the president of the senate shall appoint the chairperson of the committee from among the senate members of the committee, and the speaker of the house of representatives shall appoint the vice-chairperson of the committee from among the house members of the committee. The chairperson, vice-chairperson, and members of the committee shall serve until their respective successors are appointed or until they are no longer members of the general assembly.

The committee shall meet at the call of the chairperson or upon the written request of seven members of the committee.

(B) The joint legislative ethics committee:

(1) Shall recommend a code of ethics that is consistent with law to govern all members and employees of each house of the general assembly and all candidates for the office of member of each house;

(2) May receive and hear any complaint that alleges a breach of any privilege of either house, or misconduct of any member, employee, or candidate, or any violation of the appropriate code of ethics;

(3) May obtain information with respect to any complaint filed pursuant to this section and to that end may enforce the

attendance and testimony of witnesses, and the production of books and papers;

(4) May recommend whatever sanction is appropriate with respect to a particular member, employee, or candidate as will best maintain in the minds of the public a good opinion of the conduct and character of members and employees of the general assembly;

(5) May recommend legislation to the general assembly relating to the conduct and ethics of members and employees of and candidates for the general assembly;

(6) Shall employ an executive director for the committee and may employ other staff as the committee determines necessary to assist it in exercising its powers and duties. The executive director and staff of the committee shall be known as the office of legislative inspector general. At least one member of the staff of the committee shall be an attorney at law licensed to practice law in this state. The appointment and removal of the executive director shall require the approval of at least eight members of the committee.

(7) May employ a special counsel to assist the committee in exercising its powers and duties. The appointment and removal of a special counsel shall require the approval of at least eight members of the committee.

(8) Shall act as an advisory body to the general assembly and to individual members, candidates, and employees on questions relating to ethics, possible conflicts of interest, and financial disclosure;

(9) Shall provide for the proper forms on which a statement required pursuant to section 102.02 or 102.021 of the Revised Code shall be filed and instructions as to the filing of the statement;

(10) Exercise the powers and duties prescribed under sections 101.70 to 101.79, sections 101.90 to 101.98, Chapter 102., and sections 121.60 to 121.69 of the Revised Code;

(11) Adopt, in accordance with section 111.15 of the Revised Code, any rules that are necessary to implement and clarify Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code.

(C) There is hereby created in the state treasury the joint legislative ethics committee fund. All money collected from registration fees and late filing fees prescribed under sections 101.72, 101.92, and 121.62 of the Revised Code shall be deposited into the state treasury to the credit of the fund. Money credited to the fund and any interest and earnings from the fund shall be used solely for the operation of the joint legislative ethics committee and the office of legislative inspector general and for the purchase of data storage and computerization facilities for the statements filed with the committee under sections 101.73, 101.74, 101.93, 101.94, 121.63, and 121.64 of the Revised Code.

(D) The chairperson of the joint legislative ethics committee shall issue a written report, not later than the thirty-first day of January of each year, to the speaker and minority leader of the house of representatives and to the president and minority leader of the senate that lists the number of committee meetings and investigations the committee conducted during the immediately preceding calendar year and the number of advisory opinions it issued during the immediately preceding calendar year.

(E) Any investigative report that contains facts and findings regarding a complaint filed with the joint legislative ethics committee and that is prepared by the staff of the committee or a special counsel to the committee shall become a public record upon its acceptance by a vote of the majority of the members of the committee, except for any names of specific

individuals and entities contained in the report. If the committee recommends disciplinary action or reports its findings to the appropriate prosecuting authority for proceedings in prosecution of the violations alleged in the complaint, the investigatory report regarding the complaint shall become a public record in its entirety.

(F)(1) Any file obtained by or in the possession of the former house ethics committee or former senate ethics committee shall become the property of the joint legislative ethics committee. Any such file is confidential if either of the following applies:

(a) It is confidential under section 102.06 of the Revised Code or the legislative code of ethics.

(b) If the file was obtained from the former house ethics committee or from the former senate ethics committee, it was confidential under any statute or any provision of a code of ethics that governed the file.

(2) As used in this division, "file" includes, but is not limited to, evidence, documentation, or any other tangible thing.

(G) There is hereby created in the state treasury the joint legislative ethics committee investigative fund. Investment earnings of the fund shall be credited to the fund. Money in the fund shall be used solely for the operations of the committee in conducting investigations.

<< OH ST 101.72 >>

(A) Each legislative agent and employer, within ten days following an engagement of a legislative agent, shall file with the joint legislative ethics committee an initial registration statement showing all of the following:

(1) The name, business address, and occupation of the legislative agent;

(2) The name and business address of the employer and the real party in interest on whose behalf the legislative agent is actively advocating, if it is different from the employer. For the purposes of division (A) of this section, where a trade association or other charitable or fraternal organization that is exempt from federal income taxation under subsection 501(c) of the federal Internal Revenue Code is the employer, the statement need not list the names and addresses of each member of the association or organization, so long as the association or organization itself is listed.

(3) A brief description of the type of legislation to which the engagement relates.

(B) In addition to the initial registration statement required by division (A) of this section, each legislative agent and employer shall file with the joint committee, not later than the last day of January, May, and September of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement and that lists the specific bills or resolutions on which the agent actively advocated under that engagement during the period covered by the updated statement, and with it any statement of expenditures required to be filed by section 101.73 of the Revised Code and any details of financial transactions required to be filed by section 101.74 of the Revised Code.

(C) If a legislative agent is engaged by more than one employer, the agent shall file a separate initial and updated registration statement for each engagement. If an employer engages more than one legislative agent, the employer need file only one updated registration statement under division (B) of this section, which shall contain the information required by division (B) of this section regarding all of the legislative agents engaged by the employer.

(D)(1) A change in any information required by division (A)(1), (2), or (B) of this section shall be reflected in the next updated registration statement filed under division (B) of this section.

(2) Within thirty days after the termination of an engagement, the legislative agent who was employed under the engagement shall send written notification of the termination to the joint committee.

(E) ~~Except as otherwise provided in this division, a~~ **A** registration fee of twenty-five dollars shall be charged for filing an initial registration statement. **The state agency of an officer or employee who actively advocates in a fiduciary capacity as a representative of that state agency shall pay the registration fee required under this division.** All money collected from registration fees under this division and late filing fees under division (G) of this section shall be deposited into the state treasury to the credit of the joint legislative ethics committee fund created under section 101.34 of the Revised Code.

An officer or employee of a state agency who actively advocates in a fiduciary capacity as a representative of that state agency need not ~~pay the registration fee prescribed by this division or~~ file expenditure statements under section 101.73 of the Revised Code. As used in this division, "state agency" does not include a state institution of higher education as defined in section 3345.011 of the Revised Code.

(F) Upon registration pursuant to division (A) of this section, the legislative agent shall be issued a card by the joint committee showing that the legislative agent is registered. The registration card and the legislative agent's registration shall be valid from the date of their issuance until the next thirty-first day of December of an even-numbered year.

(G) The executive director of the joint committee shall be responsible for reviewing each registration statement filed with the joint committee under this section and for determining whether the statement contains all of the information required by this section. If the joint committee determines that the registration statement does not contain all of the required information or that a legislative agent or employer has failed to file a registration statement, the joint committee shall send written notification by certified mail to the person who filed the registration statement regarding the deficiency in the statement or to the person who failed to file the registration statement regarding the failure. Any person so notified by the joint committee shall, not later than fifteen days after receiving the notice, file a registration statement or an amended registration statement that does contain all of the information required by this section. If any person who receives a notice under this division fails to file a registration statement or such an amended registration statement within this fifteen-day period, the joint committee shall assess a late filing fee equal to twelve dollars and fifty cents per day, up to a maximum of one hundred dollars, upon that person. The joint committee may waive the late filing fee for good cause shown.

(H) On or before the fifteenth day of March of each year, the joint committee shall, in the manner and form that it determines, publish a report containing statistical information on the registration statements filed with it under this section during the preceding year.

<< OH ST 102.02 >>

(A) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate commission: every person who is elected to or is a candidate for a state, county, or city office and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the

state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the executive director and the members of the capitol square review and advisory board appointed or employed pursuant to section 105.41 of the Revised Code; the chief executive officer and the members of the board of each state retirement system; each employee of a state retirement board who is a state retirement system investment officer licensed pursuant to section 1707.163 of the Revised Code; the members of the Ohio retirement study council appointed pursuant to division (C) of section 171.01 of the Revised Code; employees of the Ohio retirement study council, other than employees who perform purely administrative or clerical functions; the administrator of workers' compensation and each member of the bureau of workers' compensation board of directors; the bureau of workers' compensation director of investments; the chief investment officer of the bureau of workers' compensation; the director appointed by the workers' compensation council; all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has a total student count of twelve thousand or more as most recently determined by the department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district that is established under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use, and that includes two municipal corporations in two counties; every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section.

The disclosure statement shall include all of the following:

(1) The name of the person filing the statement and each member of the person's immediate family and all names under which the person or members of the person's immediate family do business;

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section and except as otherwise provided in section 102.022 of the Revised Code, identification of every source of income, other than income from a legislative agent identified in division (A)(2)(b) of this section, received during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. If the person filing the statement is a member of the general assembly, the statement shall identify the amount of every source of income received in accordance with the following ranges of amounts: zero or more, but less than one thousand dollars; one thousand dollars or more, but less than ten thousand dollars; ten thousand dollars or more, but less than twenty-five thousand dollars; twenty-five thousand dollars or more, but less than fifty thousand dollars; fifty thousand dollars or more, but less than one hundred thousand dollars; and one hundred thousand dollars or more. Division (A)(2)(a) of this section shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of that business or profession, except for those individual items of income that are attributable to the person's or, if the income is shared with the person, the partner's, solicitation of services or goods or performance, arrangement, or facilitation of services or provision of goods on behalf of the business or profession of clients, including corporate clients, who are legis-

lative agents. A person who files the statement under this section shall disclose the identity of and the amount of income received from a person who the public official or employee knows or has reason to know is doing or seeking to do business of any kind with the public official's or employee's agency.

(b) If the person filing the statement is a member of the general assembly, the statement shall identify every source of income and the amount of that income that was received from a legislative agent during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. Division (A)(2)(b) of this section requires the disclosure of clients of attorneys or persons licensed under section 4732.12 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, if those clients or patients are legislative agents. Division (A)(2)(b) of this section requires a person filing the statement who derives income from a business or profession to disclose those individual items of income that constitute the gross income of that business or profession that are received from legislative agents.

(c) Except as otherwise provided in division (A)(2)(c) of this section, division (A)(2)(a) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics applicable to the profession, or otherwise, generally are required not to reveal, disclose, or use confidences of clients, patients, or other recipients of professional services except under specified circumstances or generally are required to maintain those types of confidences as privileged communications except under specified circumstances. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose the name, other identity, or address of a client, patient, or other recipient of professional services if the disclosure would threaten the client, patient, or other recipient of professional services, would reveal details of the subject matter for which legal, medical, or professional advice or other services were sought, or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose in the brief description of the nature of services required by division (A)(2)(a) of this section any information pertaining to specific professional services rendered for a client, patient, or other recipient of professional services that would reveal details of the subject matter for which legal, medical, or professional advice was sought or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services.

(3) The name of every corporation on file with the secretary of state that is incorporated in this state or holds a certificate of compliance authorizing it to do business in this state, trust, business trust, partnership, or association that transacts business in this state in which the person filing the statement or any other person for the person's use and benefit had during the preceding calendar year an investment of over one thousand dollars at fair market value as of the thirty-first day of December of the preceding calendar year, or the date of disposition, whichever is earlier, or in which the person holds any office or has a fiduciary relationship, and a description of the nature of the investment, office, or relationship. Division (A)(3) of this section does not require disclosure of the name of any bank, savings and loan association, credit union, or building and loan association with which the person filing the statement has a deposit or a withdrawable share account.

(4) All fee simple and leasehold interests to which the person filing the statement holds legal title to or a beneficial interest in real property located within the state, excluding the person's residence and property used primarily for personal

recreation;

(5) The names of all persons residing or transacting business in the state to whom the person filing the statement owes, in the person's own name or in the name of any other person, more than one thousand dollars. Division (A)(5) of this section shall not be construed to require the disclosure of debts owed by the person resulting from the ordinary conduct of a business or profession or debts on the person's residence or real property used primarily for personal recreation, except that the superintendent of financial institutions shall disclose the names of all state-chartered savings and loan associations and of all service corporations subject to regulation under division (E)(2) of section 1151.34 of the Revised Code to whom the superintendent in the superintendent's own name or in the name of any other person owes any money, and that the superintendent and any deputy superintendent of banks shall disclose the names of all state-chartered banks and all bank subsidiary corporations subject to regulation under section 1109.44 of the Revised Code to whom the superintendent or deputy superintendent owes any money.

(6) The names of all persons residing or transacting business in the state, other than a depository excluded under division (A)(3) of this section, who owe more than one thousand dollars to the person filing the statement, either in the person's own name or to any person for the person's use or benefit. Division (A)(6) of this section shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, nor the disclosure of debts owed to the person resulting from the ordinary conduct of a business or profession.

(7) Except as otherwise provided in section 102.022 of the Revised Code, the source of each gift of over seventy-five dollars, or of each gift of over twenty-five dollars received by a member of the general assembly from a legislative agent, received by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, or received from spouses, parents, grandparents, children, grandchildren, siblings, nephews, nieces, uncles, aunts, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, or any person to whom the person filing the statement stands in loco parentis, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or by an ancestor;

(8) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source and amount of every payment of expenses incurred for travel to destinations inside or outside this state that is received by the person in the person's own name or by any other person for the person's use or benefit and that is incurred in connection with the person's official duties, except for expenses for travel to meetings or conventions of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues;

(9) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source of payment of expenses for meals and other food and beverages, other than for meals and other food and beverages provided at a meeting at which the person participated in a panel, seminar, or speaking engagement or at a meeting or convention of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues, that are incurred in connection with the person's official duties and that exceed one hundred dollars aggregated per calendar year;

(10) If the disclosure statement is filed by a public official or employee described in division (B)(2) of section 101.73 of the Revised Code or division (B)(2) of section 121.63 of the Revised Code who receives a statement from a legislative agent, executive agency lobbyist, or employer that contains the information described in division (F)(2) of section 101.73 of the Revised Code or division (G)(2) of section 121.63 of the Revised Code, all of the nondisputed information contained in the statement delivered to that public official or employee by the legislative agent, executive agency lobbyist, or employer under division (F)(2) of section 101.73 or (G)(2) of section 121.63 of the Revised Code.

A person may file a statement required by this section in person or by mail. A person who is a candidate for elective office shall file the statement no later than the thirtieth day before the primary, special, or general election at which the candidacy is to be voted on, whichever election occurs soonest, except that a person who is a write-in candidate shall file the statement no later than the twentieth day before the earliest election at which the person's candidacy is to be voted on. A person who holds elective office shall file the statement on or before the fifteenth day of April of each year unless the person is a candidate for office. A person who is appointed to fill a vacancy for an unexpired term in an elective office shall file the statement within fifteen days after the person qualifies for office. Other persons shall file an annual statement on or before the fifteenth day of April or, if appointed or employed after that date, within ninety days after appointment or employment. No person shall be required to file with the appropriate ethics commission more than one statement or pay more than one filing fee for any one calendar year.

The appropriate ethics commission, for good cause, may extend for a reasonable time the deadline for filing a statement under this section.

A statement filed under this section is subject to public inspection at locations designated by the appropriate ethics commission except as otherwise provided in this section.

(B) The Ohio ethics commission, the joint legislative ethics committee, and the board of commissioners on grievances and discipline of the supreme court, using the rule-making procedures of Chapter 119. of the Revised Code, may require any class of public officials or employees under its jurisdiction and not specifically excluded by this section whose positions involve a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state or a county or city, or the execution of other public trusts, to file an annual statement on or before the fifteenth day of April under division (A) of this section. The appropriate ethics commission shall send the public officials or employees written notice of the requirement by the fifteenth day of February of each year the filing is required unless the public official or employee is appointed after that date, in which case the notice shall be sent within thirty days after appointment, and the filing shall be made not later than ninety days after appointment.

Except for disclosure statements filed by members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation, disclosure statements filed under this division with the Ohio ethics commission by members of boards, commissions, or bureaus of the state for which no compensation is received other than reasonable and necessary expenses shall be kept confidential. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by business managers, treasurers, and superintendents of city, local, exempted village, joint vocational, or cooperative education school districts or educational service centers shall be kept confidential, except that any person conducting an audit of any such school district or educational service center pursuant to section 115.56 or Chapter 117. of the Revised Code may examine the disclosure statement of any business manager, treasurer, or superintendent of that school district or educational service center. The Ohio ethics commission shall exam-

ine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be kept confidential by the commission and shall not be made subject to public inspection, except as is necessary for the enforcement of Chapters 102. and 2921. of the Revised Code and except as otherwise provided in this division.

(C) No person shall knowingly fail to file, on or before the applicable filing deadline established under this section, a statement that is required by this section.

(D) No person shall knowingly file a false statement that is required to be filed under this section.

(E)(1) Except as provided in divisions (E)(2) and (3) of this section, the statement required by division (A) or (B) of this section shall be accompanied by a filing fee of forty dollars.

(2) The statement required by division (A) of this section shall be accompanied by the following filing fee to be paid by the person who is elected or appointed to, or is a candidate for, any of the following offices:

For state office, except member of the state board of education	$65
For office of member of general assembly	$40
For county office	$40
For city office	$25
For office of member of the state board of education	$25
For office of member of a city, local, exempted village, or cooperative education board of education or educational service center governing board	$20
For position of business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or educational service center	$20

(3) No judge of a court of record or candidate for judge of a court of record, and no referee or magistrate serving a court of record, shall be required to pay the fee required under division (E)(1) or (2) or (F) of this section.

(4) For any public official who is appointed to a nonelective office of the state and for any employee who holds a nonelective position in a public agency of the state, the state agency that is the primary employer of the state official or employee shall pay the fee required under division (E)(1) or (F) of this section.

(F) If a statement required to be filed under this section is not filed by the date on which it is required to be filed, the appropriate ethics commission shall assess the person required to file the statement a late filing fee of ten dollars for each day the statement is not filed, except that the total amount of the late filing fee shall not exceed two hundred fifty dollars.

(G)(1) The appropriate ethics commission other than the Ohio ethics commission **and the joint legislative ethics committee** shall deposit all fees it receives under divisions (E) and (F) of this section into the general revenue fund of the state.

(2) The Ohio ethics commission shall deposit all receipts, including, but not limited to, fees it receives under divisions (E) and (F) of this section and all moneys it receives from settlements under division (G) of section 102.06 of the Revised Code, into the Ohio ethics commission fund, which is hereby created in the state treasury. All moneys credited to the fund shall be used solely for expenses related to the operation and statutory functions of the commission.

(3) The joint legislative ethics committee shall deposit all receipts it receives from the payment of financial disclosure statement filing fees under divisions (E) and (F) of this section into the joint legislative ethics committee investigative fund.

(H) Division (A) of this section does not apply to a person elected or appointed to the office of precinct, ward, or district committee member under Chapter 3517. of the Revised Code; a presidential elector; a delegate to a national convention; village or township officials and employees; any physician or psychiatrist who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code and whose primary duties do not require the exercise of administrative discretion; or any member of a board, commission, or bureau of any county or city who receives less than one thousand dollars per year for serving in that position.

<< OH ST 103.24 >>

There is hereby created in the state treasury the legislative agency telephone usage fund. Money collected from the house of representatives, senate, and joint legislative ethics committee shall be credited to the fund, along with money collected from any other legislative agency that the legislative service commission determines should account for calls made from the agency's telephones through the fund. The fund shall be used to pay the telephone carriers for all such telephone calls.

<< OH ST 105.41 >>

< This section contains vetoed provisions. >

(A) There is hereby created **<<VETOED MATERIAL in the legislative branch of government VETOED MATERIAL>>** the capitol square review and advisory board, consisting of thirteen members as follows:

(1) Two members of the senate, appointed by the president of the senate, both of whom shall not be members of the same political party;

(2) Two members of the house of representatives, appointed by the speaker of the house of representatives, both of whom shall not be members of the same political party;

(3) Five members appointed by the governor, with the advice and consent of the senate, not more than three of whom shall be members of the same political party, one of whom shall be the chief of staff of the governor's office, one of whom shall represent the Ohio arts council, one of whom shall represent the Ohio historical society, one of whom shall represent the Ohio building authority, and one of whom shall represent the public at large;

(4) One member, who shall be a former president of the senate, appointed by the current president of the senate. If the current president of the senate, in the current president's discretion, decides for any reason not to make the appointment or if no person is eligible or available to serve, the seat shall remain vacant.

(5) One member, who shall be a former speaker of the house of representatives, appointed by the current speaker of the house of representatives. If the current speaker of the house of representatives, in the current speaker's discretion, decides for any reason not to make the appointment or if no person is eligible or available to serve, the seat shall remain vacant.

(6) The clerk of the senate and the clerk of the house of representatives.

(B) Terms of office of each appointed member of the board shall be for three years, except that members of the general assembly appointed to the board shall be members of the board only so long as they are members of the general assembly and the chief of staff of the governor's office shall be a member of the board only so long as the appointing governor remains in office. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. In case of a vacancy occurring on the board, the president of the senate, the speaker of the house of representatives, or the governor, as the case may be, shall in the same manner prescribed for the regular appointment to the commission, fill the vacancy by appointing a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(C) The board shall hold meetings in a manner and at times prescribed by the rules adopted by the board. A majority of the board constitutes a quorum, and no action shall be taken by the board unless approved by at least six members or by at least seven members if a person is appointed under division (A)(4) or (5) of this section. At its first meeting, the board shall adopt rules for the conduct of its business and the election of its officers, and shall organize by selecting a chairperson and other officers as it considers necessary. Board members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(D) The board may do any of the following:

(1) Employ or hire on a consulting basis professional, technical, and clerical employees as are necessary for the performance of its duties ;<<**VETOED MATERIAL . All employees of the board are in the unclassified civil service and serve at the pleasure of the board. For the purposes of sections 718.04 and 4117.01 of the Revised Code, employees of the board shall be considered employees of the general assembly.** VETOED MATERIAL>>

(2) Hold public hearings at times and places as determined by the board;

(3) Adopt, amend, or rescind rules necessary to accomplish the duties of the board as set forth in this section;

(4) Sponsor, conduct, and support such social events as the board may authorize and consider appropriate for the employees of the board, employees and members of the general assembly, employees of persons under contract with the board or otherwise engaged to perform services on the premises of capitol square, or other persons as the board may consider appropriate. Subject to the requirements of Chapter 4303. of the Revised Code, the board may provide beer, wine, and intoxicating liquor, with or without charge, for those events and may use funds only from the sale of goods and services fund to purchase the beer, wine, and intoxicating liquor the board provides;

(5) Purchase a warehouse in which to store items of the capitol collection trust and, whenever necessary, equipment or other property of the board.

(E) The board shall do all of the following:

(1) Have sole authority to coordinate and approve any improvements, additions, and renovations that are made to the capitol square. The improvements shall include, but not be limited to, the placement of monuments and sculpture on the capitol grounds.

(2) Subject to section 3353.07 of the Revised Code, operate the capitol square, and have sole authority to regulate all uses of the capitol square. The uses shall include, but not be limited to, the casual and recreational use of the capitol square.

(3) Employ, fix the compensation of, and prescribe the duties of the executive director of the board and other employees the board considers necessary for the performance of its powers and duties;

(4) Establish and maintain the capitol collection trust. The capitol collection trust shall consist of furniture, antiques, and other items of personal property that the board shall store in suitable facilities until they are ready to be displayed in the capitol square.

(5) Perform repair, construction, contracting, purchasing, maintenance, supervisory, and operating activities the board determines are necessary for the operation and maintenance of the capitol square;

(6) Maintain and preserve the capitol square, in accordance with guidelines issued by the United States secretary of the interior for application of the secretary's standards for rehabilitation adopted in 36 C.F.R. part 67;

(7) Plan and develop a center at the capitol building for the purpose of educating visitors about the history of Ohio, including its political, economic, and social development and the design and erection of the capitol building and its grounds.

(F)(1) The board shall lease capital facilities improved or financed by the Ohio building authority pursuant to Chapter 152. of the Revised Code for the use of the board, and may enter into any other agreements with the authority ancillary to improvement, financing, or leasing of those capital facilities, including, but not limited to, any agreement required by the applicable bond proceedings authorized by Chapter 152. of the Revised Code. Any lease of capital facilities authorized by this section shall be governed by division (D) of section 152.24 of the Revised Code.

(2) Fees, receipts, and revenues received by the board from the state underground parking garage constitute available receipts as defined in section 152.09 of the Revised Code, and may be pledged to the payment of bond service charges on obligations issued by the Ohio building authority pursuant to Chapter 152. of the Revised Code to improve, finance, or purchase capital facilities useful to the board. The authority may, with the consent of the board, provide in the bond proceedings for a pledge of all or a portion of those fees, receipts, and revenues as the authority determines. The authority may provide in the bond proceedings or by separate agreement with the board for the transfer of those fees, receipts, and revenues to the appropriate bond service fund or bond service reserve fund as required to pay the bond service charges when due, and any such provision for the transfer of those fees, receipts, and revenues shall be controlling notwithstanding any other provision of law pertaining to those fees, receipts, and revenues.

(3) All moneys received by the treasurer of state on account of the board and required by the applicable bond proceedings or by separate agreement with the board to be deposited, transferred, or credited to the bond service fund or bond service reserve fund established by the bond proceedings shall be transferred by the treasurer of state to such fund, whether or not it is in the custody of the treasurer of state, without necessity for further appropriation, upon receipt of notice from the Ohio building authority as prescribed in the bond proceedings.

(G) All fees, receipts, and revenues received by the board from the state underground parking garage shall be deposited into the state treasury to the credit of the underground parking garage operating fund, which is hereby created, to be used for the purposes specified in division (F) of this section and for the operation and maintenance of the garage. All investment earnings of the fund shall be credited to the fund.

(H) All donations received by the board shall be deposited into the state treasury to the credit of the capitol square renovation gift fund, which is hereby created. The fund shall be used by the board as follows:

(1) To provide part or all of the funding related to construction, goods, or services for the renovation of the capitol square;

(2) To purchase art, antiques, and artifacts for display at the capitol square;

(3) To award contracts or make grants to organizations for educating the public regarding the historical background and governmental functions of the capitol square. Chapters 125., 127., and 153. and section 3517.13 of the Revised Code do not apply to purchases made exclusively from the fund, notwithstanding anything to the contrary in those chapters or that section. All investment earnings of the fund shall be credited to the fund.

(I) Except as provided in divisions (G), (H), and (J) of this section, all fees, receipts, and revenues received by the board shall be deposited into the state treasury to the credit of the sale of goods and services fund, which is hereby created. Money credited to the fund shall be used solely to pay costs of the board other than those specified in divisions (F) and (G) of this section. All investment earnings of the fund shall be credited to the fund.

(J) There is hereby created in the state treasury the capitol square improvement fund, to be used by the board to pay construction, renovation, and other costs related to the capitol square for which money is not otherwise available to the board. Whenever the board determines that there is a need to incur those costs and that the unencumbered, unobligated balance to the credit of the underground parking garage operating fund exceeds the amount needed for the purposes specified in division (F) of this section and for the operation and maintenance of the garage, the board may request the director of budget and management to transfer from the underground parking garage operating fund to the capitol square improvement fund the amount needed to pay such construction, renovation, or other costs. The director then shall transfer the amount needed from the excess balance of the underground parking garage operating fund.

(K) As the operation and maintenance of the capitol square constitute essential government functions of a public purpose, the board shall not be required to pay taxes or assessments upon the square, upon any property acquired or used by the board under this section, or upon any income generated by the operation of the square.

(L) **<<VETOED MATERIAL Section 125.18 of the Revised Code does not apply to the board. VETOED MATERIAL>>**

<<VETOED MATERIAL (M) VETOED MATERIAL>> As used in this section, "capitol square" means the capitol building, senate building, capitol atrium, capitol grounds, the state underground parking garage, and the warehouse owned by the board.

<<VETOED MATERIAL ~~(M)~~ (N) VETOED MATERIAL>> The capitol annex shall be known as the senate building.

<< OH ST 107.19 >>

The governor shall have no power to issue any executive order that has previously been issued and that the federal trade commission, office of policy planning, bureau of economics, and bureau of competition has opined is anti-competitive and is in violation of anti-trust laws. Any such executive order shall be considered invalid and unenforceable.

<< OH ST 107.21 >>

(A) As used in this section, "Appalachian region" means the following counties in this state ~~which~~ **that** have been designated as part of Appalachia by the federal Appalachian regional commission and ~~which~~ **that** have been geographically isolated and economically depressed: Adams, **Ashtabula,** Athens, Belmont, Brown, Carroll, Clermont, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, Lawrence, **Mahoning,** Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, **Trumbull,** Tuscarawas, Vinton, and Washington.

(B) There is hereby created in the department of development the governor's office of Appalachian Ohio. The governor shall designate the director of the governor's office of Appalachian Ohio. The director shall report directly to the office of the governor. On January 1, 1987, the governor shall designate the director to represent this state on the federal Appalachian regional commission. The director may appoint such employees as are necessary to exercise the powers and duties of this office. The director shall maintain local development districts as established within the Appalachian region for the purpose of regional planning for the distribution of funds from the Appalachian regional commission within the Appalachian region.

(C) The governor's office of Appalachian Ohio shall represent the interests of the Appalachian region in the government of this state. The duties of the director of the office shall include, but are not limited to, the following:

(1) To identify residents of the Appalachian region qualified to serve on state boards, commissions, and bodies and in state offices, and to bring these persons to the attention of the governor;

(2) To represent the interests of the Appalachian region in the general assembly and before state boards, commissions, bodies, and agencies;

(3) To assist in forming a consensus on public issues and policies among institutions and organizations that serve the Appalachian region;

(4) To act as an ~~ombudsman~~ **ombudsperson** to assist in resolving differences between state or federal agencies and the officials of political subdivisions or private, nonprofit organizations located within the Appalachian region;

(5) To assist planning commissions, agencies, and organizations within the Appalachian region in distributing planning information and documents to the appropriate state and federal agencies and to assist in focusing attention on any find-

ings and recommendations of these commissions, agencies, and organizations;

(6) To issue reports on the Appalachian region ~~which~~ **that** describe progress achieved and the needs that still exist in the region;

(7) To assist the governor's office in resolving the problems of residents of the Appalachian region that come to the governor's attention.

(D) The amount of money from appropriated state funds allocated each year to pay administrative costs of a local development district existing on the effective date of this amendment shall not be decreased due to the creation and funding of additional local development districts. The amount of money allocated to each district shall be increased each year by the average percentage of increase in the consumer price index for the prior year.

As used in this division, "consumer price index" means the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics.

<< OH ST 107.40 >>

< This section contains vetoed provisions. >

(A) There is hereby created the governor's residence advisory commission. The commission shall provide for the preservation, restoration, acquisition, and conservation of all decorations, objects of art, chandeliers, china, silver, statues, paintings, furnishings, accouterments, and other aesthetic materials that have been acquired, donated, loaned, or otherwise obtained by the state for the governor's residence and that have been approved by the commission. In addition, the commission shall provide for the maintenance of plants that have been acquired, donated, loaned, or otherwise obtained by the state for the governor's residence and that have been approved by the commission.

(B) The commission shall be responsible for the care, provision, repair, and placement of furnishings and other objects and accessories of the grounds and public areas of the first story of the governor's residence and for the care and placement of plants on the grounds. **<<VETOED MATERIAL The commission shall not exercise its responsibility under this division by using prison labor. VETOED MATERIAL>>** In exercising **<<VETOED MATERIAL** ~~this~~ **its VETOED MATERIAL>>** responsibility **<<VETOED MATERIAL under this division VETOED MATERIAL>>**, the commission shall preserve and seek to further establish all of the following:

(1) The authentic ambiance and decor of the historic era during which the governor's residence was constructed;

(2) The grounds as a representation of Ohio's natural ecosystems;

(3) The heritage garden for all of the following purposes:

(a) To preserve, sustain, and encourage the use of native flora throughout the state;

(b) To replicate the state's physiographic regions, plant communities, and natural landscapes;

(c) To serve as an educational garden that demonstrates the artistic, industrial, political, horticultural, and geologic history of the state through the use of plants;

(d) To serve as a reservoir of rare species of plants from the physiographic regions of the state.

These duties shall not affect the obligation of the department of administrative services to provide for and adopt policies and procedures regarding the use, general maintenance, and operating expenses of the governor's residence. **<<VETOED MATERIAL The department shall not use prison labor in providing for the general maintenance of the governor's residence. VETOED MATERIAL>>**

(C) The commission shall consist of eleven members. One member shall be the director of administrative services or the director's designee, who shall serve during the director's term of office and shall serve as chairperson. One member shall be the director of the Ohio historical society or the director's designee, who shall serve during the director's term of office and shall serve as vice-chairperson. One member shall represent the Columbus landmarks foundation. One member shall represent the Bexley historical society. One member shall be the mayor of the city of Bexley, who shall serve during the mayor's term of office. One member shall be the chief executive officer of the Franklin park conservatory joint recreation district, who shall serve during the term of employment as chief executive officer. The remaining five members shall be appointed by the governor with the advice and consent of the senate. The five members appointed by the governor shall be persons with knowledge of Ohio history, architecture, decorative arts, or historic preservation, and one of those members shall have knowledge of landscape architecture, garden design, horticulture, and plants native to this state.

(D) Of the initial appointees, the representative of the Columbus landmarks foundation shall serve for a term expiring December 31, 1996, and the representative of the Bexley historical society shall serve for a term expiring December 31, 1997. Of the five members appointed by the governor, three shall serve for terms ending December 31, 1998, and two shall serve for terms ending December 31, 1999. Thereafter, each term shall be for four years, commencing on the first day of January and ending on the last day of December. The member having knowledge of landscape architecture, garden design, horticulture, and plants native to this state initially shall be appointed upon the first vacancy on the commission occurring on or after June 30, 2006.

Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the end of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration of the term until the member's successor takes office.

(E) Six members of the commission constitute a quorum, and the affirmative vote of six members is required for approval of any action by the commission.

(F) After each initial member of the commission has been appointed, the commission shall meet and select one member as secretary and another as treasurer. Organizational meetings of the commission shall be held at the time and place designated by call of the chairperson. Meetings of the commission may be held anywhere in the state and shall be in compliance with Chapters 121. and 149. of the Revised Code. The commission may adopt, pursuant to section 111.15 of the Revised Code, rules necessary to carry out the purposes of this section.

(G) Members of the commission shall serve without remuneration, but shall be compensated for actual and necessary expenses incurred in the performance of their official duties.

(H) All expenses incurred in carrying out this section are payable solely from money accrued under this section or appropriated for these purposes by the general assembly, and the commission shall incur no liability or obligation beyond such

money.

(I) Except as otherwise provided in this division, the commission may accept any payment for the use of the governor's residence or may accept any donation, gift, bequest, or devise for the governor's residence or as an endowment for the maintenance and care of the garden on the grounds of the governor's residence in furtherance of its duties. The commission shall not accept any donation, gift, bequest, or devise from a person, individual, or member of an individual's immediate family if the person or individual is receiving payments under a contract with the state or a state agency for the purchase of supplies, services, or equipment or for the construction, reconstruction, improvement, enlargement, alteration, repair, painting, or decoration of a public improvement, except for payments received under an employment contract or a collective bargaining agreement. Any revenue received by the commission shall be deposited into the governor's residence fund, which is hereby established in the state treasury, for use by the commission in accordance with the performance of its duties. All investment earnings of the fund shall be credited to the fund. Title to all property acquired by the commission shall be taken in the name of the state and shall be held for the use and benefit of the commission.

(J) Nothing in this section limits the ability of a person or other entity to purchase decorations, objects of art, chandeliers, china, silver, statues, paintings, furnishings, accouterments, plants, or other aesthetic materials for placement in the governor's residence or on the grounds of the governor's residence or donation to the commission. No such object or plant, however, shall be placed on the grounds or public areas of the first story of the governor's residence without the consent of the commission.

(K) The heritage garden established under this section shall be officially known as "the heritage garden at the Ohio governor's residence."

(L) As used in this section, "heritage garden" means the botanical garden of native plants established at the governor's residence.

<< OH ST 109.57 >>

(A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to the superintendent of the bureau. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence who is not in any

other category of child specified in this division, if committed by an adult, has not been adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, has not been convicted of or pleaded guilty to committing a felony or an offense of violence, and is not a child with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall not be procured by the superintendent or furnished by any person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution, except as authorized in section 2151.313 of the Revised Code.

(2) Every clerk of a court of record in this state, other than the supreme court or a court of appeals, shall send to the superintendent of the bureau a weekly report containing a summary of each case involving a felony, involving any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, involving a misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, or involving an adjudication in a case in which a child under eighteen years of age was alleged to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult. The clerk of the court of common pleas shall include in the report and summary the clerk sends under this division all information described in divisions (A)(2)(a) to (f) of this section regarding a case before the court of appeals that is served by that clerk. The summary shall be written on the standard forms furnished by the superintendent pursuant to division (B) of this section and shall include the following information:

(a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section;

(b) The style and number of the case;

(c) The date of arrest, offense, summons, or arraignment;

(d) The date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final resolution of the case;

(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;

(f) If the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child.

If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identifica-

tion of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its political subdivisions.

(4) The superintendent shall carry out Chapter 2950. of the Revised Code with respect to the registration of persons who are convicted of or plead guilty to a sexually oriented offense or a child-victim oriented offense and with respect to all other duties imposed on the bureau under that chapter.

(5) The bureau shall perform centralized recordkeeping functions for criminal history records and services in this state for purposes of the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code and is the criminal history record repository as defined in that section for purposes of that compact. The superintendent or the superintendent's designee is the compact officer for purposes of that compact and shall carry out the responsibilities of the compact officer specified in that compact.

(B) The superintendent shall prepare and furnish to every county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and to every clerk of a court in this state specified in division (A)(2) of this section standard forms for reporting the information required under division (A) of this section. The standard forms that the superintendent prepares pursuant to this division may be in a tangible format, in an electronic format, or in both tangible formats and electronic formats.

(C)(1) The superintendent may operate a center for electronic, automated, or other data processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under eighteen years of age who are adjudicated delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, criminal activity, crime prevention, law enforcement, and criminal justice, and may establish and operate a statewide communications network to gather and disseminate information, data, and statistics for the use of law enforcement agencies and for other uses specified in this division. The superintendent may gather, store, retrieve, and disseminate information, data, and statistics that pertain to children who are under eighteen years of age and that are gathered pursuant to sections 109.57 to 109.61 of the Revised Code together with information, data, and statistics that pertain to adults and that are gathered pursuant to those sections.

(2) The superintendent or the superintendent's designee shall gather information of the nature described in division (C)(1) of this section that pertains to the offense and delinquency history of a person who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for inclusion in the state registry of sex offenders and child-victim offenders maintained pursuant to division (A)(1) of

section 2950.13 of the Revised Code and in the internet database operated pursuant to division (A)(13) of that section and for possible inclusion in the internet database operated pursuant to division (A)(11) of that section.

(3) In addition to any other authorized use of information, data, and statistics of the nature described in division (C)(1) of this section, the superintendent or the superintendent's designee may provide and exchange the information, data, and statistics pursuant to the national crime prevention and privacy compact as described in division (A)(5) of this section.

(D) The information and materials furnished to the superintendent pursuant to division (A) of this section and information and materials furnished to any board or person under division (F) or (G) of this section are not public records under section 149.43 of the Revised Code. The superintendent or the superintendent's designee shall gather and retain information so furnished under division (A) of this section that pertains to the offense and delinquency history of a person who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for the purposes described in division (C)(2) of this section.

(E) The attorney general shall adopt rules, in accordance with Chapter 119. of the Revised Code, setting forth the procedure by which a person may receive or release information gathered by the superintendent pursuant to division (A) of this section. A reasonable fee may be charged for this service. If a temporary employment service submits a request for a determination of whether a person the service plans to refer to an employment position has been convicted of or pleaded guilty to an offense listed in division (A)(1), (3), (4), (5), or (6) of section 109.572 of the Revised Code, the request shall be treated as a single request and only one fee shall be charged.

(F)(1) As used in division (F)(2) of this section, "head start agency" means an entity in this state that has been approved to be an agency for purposes of subchapter II of the "Community Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, as amended.

(2)(a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, or 3301.541, 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code or that is made under section 3314.41, 3319.392, or 3326.25 of the Revised Code, the board of education of any school district; the director of mental retardation and developmental disabilities; any county board of mental retardation and developmental disabilities; any entity under contract with a county board of mental retardation and developmental disabilities; the chief administrator of any chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed or certified under Chapter 5104. of the Revised Code; the administrator of any type C family day-care home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general assembly; the chief administrator of any head start agency; the executive director of a public children services agency; a private company described in section 3314.41, 3319.392, or 3326.25 of the Revised Code; or an employer described in division (J)(2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government

pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date that the superintendent receives a request, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(b) When a board of education is required to receive information under this section as a prerequisite to employment of an individual pursuant to section 3319.39 of the Revised Code, it may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by an individual applying for employment with the district in lieu of requesting that information itself. In such a case, the board shall accept the certified copy issued by the bureau in order to make a photocopy of it for that individual's employment application documents and shall return the certified copy to the individual. In a case of that nature, a district only shall accept a certified copy of records of that nature within one year after the date of their issuance by the bureau.

(c) Notwithstanding division (F)(2)(a) of this section, in the case of a request under section 3319.39, 3319.391, or 3327.10 of the Revised Code only for criminal records maintained by the federal bureau of investigation, the superintendent shall not determine whether any information gathered under division (A) of this section exists on the person for whom the request is made.

(3) The state board of education may request, with respect to any individual who has applied for employment after October 2, 1989, in any position with the state board or the department of education, any information that a school district board of education is authorized to request under division (F)(2) of this section, and the superintendent of the bureau shall proceed as if the request has been received from a school district board of education under division (F)(2) of this section.

(4) When the superintendent of the bureau receives a request for information under section 3319.291 of the Revised Code, the superintendent shall proceed as if the request has been received from a school district board of education ~~under division~~ **and shall comply with divisions** (F)(2) **(a) and (c)** of this section.

(5) When a recipient of a classroom reading improvement grant paid under section 3301.86 of the Revised Code requests, with respect to any individual who applies to participate in providing any program or service funded in whole or in part by the grant, the information that a school district board of education is authorized to request under division (F)(2)(a) of this section, the superintendent of the bureau shall proceed as if the request has been received from a school district board of education under division (F)(2)(a) of this section.

(G) In addition to or in conjunction with any request that is required to be made under section 3701.881, 3712.09, 3721.121, or 3722.151 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an older adult, the chief administrator of a home health agency, hospice care program, home licensed under Chapter 3721. of the Revised Code, adult day-care program operated pursuant to rules adopted under section 3721.04 of the Revised Code, or adult care facility may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied after January 27, 1997, for employment in a position that does not involve providing direct care to an older adult, whether the bureau has any information gathered under division (A) of this section that pertains to that individual.

In addition to or in conjunction with any request that is required to be made under section 173.27 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing ombudsperson services to residents of long-term care facilities or recipients of community-based long-term care services, the state long-term care ombudsperson, ombudsperson's designee, or director of health may request that the superintendent investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing such ombudsperson services, whether the bureau has any information gathered under division (A) of this section that pertains to that applicant.

In addition to or in conjunction with any request that is required to be made under section 173.394 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an individual, the chief administrator of a community-based long-term care agency may request that the superintendent investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing direct care, whether the bureau has any information gathered under division (A) of this section that pertains to that applicant.

On receipt of a request under this division, the superintendent shall determine whether that information exists and, on request of the individual requesting information, shall also request from the federal bureau of investigation any criminal records it has pertaining to the applicant. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, the superintendent shall send to the requester a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the requester a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(H) Information obtained by a government entity or person under this section is confidential and shall not be released or disseminated.

(I) The superintendent may charge a reasonable fee for providing information or criminal records under division (F)(2) or (G) of this section.

(J) As used in this section, "sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.

<< OH ST 109.572 >>

(A)(1) Upon receipt of a request pursuant to section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12,

2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(1)(a) of this section.

(2) On receipt of a request pursuant to section 5123.081 of the Revised Code with respect to an applicant for employment in any position with the department of mental retardation and developmental disabilities, pursuant to section 5126.28 of the Revised Code with respect to an applicant for employment in any position with a county board of mental retardation and developmental disabilities, or pursuant to section 5126.281 of the Revised Code with respect to an applicant for employment in a direct services position with an entity contracting with a county board for employment, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, or 3716.11 of the Revised Code;

(b) An existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(2)(a) of this section.

(3) On receipt of a request pursuant to section 173.27, 173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position for which a criminal records check is required by those sections. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(3)(a) of this section.

(4) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with a home health agency as a person responsible for the care, custody, or control of a child, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(4)(a) of this section.

(5) On receipt of a request pursuant to section 5111.032, 5111.033, or 5111.034 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following **, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction**:

(a) A violation of section **959.13,** 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, **2903.15,** 2903.16, 2903.21, **2903.211, 2903.22,** 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, **2909.02, 2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24,** 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, **2913.05,** 2913.11, 2913.21, 2913.31, **2913.32,** 2913.40, **2913.41, 2913.42,** 2913.43, **2913.44, 2913.441, 2913.45, 2913.46,** 2913.47, 2913.48, 2913.49, 2913.51, **2917.01, 2917.02, 2917.03,** 2917.11, **2917.31,** 2919.12, 2919.22, **2919.23,** 2919.24, 2919.25, **2921.03, 2921.11,** 2921.13, **2921.34, 2921.35,** 2921.36, **2923.01,** 2923.02, **2923.03,** 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, **2927.12,** or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(b) ~~An~~ **A violation of an** existing or former **municipal ordinance or** law of this state, any other state, or the United

States that is substantially equivalent to any of the offenses listed in division (A)(5)(a) of this section.

(6) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with a home health agency in a position that involves providing direct care to an older adult, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(6)(a) of this section.

(7) When conducting a criminal records check upon a request pursuant to section 3319.39 of the Revised Code for an applicant who is a teacher, in addition to the determination made under division (A)(1) of this section, the superintendent shall determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any offense specified in section 3319.31 of the Revised Code.

(8) On receipt of a request pursuant to section 2151.86 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, two or more OVI or OVUAC violations committed within the three years immediately preceding the submission of the application or petition that is the basis of the request, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(8)(a) of this section.

(9) Upon receipt of a request pursuant to section 5104.012 or 5104.013 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, a violation of section 2923.02 or 2923.03 of the Revised Code that relates to a crime specified in this division, or a second violation of section 4511.19 of the Revised Code within five years of the date of application for licensure or certification.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in division (A)(9)(a) of this section.

(10) Upon receipt of a request pursuant to section 5153.111 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(10)(a) of this section.

(11) On receipt of a request for a criminal records check from an individual pursuant to section 4749.03 or 4749.06 of the

Revised Code, accompanied by a completed copy of the form prescribed in division (C)(1) of this section and a set of fingerprint impressions obtained in a manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists indicating that the person who is the subject of the request has been convicted of or pleaded guilty to a felony in this state or in any other state. If the individual indicates that a firearm will be carried in the course of business, the superintendent shall require information from the federal bureau of investigation as described in division (B)(2) of this section. The superintendent shall report the findings of the criminal records check and any information the federal bureau of investigation provides to the director of public safety.

(12) On receipt of a request pursuant to section 1321.37, **1321.53, 1321.531,** 1322.03, 1322.031, or 4763.05 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for a license, permit, or certification from the department of commerce or a division in the department. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following: a violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 2925.03 of the Revised Code; any other criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of the Revised Code; or any existing or former law of this state, any other state, or the United States that is substantially equivalent to those offenses.

(13) On receipt of a request for a criminal records check from the treasurer of state under section 113.041 of the Revised Code or from an individual under section 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by a completed form prescribed under division (C)(1) of this section and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any criminal offense in this state or any other state. The superintendent shall send the results of a check requested under section 113.041 of the Revised Code to the treasurer of state and shall send the results of a check requested under any of the other listed sections to the licensing board specified by the individual in the request.

(14) On receipt of a request pursuant to section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any criminal offense under any existing or former law of this state, any other state, or the United States.

(15) Not later than thirty days after the date the superintendent receives a request of a type described in division (A)(1),

(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (14) of this section, the completed form, and the fingerprint impressions, the superintendent shall send the person, board, or entity that made the request any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exists with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (14) of this section, as appropriate. The superintendent shall send the person, board, or entity that made the request a copy of the list of offenses specified in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (14) of this section, as appropriate. If the request was made under section 3701.881 of the Revised Code with regard to an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult, the superintendent shall provide a list of the offenses specified in divisions (A)(4) and (6) of this section.

Not later than thirty days after the superintendent receives a request for a criminal records check pursuant to section 113.041 of the Revised Code, the completed form, and the fingerprint impressions, the superintendent shall send the treasurer of state any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exist with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state.

(B) The superintendent shall conduct any criminal records check requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, **1321.53, 1321.531,** 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as follows:

(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the request, including, if the criminal records check was requested under section 113.041, 121.08, 173.27, 173.394, **1121.23, 1155.03, 1163.05, 1315.141, 1321.37, 1321.53, 1321.531,** 1322.03, 1322.031, **1733.47, 1761.26,** 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code, any relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the request, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 if the request is made pursuant to section 2151.86, 5104.012, or 5104.013 of the Revised Code or if any other Revised Code section requires fingerprint-based checks of that nature, and shall review or cause to be reviewed any information the superintendent receives from that bureau. **If a request under section 3319.39 of the Revised Code asks only for information from the federal bureau of investigation, the superintendent shall not conduct the review prescribed by division (B)(1) of this section.**

(3) The superintendent or the superintendent's designee may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Re-

vised Code.

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is requested under section 113.041 of the Revised Code or required by section 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, **1321.53, 1321.531,** 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is requested under section 113.041 of the Revised Code or required by section 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, **1321.53, 1321.531,** 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any person for whom a records check is requested under or required by any of those sections shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, **1321.53, 1321.531,** 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The person making a criminal records request under any of those sections shall pay the fee prescribed pursuant to this division. A person making a request under section 3701.881 of the Revised Code for a criminal records check for an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult shall pay one fee for the request. In the case of a request under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the fee shall be paid in the manner specified in that section.

(4) The superintendent of the bureau of criminal identification and investigation may prescribe methods of forwarding fingerprint impressions and information necessary to conduct a criminal records check, which methods shall include, but not be limited to, an electronic method.

(D) A determination whether any information exists that indicates that a person previously has been convicted of or

pleaded guilty to any offense listed or described in division (A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or (b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), (A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), or (A)(14) of this section, or that indicates that a person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state regarding a criminal records check of a type described in division (A)(13) of this section, and that is made by the superintendent with respect to information considered in a criminal records check in accordance with this section is valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent makes the determination. During the period in which the determination in regard to a person is valid, if another request under this section is made for a criminal records check for that person, the superintendent shall provide the information that is the basis for the superintendent's initial determination at a lower fee than the fee prescribed for the initial criminal records check.

(E) As used in this section:

(1) "Criminal records check" means any criminal records check conducted by the superintendent of the bureau of criminal identification and investigation in accordance with division (B) of this section.

(2) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(3) "Older adult" means a person age sixty or older.

(4) "OVI or OVUAC violation" means a violation of section 4511.19 of the Revised Code or a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to section 4511.19 of the Revised Code.

[FN1] Provisions subject to different effective dates. See Act section 812.50.

<< OH ST 109.73 >>

(A) The Ohio peace officer training commission shall recommend rules to the attorney general with respect to all of the following:

(1) The approval, or revocation of approval, of peace officer training schools administered by the state, counties, municipal corporations, public school districts, technical college districts, and the department of natural resources;

(2) Minimum courses of study, attendance requirements, and equipment and facilities to be required at approved state, county, municipal, and department of natural resources peace officer training schools;

(3) Minimum qualifications for instructors at approved state, county, municipal, and department of natural resources peace officer training schools;

(4) The requirements of minimum basic training that peace officers appointed to probationary terms shall complete before being eligible for permanent appointment, which requirements shall include ~~a minimum of fifteen hours of~~ training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code; ~~a minimum of six hours of~~ crisis intervention training; and ~~a specified amount of~~ training in the handling of missing children and child abuse and neglect cases; and the time within which such basic training shall be completed following ap-

pointment to a probationary term;

(5) The requirements of minimum basic training that peace officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment, which requirements shall include ~~a minimum of fifteen hours of~~ training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code, ~~a minimum of six hours of~~ crisis intervention training, and ~~a specified amount of~~ training in the handling of missing children and child abuse and neglect cases, and the time within which such basic training shall be completed following appointment on other than a permanent basis;

(6) Categories or classifications of advanced in-service training programs for peace officers, including programs in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code, in crisis intervention, and in the handling of missing children and child abuse and neglect cases, and minimum courses of study and attendance requirements with respect to such categories or classifications;

(7) Permitting persons, who are employed as members of a campus police department appointed under section 1713.50 of the Revised Code; who are employed as police officers by a qualified nonprofit corporation police department pursuant to section 1702.80 of the Revised Code; who are appointed and commissioned as bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions police officers, as railroad police officers, or as hospital police officers pursuant to sections 4973.17 to 4973.22 of the Revised Code; or who are appointed and commissioned as amusement park police officers pursuant to section 4973.17 of the Revised Code, to attend approved peace officer training schools, including the Ohio peace officer training academy, and to receive certificates of satisfactory completion of basic training programs, if the private college or university that established the campus police department; qualified nonprofit corporation police department; bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions; railroad company; hospital; or amusement park sponsoring the police officers pays the entire cost of the training and certification and if trainee vacancies are available;

(8) Permitting undercover drug agents to attend approved peace officer training schools, other than the Ohio peace officer training academy, and to receive certificates of satisfactory completion of basic training programs, if, for each undercover drug agent, the county, township, or municipal corporation that employs that undercover drug agent pays the entire cost of the training and certification;

(9)(a) The requirements for basic training programs for bailiffs and deputy bailiffs of courts of record of this state and for criminal investigators employed by the state public defender that those persons shall complete before they may carry a firearm while on duty;

(b) The requirements for any training received by a bailiff or deputy bailiff of a court of record of this state or by a criminal investigator employed by the state public defender prior to June 6, 1986, that is to be considered equivalent to the training described in division (A)(9)(a) of this section.

(10) Establishing minimum qualifications and requirements for certification for dogs utilized by law enforcement agencies;

(11) Establishing minimum requirements for certification of persons who are employed as correction officers in a full-service jail, five-day facility, or eight-hour holding facility or who provide correction services in such a jail or facility;

(12) Establishing requirements for the training of agents of a county humane society under section 1717.06 of the Revised Code, including, without limitation, a requirement that the agents receive instruction on traditional animal husbandry methods and training techniques, including customary owner-performed practices.

(B) The commission shall appoint an executive director, with the approval of the attorney general, who shall hold office during the pleasure of the commission. The executive director shall perform such duties assigned by the commission. The executive director shall receive a salary fixed pursuant to Chapter 124. of the Revised Code and reimbursement for expenses within the amounts available by appropriation. The executive director may appoint officers, employees, agents, and consultants as the executive director considers necessary, prescribe their duties, and provide for reimbursement of their expenses within the amounts available for reimbursement by appropriation and with the approval of the commission.

(C) The commission may do all of the following:

(1) Recommend studies, surveys, and reports to be made by the executive director regarding the carrying out of the objectives and purposes of sections 109.71 to 109.77 of the Revised Code;

(2) Visit and inspect any peace officer training school that has been approved by the executive director or for which application for approval has been made;

(3) Make recommendations, from time to time, to the executive director, the attorney general, and the general assembly regarding the carrying out of the purposes of sections 109.71 to 109.77 of the Revised Code;

(4) Report to the attorney general from time to time, and to the governor and the general assembly at least annually, concerning the activities of the commission;

(5) Establish fees for the services the commission offers under sections 109.71 to 109.79 of the Revised Code, including, but not limited to, fees for training, certification, and testing;

(6) Perform such other acts as are necessary or appropriate to carry out the powers and duties of the commission as set forth in sections 109.71 to 109.77 of the Revised Code.

(D) In establishing the requirements, under division (A)(12) of this section, the commission may consider any portions of the curriculum for instruction on the topic of animal husbandry practices, if any, of the Ohio state university college of veterinary medicine. No person or entity that fails to provide instruction on traditional animal husbandry methods and training techniques, including customary owner-performed practices, shall qualify to train a humane agent for appointment under section 1717.06 of the Revised Code.

<< OH ST 109.731 >>

(A) The Ohio peace officer training commission shall prescribe, and shall make available to sheriffs, all of the following:

(1) An application form that is to be used under section 2923.125 of the Revised Code by a person who applies for a li-

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~~(2)~~ **(E)** No employee of a unit of local or state government, **ADAMHS** board ~~of alcohol, drug addiction, and mental health services~~, mental health agency, or PASSPORT administrative agency shall place or recommend placement of any person in an adult care facility if the employee knows ~~that~~ **any of the following:**

(1) That the facility cannot meet the needs of the potential resident;

(2) That placement of the resident would cause the facility to exceed its licensed capacity;

(3) That an enforcement action initiated by the director of health is pending and may result in the revocation of or refusal to renew the facility's license;

(4) That the potential resident is receiving or is eligible for publicly funded mental health services and the facility has not entered into a mental health resident program participation agreement.

~~(3)~~ **(F)** No person who has reason to believe that an adult care facility is operating without a license shall fail to report this information to the director of health.

~~(E)~~ **(G)** In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules ~~that define~~ **for purposes of division (B) of this section that do all of the following:**

(1) Define a short-term illness for purposes of division (B)~~(3)~~ **(5)** of this section ~~and specify~~ **;**

(2) Specify, consistent with rules pertaining to home health care adopted by the director of job and family services under the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, what constitutes a part-time, intermittent basis for purposes of division (B)(1) of this section**;**

(3) Specify what constitutes being appropriately licensed for purposes of division (B)(3) of this section.

<< OH ST 3722.17 >>

(A) Any person who believes that an adult care facility is in violation of this chapter or of any of the rules promulgated pursuant to it may report the information to the director of health. The director shall investigate each report made under this section or section 3722.16 of the Revised Code and shall inform the facility of the results of the investigation. When investigating a report made pursuant to section 340.05 of the Revised Code, the director shall consult with the **ADAMHS** board ~~of alcohol, drug addiction, and mental health services~~ that made the report. The director shall keep a record of the investigation and the action taken as a result of the investigation.

The director shall not reveal, without consent, the identity of a person who makes a report under this section or division ~~(B)(3)~~ **(G)** of section 3722.16 of the Revised Code, the identity of a specific resident or residents referred to in such a report, or any other information that could reasonably be expected to reveal the identity of the person making the report or the resident or residents referred to in the report, except that the director may provide this information to a government agency responsible for enforcing laws applying to adult care facilities.

(B) Any person who believes that a resident's rights under sections 3722.12 to 3722.15 of the Revised Code have been violated may report the information to the state ~~or regional~~ long-term care

~~facilities~~ ombudsperson**, the regional long-term care ombudsperson program for the area in which the facility is located,** or ~~to~~ the director of health. If the person believes that the resident has mental illness or severe mental disability and is suffering abuse or neglect, the person may report the information to the **ADAMHS** board ~~of alcohol, drug addiction, and mental health services~~ serving the alcohol, drug addiction, and mental health service district in which the adult care facility is located or a mental health agency under contract with the board in addition to or instead of the ombudsperson**, regional program,** or director.

(C) Any person who makes a report pursuant to division (A) or (B) of this section or division ~~(D)(3)~~ **(G)** of section 3722.16 of the Revised Code or any person who participates in an administrative or judicial proceeding resulting from such a report is immune from any civil liability or criminal liability, other than perjury, that might otherwise be incurred or imposed as a result of these actions, unless the person has acted in bad faith or with malicious purpose.

<< OH ST 3722.18 >>

Before an adult care facility admits a prospective resident who the owner or manager of the facility knows has been assessed as having a mental illness or severe mental disability, the owner or manager ~~shall do~~ **is subject to both of** the following ~~in accordance with rules adopted under division (A)(12) of section 3722.10 of the Revised Code~~:

(A) If the prospective resident is referred to the facility by a mental health agency or **ADAMHS** board ~~of alcohol, drug addiction, and mental health services~~, ~~do the following:~~

~~(1) Except in an emergency and only until the date an owner or manager of an adult care facility must begin to follow procedures under division (A)(2) of this section, enter into an affiliation agreement with the agency or board. An affiliation agreement with the agency is subject to the board's approval. An affiliation agreement must be consistent with the residential portion of the board's community mental health plan submitted to the department of mental health under section 340.03 of the Revised Code.~~

~~(2) Beginning on the date specified in rules adopted under division (A)(12) of section 3722.10 of the Revised Code,~~ **the owner or manager shall** follow procedures established in ~~those~~ rules **adopted under division (A)(12) of section 3722.10 of the Revised Code** regarding referrals and effective arrangements for ongoing mental health services.

(B) If the prospective resident is not referred to the facility by a mental health agency or **ADAMHS** board ~~of alcohol, drug addiction, and mental health services~~, ~~document that~~ the owner or manager ~~has offered~~ **shall offer** to assist the prospective resident in obtaining appropriate mental health services **and document the offer of assistance in accordance with rules adopted under division (A)(12) of section 3722.10 of the Revised Code**.

<< OH ST 3722.99 >>

Whoever violates division (A) ~~or (B)~~ **(1)** of section 3722.16 of the Revised Code shall be fined ~~five hundred~~ **two thousand** dollars for a first offense; for each subsequent offense, such person shall be fined ~~one~~ **five** thousand dollars.

Whoever violates division (C) of section 3722.12 or division **(A)(2), (3), (4), (5) or (6), (B), (C),** (D)**, (E), or (F)** of section 3722.16 of the Revised Code shall be fined ~~one~~ **five** hundred dollars for a first offense; for each subsequent offense, such person shall be fined ~~five hundred~~ **one thousand** dollars.

<< OH ST 3727.02 >>

(A) No person and no political subdivision, agency, or instrumentality of this state shall operate a hospital unless it is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or is accredited by ~~the joint commission or the American osteopathic~~

~~association~~ **a national accrediting organization approved by the centers for medicare and medicaid services.**

(B) No person and no political subdivision, agency, or instrumentality of this state shall hold out as a hospital any health facility that is not certified or accredited as required in division (A) of this section.

<< OH ST 3729.07 >>

The licensor of a recreational vehicle park, recreation camp, or combined park-camp may charge a fee for an annual license to operate such a park, camp, or park-camp. In the case of a temporary park-camp, the licensor may charge a fee for a license to operate the temporary park-camp for the period specified in division (A) of section 3729.05 of the Revised Code. The fees for both types of licenses shall be determined in accordance with section 3709.09 of the Revised Code and shall include the cost of licensing and all inspections.

Except for the fee for a temporary park-camp license, the fee also shall include any additional amount determined by rule of the public health council, which shall be collected and transmitted by the board of health to the ~~treasurer of state to be credited to the general operations fund created in section 3701.83 of the Revised Code~~ **director of health pursuant to section 3709.092 of the Revised Code** and used only for the purpose of administering and enforcing this chapter and rules adopted under it. The portion of any fee retained by the board of health shall be paid into a special fund and used only for the purpose of administering and enforcing this chapter and rules adopted under it.

<< OH ST 3733.02 >>

(A)(1) The public health council, subject to Chapter 119. of the Revised Code, shall adopt, and has the exclusive power to adopt, rules of uniform application throughout the state governing the review of plans, issuance of flood plain management permits, and issuance of licenses for manufactured home parks; the location, layout, density, construction, drainage, sanitation, safety, and operation of those parks; and notices of flood events concerning, and flood protection at, those parks. The rules pertaining to flood plain management shall be consistent with and not less stringent than the flood plain management criteria of the national flood insurance program adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended. The rules shall not apply to the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

(2) The rules pertaining to manufactured home parks constructed after June 30, 1971, shall specify that each home must be placed on its lot to provide not less than fifteen feet between the side of one home and the side of another home, ten feet between the end of one home and the side of another home, and five feet between the ends of two homes placed end to end.

(3) The ~~department of health~~ **manufactured homes commission** shall determine compliance with the installation, blocking, tiedown, foundation, and base support system standards for manufactured housing located in manufactured home parks adopted by the ~~manufactured homes~~ commission pursuant to section 4781.04 of the Revised Code. All inspections of the installation, blocking, tiedown, foundation, and base support systems of manufactured housing in a manufactured home park that the department of health or a licensor conducts shall be conducted by a person who has completed an installation training course approved by the manufactured homes commission pursuant to division (B)(12) of section 4781.04 of the Revised Code.

As used in division (A)(3) of this section, "manufactured housing" has the same meaning as in section 4781.01 of the Revised Code.

(B) The public health council, in accordance with Chapter 119. of the Revised Code, shall adopt rules of uniform application throughout the state establishing requirements and procedures in accordance with which the director of health may authorize licensors for the purposes of sections 3733.022 and 3733.025 of the Revised Code. The rules shall include at least provisions under which a licensor may enter into contracts for the purpose of fulfilling the licensor's responsibilities under either or both of

those sections.

<< OH ST 3733.04 >>

The licensor of a manufactured home park may charge a fee for an annual license to operate such a park. The fee for a license shall be determined in accordance with section 3709.09 of the Revised Code and shall include the cost of licensing and all inspections.

The fee also shall include any additional amount determined by rule of the public health council, which shall be collected and transmitted by the board of health to the ~~treasurer of state to be credited to the general operations fund created in section 3701.83 of the Revised Code~~ **director of health pursuant to section 3709.092 of the Revised Code** and used only for the purpose of administering and enforcing sections 3733.01 to 3733.08 of the Revised Code and the rules adopted under those sections. The portion of any fee retained by the board of health shall be paid into a special fund and used only for the purpose of administering and enforcing sections 3733.01 to 3733.08 of the Revised Code and the rules adopted thereunder.

<< OH ST 3733.25 >>

Any fee for the license required by section 3733.24 of the Revised Code shall be determined in accordance with section 3709.09 of the Revised Code. The license fee shall include any additional amount determined by rule of the public health council, which shall be collected and transmitted by the **board of** health ~~district~~ to the director of health ~~for deposit in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code~~ **pursuant to section 3709.092 of the Revised Code** and shall be used by the director to administer and enforce sections 3733.21 to 3733.30 of the Revised Code and rules adopted thereunder. The portion of any fee retained by the health district shall be paid into a special fund which is hereby created in each health district and shall be used only by the board for the purpose of administering and enforcing sections 3733.21 to 3733.30 of the Revised Code and the rules adopted thereunder. The health district may charge additional reasonable fees for the collection and bacteriological examination of any necessary water samples taken from a marina.

<< OH ST 3733.43 >>

(A) Except as otherwise provided in this division, prior to the fifteenth day of April in each year, every person who intends to operate an agricultural labor camp shall make application to the licensor for a license to operate such camp, effective for the calendar year in which it is issued. The licensor may accept an application on or after the fifteenth day of April. The license fees specified in this division shall be submitted to the licensor with the application for a license. No agricultural labor camp shall be operated in this state without a license. Any person operating an agricultural labor camp without a current and valid agricultural labor camp license is not excepted from compliance with sections 3733.41 to 3733.49 of the Revised Code by holding a valid and current hotel license. Each person proposing to open an agricultural labor camp shall submit with the application for a license any plans required by any rule adopted under section 3733.42 of the Revised Code. ~~The~~ **For any license issued on or after July 1, 2009, the** annual license fee is ~~seventy-five~~ **one hundred fifty** dollars, unless the application for a license is made on or after the fifteenth day of April **in any given year**, in which case the annual license fee is one hundred **sixty-six** dollars. ~~An~~ **For any license issued on or after July 1, 2009, an** additional fee of ~~ten~~ **twenty** dollars per housing unit per year shall be assessed to defray the costs of enforcing sections 3733.41 to 3733.49 of the Revised Code, unless the application for a license is made on or after the fifteenth day of April **in any given year**, in which case an additional fee of ~~fifteen~~ **forty-two** dollars **and fifty cents** per housing unit shall be assessed. All fees collected under this division shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code and shall be used for the administration and enforcement of sections 3733.41 to 3733.49 of the Revised Code and rules adopted thereunder.

(B) Any license under this section may be denied, suspended, or revoked by the licensor for violation of sections 3733.41 to 3733.49 of the Revised Code or the rules adopted thereunder. Unless there is

an immediate serious public health hazard, no denial, suspension, or revocation of a license shall be made effective until the person operating the agricultural labor camp has been given notice in writing of the specific violations and a reasonable time to make corrections. When the licensor determines that an immediate serious public health hazard exists, the licensor shall issue an order denying or suspending the license without a prior hearing.

(C) All proceedings under this section are subject to Chapter 119. of the Revised Code except as provided in section 3733.431 of the Revised Code.

(D) Every occupant of an agricultural labor camp shall keep that part of the dwelling unit, and premises thereof, that the occupant occupies and controls in a clean and sanitary condition.

<< OH ST 3734.05 >>

(A)(1) Except as provided in divisions (A)(4), (8), and (9) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing solid waste facility shall procure a license under this division to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (A)(2) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of a solid waste facility, and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with this chapter and rules adopted under it. The terms and conditions may establish the authorized maximum daily waste receipts for the facility. Limitations on maximum daily waste receipts shall be specified in cubic yards of volume for the purpose of regulating the design, construction, and operation of solid waste facilities. Terms and conditions included in a license or revision to a license by a board of health shall be consistent with, and pertain only to the subjects addressed in, the rules adopted under division (A) of section 3734.02 and division (D) of section 3734.12 of the Revised Code.

(2)(a) Except as provided in divisions (A)(2)(b), (8), and (9) of this section, each person proposing to open a new solid waste facility or to modify an existing solid waste facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code at least two hundred seventy days before proposed operation of the facility and shall concurrently make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the proposed facility is to be located.

(b) On and after the effective date of the rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, each person proposing to open a new solid waste transfer facility or to modify an existing solid waste transfer facility shall submit an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the environmental protection agency for required approval under those rules at least two hundred

seventy days before commencing proposed operation of the facility and concurrently shall make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the facility is located or proposed.

(c) Each application for a permit under division (A)(2)(a) or (b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (A)(1) or (2) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (A)(1), (2), (3), or (4) of section 3734.06 of the Revised Code.

(d) As used in divisions (A)(2)(d), (e), and (f) of this section, "modify" means any of the following:

(i) Any increase of more than ten per cent in the total capacity of a solid waste facility;

(ii) Any expansion of the limits of solid waste placement at a solid waste facility;

(iii) Any increase in the depth of excavation at a solid waste facility;

(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than thirty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified facility. Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the notice was published to the director and the legislative authority of each municipal corporation, township, and county, and to the chief executive officer of each municipal corporation, in which the facility is or is proposed to be located. At the public meeting, the applicant shall provide information and describe the application and respond to comments or questions concerning the application, and the officer or employee of the agency shall describe the permit application process. At the public meeting, any person may submit written or oral comments on or objections to the application. Not more than thirty days after the public meeting, the applicant shall provide the director with a copy of a transcript of the full meeting, copies of any exhibits, displays, or other materials presented by the applicant at the meeting, and the original copy of any written comments submitted at the meeting.

(e) Except as provided in division (A)(2)(f) of this section, prior to taking an action, other than a proposed or final denial, upon an application submitted under division (A)(2)(a) of this section for a permit to open a new or modify an existing solid waste facility, the director shall hold a public information session and a public hearing on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. If the application is for a permit to open a new solid waste facility, the director shall hold the hearing not less than fourteen days after the information session. If the application is for a permit to modify an existing solid waste facility, the director may hold both the information session and the hearing on the

same day unless any individual affected by the application requests in writing that the information session and the hearing not be held on the same day, in which case the director shall hold the hearing not less than fourteen days after the information session. The director shall publish notice of the public information session or public hearing not less than thirty days before holding the information session or hearing, as applicable. The notice shall be published in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the information session or hearing, as applicable, and a general description of the proposed new or modified facility. At the public information session, an officer or employee of the environmental protection agency shall describe the status of the permit application and be available to respond to comments or questions concerning the application. At the public hearing, any person may submit written or oral comments on or objections to the approval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the information session and public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the information session and hearing.

(f) The solid waste management policy committee of a county or joint solid waste management district may adopt a resolution requesting expeditious consideration of a specific application submitted under division (A)(2)(a) of this section for a permit to modify an existing solid waste facility within the district. The resolution shall make the finding that expedited consideration of the application without the public information session and public hearing under division (A)(2)(e) of this section is in the public interest and will not endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code. Upon receiving such a resolution, the director, at the director's discretion, may issue a final action upon the application without holding a public information session or public hearing pursuant to division (A)(2)(e) of this section.

(3) Except as provided in division (A)(10) of this section, and unless the owner or operator of any solid waste facility, other than a solid waste transfer facility or a compost facility that accepts exclusively source separated yard wastes, that commenced operation on or before July 1, 1968, has obtained an exemption from the requirements of division (A)(3) of this section in accordance with division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code in accordance with the following schedule:

(a) Not later than September 24, 1988, if the facility is located in the city of Garfield Heights or Parma in Cuyahoga county;

(b) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;

(c) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn or Cuyahoga Heights in Cuyahoga county;

(d) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights;

(e) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;

(f) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (A)(3)(a) to (e) of this section;

(g) Notwithstanding divisions (A)(3)(a) to (f) of this section, not later than December 31, 1990, if the facility is a solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated and if the facility disposes of more than one hundred thousand tons of solid wastes per year, provided that any such facility shall be subject to division (A)(5) of this section.

(4) Except as provided in divisions (A)(8), (9), and (10) of this section, unless the owner or operator of any solid waste facility for which a permit was issued after July 1, 1968, but before January 1, 1980, has obtained an exemption from the requirements of division (A)(4) of this section under division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under those rules.

(5) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of a solid waste facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(6) The director shall act upon an application submitted under division (A)(3) or (4) of this section and any updated engineering plans, specifications, and information submitted under division (A)(5) of this section within one hundred eighty days after receiving them. If the director denies any such permit application, the order denying the application or disapproving the plans shall include the requirements that the owner or operator submit a plan for closure and post-closure care of the facility to the director for approval within six months after issuance of the order, cease accepting solid wastes for disposal or transfer at the facility, and commence closure of the facility not later than one year after issuance of the order. If the director determines that closure of the facility within that one-year period would result in the unavailability of sufficient solid waste management facility capacity within the county or joint solid waste management district in which the facility is located to dispose of or transfer the solid waste generated within the district, the director in the order of denial or disapproval may postpone commencement of closure of the facility for such period of time as the director finds necessary for the board of county commissioners or directors of the district to secure access to or for there to be constructed within the district sufficient solid waste management facility capacity to meet the needs of the district, provided that the director shall certify in the director's order that postponing the date for commencement of closure will not endanger ground water or any property surrounding the facility, allow methane gas migration to occur, or cause or contribute to any other type of environmental damage.

If an emergency need for disposal capacity that may affect public health and safety exists as a result of closure of a facility under division (A)(6) of this section, the director may issue an order designating another solid waste facility to accept the wastes that would have been disposed of at the facility to be closed.

(7) If the director determines that standards more stringent than those applicable in rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code, or standards pertaining to subjects not specifically addressed by those rules, are necessary to ensure that a solid waste facility constructed at the proposed location will not cause a nuisance, cause or contribute to water pollution, or endanger public health or safety, the director may issue a permit for the facility with such terms and conditions as the director finds necessary to protect public health and safety and the environment. If a permit is issued, the director shall state in the order issuing it the specific findings supporting each such term or condition.

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do not apply to a solid waste compost facility that accepts exclusively source separated yard wastes and that is registered under division (C) of section 3734.02 of the Revised Code or, unless otherwise provided in rules adopted under division (N)(3) of section 3734.02 of the Revised Code, to a solid waste compost facility if the director has adopted rules establishing an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility under that division.

(9) Divisions (A)(1) to (7) of this section do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The approval of plans and specifications, as applicable, and the issuance of registration certificates, permits, and licenses for those facilities are subject to sections 3734.75 to 3734.78 of the Revised Code, as applicable, and section 3734.81 of the Revised Code.

(10) Divisions (A)(3) and (4) of this section do not apply to a solid waste incinerator that was placed into operation on or before October 12, 1994, and that is not authorized to accept and treat infectious wastes pursuant to division (B) of this section.

(B)(1) Each person who is engaged in the business of treating infectious wastes for profit at a treatment facility located off the premises where the wastes are generated that is in operation on August 10, 1988, and who proposes to continue operating the facility shall submit to the board of health of the health district in which the facility is located an application for a license to operate the facility.

Thereafter, no person shall operate or maintain an infectious waste treatment facility without a license issued by the board of health of the health district in which the facility is located or by the director when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

(2)(a) During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing infectious waste treatment facility shall procure a license to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (B)(2)(c) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of an infectious waste treatment facility and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with the infectious waste provisions of this chapter and rules adopted under them.

(b) Each person proposing to open a new infectious waste treatment facility or to modify an existing infectious waste treatment facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to section 3734.021 of the Revised Code two hundred seventy days before proposed operation of the facility and concurrently shall make application for a license with the board of health of the health district in which the facility is or is proposed to be located. Not later than ninety days after receiving a completed application under division (B)(2)(b) of this section for a permit to open a new infectious waste treatment facility or modify an existing infectious waste treatment facility to expand its treatment capacity, or receiving a completed application under division (A)(2)(a) of this section for a permit to open a new solid waste incineration facility, or modify an existing solid waste incineration facility to also treat infectious wastes or to increase its infectious waste treatment capacity, that pertains to a facility for which a notation authorizing infectious waste treatment is included or proposed to be included in the solid waste incineration facility's license

pursuant to division (B)(3) of this section, the director shall hold a public hearing on the application within the county in which the new or modified infectious waste or solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public hearing on the application, the director shall publish notice of the hearing in each newspaper that has general circulation and that is published in the county in which the facility is or is proposed to be located. If there is no newspaper that has general circulation and that is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public hearing and a general description of the proposed new or modified facility. At the public hearing, any person may submit written or oral comments on or objections to the approval or disapproval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the hearing.

(c) Each application for a permit under division (B)(2)(b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (B)(2)(a) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (C) of section 3734.06 of the Revised Code.

(d) The owner or operator of any infectious waste treatment facility that commenced operation on or before July 1, 1968, shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code in accordance with the following schedule:

(i) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;

(ii) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn, Cuyahoga Heights, or Parma in Cuyahoga county;

(iii) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Brooklyn, Cuyahoga Heights, and Parma;

(iv) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;

(v) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (B)(2)(d)(i) to (iv) of this section.

The owner or operator of an infectious waste treatment facility required to submit a permit application under division (B)(2)(d) of this section is not required to pay any permit application fee under division (B)(2)(c) of this section, or permit fee under division (Q) of section 3745.11 of the Revised Code, with respect thereto unless the owner or operator also proposes to modify the facility.

(e) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of an infectious waste treatment facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its

method of operation for approval under rules adopted under section 3734.021 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(f) The director shall act upon an application submitted under division (B)(2)(d) of this section and any updated engineering plans, specifications, and information submitted under division (B)(2)(e) of this section within one hundred eighty days after receiving them. If the director denies any such permit application or disapproves any such updated engineering plans, specifications, and information, the director shall include in the order denying the application or disapproving the plans the requirement that the owner or operator cease accepting infectious wastes for treatment at the facility.

(3) Division (B) of this section does not apply to an infectious waste treatment facility that meets any of the following conditions:

(a) Is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (3) of section 3734.021 of the Revised Code, wastes that are generated at any premises owned or operated by that generator regardless of whether the wastes are generated on the same premises where the generator's treatment facility is located or, if the generator is a hospital as defined in section 3727.01 of the Revised Code, infectious wastes that are described in division (A)(1)(g), (h), or (i) of section 3734.021 of the Revised Code;

(b) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(c) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(ii) Chapter 918. of the Revised Code;

(iii) Chapter 953. of the Revised Code.

Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste facility license for the facility shall include the notation that the facility also treats infectious wastes.

On and after the effective date of the amendments to the rules adopted under division (C)(2) of section 3734.021 of the Revised Code that are required by Section 6 of Substitute House Bill No. 98 of the 120th General Assembly, the director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in the required amendments to those rules.

(C) Except for a facility or activity described in division (E)(3) of section 3734.02 of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit a complete application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located of the submission of

the application within ten days after the submission or at such earlier time as the director may establish by rule. If the application is for a proposed new hazardous waste disposal or thermal treatment facility, the applicant also shall give actual notice of the general design and purpose of the facility to the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located at least ninety days before the permit application is submitted to the environmental protection agency.

In accordance with rules adopted under section 3734.12 of the Revised Code, prior to the submission of a complete application for a hazardous waste facility installation and operation permit, the applicant shall hold at least one meeting in the township or municipal corporation in which the facility is proposed to be located, whichever is geographically closer to the proposed location of the facility. The meeting shall be open to the public and shall be held to inform the community of the proposed hazardous waste management activities and to solicit questions from the community concerning the activities.

(D)(1) Except as provided in section 3734.123 of the Revised Code, upon receipt of a complete application for a hazardous waste facility installation and operation permit under division (C) of this section, the director shall consider the application and accompanying information to determine whether the application complies with agency rules and the requirements of division (D)(2) of this section. After making a determination, the director shall issue either a draft permit or a notice of intent to deny the permit. The director, in accordance with rules adopted under section 3734.12 of the Revised Code or with rules adopted to implement Chapter 3745. of the Revised Code, shall provide public notice of the application and the draft permit or the notice of intent to deny the permit, provide an opportunity for public comments, and, if significant interest is shown, schedule a public meeting in the county in which the facility is proposed to be located and give public notice of the date, time, and location of the public meeting in a newspaper of general circulation in that county.

(2) The director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless the director finds and determines as follows:

(a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;

(b) That the facility complies with the director's hazardous waste standards adopted pursuant to section 3734.12 of the Revised Code;

(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

(d) That the facility represents the minimum risk of all of the following:

(i) Fires or explosions from treatment, storage, or disposal methods;

(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;

(iii) Adverse impact on the public health and safety.

(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of hazardous waste, that person has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of other states if any such prior operation was located in another

state that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under the applicable provisions of this chapter and Chapters 3704. and 6111. of the Revised Code, the applicable rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. For off-site facilities, as defined in section 3734.41 of the Revised Code, the director may use the investigative reports of the attorney general prepared pursuant to section 3734.42 of the Revised Code as a basis for making a finding and determination under division (D)(2)(f) of this section.

(g) That the active areas within a new hazardous waste facility where acute hazardous waste as listed in 40 C.F.R. 261.33 (e), as amended, or organic waste that is toxic and is listed under 40 C.F.R. 261, as amended, is being stored, treated, or disposed of and where the aggregate of the storage design capacity and the disposal design capacity of all hazardous waste in those areas is greater than two hundred fifty thousand gallons, are not located or operated within any of the following:

(i) Two thousand feet of any residence, school, hospital, jail, or prison;

(ii) Any naturally occurring wetland;

(iii) Any flood hazard area if the applicant cannot show that the facility will be designed, constructed, operated, and maintained to prevent washout by a one-hundred-year flood.

Division (D)(2)(g) of this section does not apply to the facility of any applicant who demonstrates to the director that the limitations specified in that division are not necessary because of the nature or volume of the waste and the manner of management applied, the facility will impose no substantial danger to the health and safety of persons occupying the structures listed in division (D)(2)(g)(i) of this section, and the facility is to be located or operated in an area where the proposed hazardous waste activities will not be incompatible with existing land uses in the area.

(h) That the facility will not be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility will be used exclusively for the storage of hazardous waste generated within the park or recreation area in conjunction with the operation of the park or recreation area. Division (D)(2)(h) of this section does not apply to the facility of any applicant for modification of a permit unless the modification application proposes to increase the land area included in the facility or to increase the quantity of hazardous waste that will be treated, stored, or disposed of at the facility.

(3) Not later than one hundred eighty days after the end of the public comment period, the director, without prior hearing, shall issue or deny the permit in accordance with Chapter 3745. of the Revised Code. If the director approves an application for a hazardous waste facility installation and operation permit, the director shall issue the permit, upon such terms and conditions as the director finds are necessary to ensure the construction and operation of the hazardous waste facility in accordance with the standards of this section.

(E)~~:~~ No political subdivision of this state shall require any additional zoning or other approval, consent, permit, certificate, or condition for the construction or operation of a hazardous waste facility authorized by a hazardous waste facility installation and operation permit issued pursuant to this chapter, nor shall any political subdivision adopt or enforce any law, ordinance, or rule that in any way alters, impairs, or limits the authority granted in the permit.

(F) The director may issue a single hazardous waste facility installation and operation permit to a

person who operates two or more adjoining facilities where hazardous waste is stored, treated, or disposed of if the application includes detail plans, specifications, and information on all facilities. For the purposes of this section, "adjoining" means sharing a common boundary, separated only by a public road, or in such proximity that the director determines that the issuance of a single permit will not create a hazard to the public health or safety or the environment.

(G) No person shall falsify or fail to keep or submit any plans, specifications, data, reports, records, manifests, or other information required to be kept or submitted to the director by this chapter or the rules adopted under it.

(H)(1) Each person who holds an installation and operation permit issued under this section and who wishes to obtain a permit renewal shall submit a completed application for an installation and operation permit renewal and any necessary accompanying general plans, detail plans, specifications, and such information as the director may require to the director no later than one hundred eighty days prior to the expiration date of the existing permit or upon a later date prior to the expiration of the existing permit if the permittee can demonstrate good cause for the late submittal. The director shall consider the application and accompanying information, inspection reports of the facility, results of performance tests, a report regarding the facility's compliance or noncompliance with the terms and conditions of its permit and rules adopted by the director under this chapter, and such other information as is relevant to the operation of the facility and shall issue a draft renewal permit or a notice of intent to deny the renewal permit. The director, in accordance with rules adopted under this section or with rules adopted to implement Chapter 3745. of the Revised Code, shall give public notice of the application and draft renewal permit or notice of intent to deny the renewal permit, provide for the opportunity for public comments within a specified time period, schedule a public meeting in the county in which the facility is located if significant interest is shown, and give public notice of the public meeting.

(2) Within sixty days after the public meeting or close of the public comment period, the director, without prior hearing, shall issue or deny the renewal permit in accordance with Chapter 3745. of the Revised Code. The director shall not issue a renewal permit unless the director determines that the facility under the existing permit has a history of compliance with this chapter, rules adopted under it, the existing permit, or orders entered to enforce such requirements that demonstrates sufficient reliability, expertise, and competency to operate the facility henceforth under this chapter, rules adopted under it, and the renewal permit. If the director approves an application for a renewal permit, the director shall issue the permit subject to the payment of the annual permit fee required under division (E) of section 3734.02 of the Revised Code and upon such terms and conditions as the director finds are reasonable to ensure that continued operation, maintenance, closure, and post-closure care of the hazardous waste facility are in accordance with the rules adopted under section 3734.12 of the Revised Code.

(3) An installation and operation permit renewal application submitted to the director that also contains or would constitute an application for a modification shall be acted upon by the director in accordance with division (I) of this section in the same manner as an application for a modification. In approving or disapproving the renewal portion of a permit renewal application containing an application for a modification, the director shall apply the criteria established under division (H)(2) of this section.

(4) An application for renewal or modification of a permit that does not contain an application for a modification as described in divisions (I)(3)(a) to (d) of this section shall not be subject to division (D)(2) of this section.

(I)(1) As used in this section, "modification" means a change or alteration to a hazardous waste facility or its operations that is inconsistent with or not authorized by its existing permit or authorization to operate. Modifications shall be classified as Class 1, 2, or 3 modifications in accordance with rules adopted under division (K) of this section. Modifications classified as Class 3 modifications, in accordance with rules adopted under that division, shall be further classified by the director as either Class 3 modifications that are to be approved or disapproved by the director under divisions (I)(3)(a) to (d) of this section or as Class 3 modifications that are to be approved or

disapproved by the director under division (I)(5) of this section. Not later than thirty days after receiving a request for a modification under division (I)(4) of this section that is not listed in Appendix I to 40 C.F.R. 270.42 or in rules adopted under division (K) of this section, the director shall classify the modification and shall notify the owner or operator of the facility requesting the modification of the classification. Notwithstanding any other law to the contrary, ~~any~~ **a** modification that involves the transfer of a hazardous waste facility installation and operation permit to a new owner or operator **for any off-site facility as defined in section 3734.41 of the Revised Code** shall be classified as a Class 3 modification. **The transfer of a hazardous waste facility installation and operation permit to a new owner or operator for a facility that is not an off-site facility shall be classified as a Class 1 modification requiring prior approval of the director.**

(2) Except as provided in section 3734.123 of the Revised Code, a hazardous waste facility installation and operation permit may be modified at the request of the director or upon the written request of the permittee only if any of the following applies:

(a) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;

(b) New information or data justify permit conditions in addition to or different from those in the existing permit;

(c) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;

(d) The permittee proposes to transfer the permit to another person.

(3) The director shall approve or disapprove an application for a modification in accordance with division (D)(2) of this section and rules adopted under division (K) of this section for all of the following categories of Class 3 modifications:

(a) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over the capacity so authorized. The authorized disposal capacity for a facility shall be calculated from the approved design plans for the disposal units at that facility. In no case during a five-year period shall a facility's storage capacity or treatment rate be modified to increase by more than twenty-five per cent in the aggregate without the director's approval in accordance with division (D)(2) of this section. Notwithstanding any provision of division (I) of this section to the contrary, a request for modification of a facility's annual total waste receipt limit shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(c) Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store hazardous waste, treatment at a facility not previously authorized to treat hazardous waste, or disposal at a facility not previously authorized to dispose of hazardous waste; or authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit. Notwithstanding any provision of division (I) of this section to the contrary, a request for authority to add or to modify an activity or a hazardous waste management unit for the purposes of performing a corrective action shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(d) Authority to treat, store, or dispose of waste types listed or characterized as reactive or explosive, in rules adopted under section 3734.12 of the Revised Code, or any acute hazardous waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not previously authorized to treat, store, or dispose of those types of wastes by the facility's permit unless the requested authority is limited to wastes that no longer exhibit characteristics meeting the criteria for listing or characterization as reactive or explosive wastes, or for listing as acute hazardous waste, but still are required to carry those waste codes as established in rules adopted under section 3734.12 of the Revised Code because of the requirements established in 40 C.F.R. 261(a) and (e), as amended, that is, the "mixture," "derived-from," or "contained-in" regulations.

(4) A written request for a modification from the permittee shall be submitted to the director and shall contain such information as is necessary to support the request. Requests for modifications shall be acted upon by the director in accordance with this section and rules adopted under it.

(5) Class 1 modification applications that require prior approval of the director, **as provided in division (I)(1) of this section or** as determined in accordance with rules adopted under division (K) of this section, Class 2 modification applications, and Class 3 modification applications that are not described in divisions (I)(3)(a) to (d) of this section shall be approved or disapproved by the director in accordance with rules adopted under division (K) of this section. The board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located shall receive notification of any application for a modification for that facility and shall be considered as interested persons with respect to the director's consideration of the application.

~~For those modification applications for a transfer of a permit to a new owner or operator of a facility, the director also shall determine that, if the transferee owner or operator has been involved in any prior activity involving the transportation, treatment, storage, or disposal of hazardous waste, the transferee owner or operator has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of another state if the transferee owner or operator owns or operates a facility in that state, that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under this chapter and Chapters 3704. and 6111. of the Revised Code, all rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. A permit may be transferred to a new owner or operator only pursuant to a Class 3 permit modification.~~

As used in division (I)~~(5)~~ of this section:

(a) "Owner" means the person who owns a majority or controlling interest in a facility.

(b) "Operator" means the person who is responsible for the overall operation of a facility.

The director shall approve or disapprove an application for a Class 1 modification that requires the director's approval within sixty days after receiving the request for modification. The director shall approve or disapprove an application for a Class 2 modification within three hundred days after receiving the request for modification. The director shall approve or disapprove an application for a Class 3 modification within three hundred sixty-five days after receiving the request for modification.

(6) The approval or disapproval by the director of a Class 1 modification application is not a final action that is appealable under Chapter 3745. of the Revised Code. The approval or disapproval by the director of a Class 2 modification or a Class 3 modification is a final action that is appealable under that chapter. In approving or disapproving a request for a modification, the director shall consider all comments pertaining to the request that are received during the public comment period and the public meetings. The administrative record for appeal of a final action by the director in

approving or disapproving a request for a modification shall include all comments received during the public comment period relating to the request for modification, written materials submitted at the public meetings relating to the request, and any other documents related to the director's action.

(7) Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E)(3)(a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to (6) of this section in the same manner as a modification to a hazardous waste facility installation and operation permit.

(J)(1) Except as provided in division (J)(2) of this section, an owner or operator of a hazardous waste facility that is operating in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit either a hazardous waste facility installation and operation permit application for the facility or a modification application, whichever is required under division (J)(1)(a) or (b) of this section, within one hundred eighty days after the director has requested the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal.

(a) If the owner or operator does not have a hazardous waste facility installation and operation permit for any hazardous waste treatment, storage, or disposal activities at the facility, the owner or operator shall submit an application for such a permit to the director for the activities authorized by the permit by rule. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the application for the permit in accordance with the procedures governing the approval or disapproval of permit renewals under division (H) of this section.

(b) If the owner or operator has a hazardous waste facility installation and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance with division (I) of this section. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the modification application in accordance with division (I)(5) of this section.

(2) The owner or operator of a boiler or industrial furnace that is conducting thermal treatment activities in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit a hazardous waste facility installation and operation permit application if the owner or operator does not have such a permit for any hazardous waste treatment, storage, or disposal activities at the facility or, if the owner or operator has such a permit for hazardous waste treatment, storage, or disposal activities at the facility other than thermal treatment activities authorized by the permit by rule, a modification application to add those activities authorized by the permit by rule, whichever is applicable, within one hundred eighty days after the director has requested the submission of the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal. The application shall be accompanied by information necessary to support the request. The director shall approve or disapprove an application for a hazardous waste facility installation and operation permit in accordance with division (D) of this section and approve or disapprove an application for a modification in accordance with division (I)(3) of this section, except that the director shall not disapprove an application for the thermal treatment activities on the basis of the criteria set forth in division (D)(2)(g) or (h) of this section.

(3) As used in division (J) of this section:

(a) "Modification application" means a request for a modification submitted in accordance with division (I) of this section.

(b) "Thermal treatment," "boiler," and "industrial furnace" have the same meanings as in rules adopted under section 3734.12 of the Revised Code.

(K) The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code in order to implement divisions (H) and (I) of this section. Except when in actual conflict with this section, rules governing the classification of and procedures for the modification of hazardous waste facility installation and operation permits shall be substantively and procedurally identical to the regulations governing hazardous waste facility permitting and permit modifications adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.

<< OH ST 3734.28 >>

~~All~~ **Except as otherwise provided in section 3734.282 of the Revised Code,** moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and ~~natural resource damages collected by the state~~ under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall be paid into the state treasury to the credit of the hazardous waste clean-up fund, which is hereby created. In addition, any moneys recovered for costs paid from the fund for activities described in ~~division~~ **divisions** (A)(1) and (2) of section 3745.12 of the Revised Code shall be credited to the fund. The environmental protection agency shall use the moneys in the fund for the purposes set forth in division (D) of section 3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, ~~and, through October 15, 2005,~~ divisions (A)(1) and (2) of section 3745.12, and Chapter 3746. of the Revised Code, including any related enforcement expenses. In addition, the agency shall use the moneys in the fund to pay the state's long-term operation and maintenance costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended. If those moneys are reimbursed by grants or other moneys from the United States or any other person, the moneys shall be placed in the fund and not in the general revenue fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the responsibilities of the environmental protection agency for which money may be expended from the fund.

<< OH ST 3734.281 >>

~~Notwithstanding any provision of law to the contrary, any moneys set aside by the state for the cleanup and remediation of the Ashtabula river; any~~ **Except as otherwise provided in section 3734.282 of the Revised Code,** moneys collected from **judgements for the state or** settlements ~~made by~~ **with** the director of environmental protection, including those associated with bankruptcies, related to actions brought under Chapter 3714. and section 3734.13, 3734.20, 3734.22, 6111.03, or 6111.04 of the Revised Code; and ~~any~~ moneys received under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. ~~9602~~ **9601 et seq.**, as amended, may be paid into the state treasury to the credit of the environmental protection remediation fund, which is hereby created. The environmental protection agency shall use the moneys in the fund only for the purpose of remediating conditions at a hazardous waste facility, a solid waste facility, a construction and demolition debris facility licensed under Chapter 3714. of the Revised Code, or another location at which the director has reason to believe there is a substantial threat to public health or safety or the environment. Remediation may include the direct and indirect costs associated with the overseeing, supervising, performing, verifying, or reviewing of remediation activities by agency employees. All investment earnings of the fund shall be credited to the fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the responsibilities of the environmental protection agency for which money may be expended from the fund.

<< OH ST 3734.282 >>

All money collected by the state for natural resources damages under the "Comprehensive

Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, the "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701 et seq., as amended, the "Clean Water Act," 86 Stat. 862, 33 U.S.C. 1321, as amended, or any other applicable federal or state law shall be paid into the state treasury to the credit of the natural resource damages fund, which is hereby created. The director of environmental protection shall use money in the fund only in accordance with the purposes of and the limitations on natural resources damages set forth in the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended, the "Oil Pollution Act of 1990," as amended, the "Clean Water Act," as amended, or another applicable federal or state law. All investment earnings of the fund shall be credited to the fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the director's responsibilities for which money may be expended from the fund.

<< OH ST 3734.53 >>

(A) The solid waste management plan of any county or joint solid waste management district shall be prepared in a format prescribed by the director of environmental protection and shall provide for compliance with the objectives of the state solid waste management plan and rules adopted under section 3734.50 of the Revised Code. The plan shall provide for, demonstrate, and certify the availability of and access to sufficient solid waste management facility capacity to meet the solid waste management needs of the district for the ten-year period covered by the plan. The solid waste management policy committee of a county or joint district created in section 3734.54 of the Revised Code may prepare and submit a solid waste management plan that covers and makes the required demonstration for a longer period of time.

The solid waste management plan shall contain all of the following:

(1) An inventory of the sources, composition, and quantities of solid wastes generated in the district during the current year;

(2) An inventory of all existing facilities where solid wastes are being disposed of, all resource recovery facilities, and all recycling activities within the district. The inventory shall identify each such facility or activity and, for each disposal facility, shall estimate the remaining disposal capacity available at the facility. The inventory shall be accompanied by a map that shows the location of each such existing facility or activity.

(3) An inventory of existing solid waste collection systems and routes, transportation systems and routes, and transfer facilities within the district. The inventory shall identify the entities engaging in solid waste collection within the district.

(4) An inventory of open dumping sites for solid wastes, including solid wastes consisting of scrap tires, and facilities for the disposal of fly ash and bottom ash, foundry sand, and slag within the district. The inventory shall identify each such site or facility and shall be accompanied by a map that shows the location of each of them.

(5) A projection of population changes within the district during the next ten years;

(6) For each year of the forecast period, projections of the amounts and composition of solid wastes that will be generated within the district, the amounts of solid wastes originating outside the district that will be brought into the district for disposal or resource recovery, the nature of industrial activities within the district, and the effect of newly regulated waste streams, solid waste minimization activities, and solid waste recycling and reuse activities on solid waste generation rates. For each year of the forecast period, projections of waste quantities shall be compiled as an aggregate quantity of wastes.

(7) An identification of the additional solid waste management facilities and the amount of additional capacity needed to dispose of the quantities of wastes projected in division (A)(6) of this section;

(8) A strategy for identification of sites for the additional solid waste management facilities and capacity identified under division (A)(7) of this section;

(9) An analysis and comparison of the capital and operating costs of the solid waste disposal facilities, solid waste resource recovery facilities, and solid waste recycling and reuse activities necessary to meet the solid waste management needs of the district, projected in five- and ten-year increments;

(10) An analysis of expenses for which the district is liable under section 3734.35 of the Revised Code;

(11) A projection of solid waste transfer facilities that will be needed in conjunction with existing solid waste facilities and those projected under division (A)(7) of this section;

(12) Such other projections as the district considers necessary or appropriate to ascertain and meet the solid waste management needs of the district during the period covered by the plan;

(13) A schedule for implementation of the plan that, when applicable, contains all of the following:

(a) An identification of the solid waste disposal, transfer, and resource recovery facilities and recycling activities contained in the plan where solid wastes generated within or transported into the district will be taken for disposal, transfer, resource recovery, or recycling. An initial or amended plan prepared and ordered to be implemented by the director under section 3734.521, 3734.55, or 3734.56 of the Revised Code may designate solid waste disposal, transfer, or resource recovery facilities or recycling activities that are owned by a municipal corporation, county, county or joint solid waste management district, township, or township waste disposal district created under section 505.28 of the Revised Code for which debt issued under Chapter 133., 343., or 6123. of the Revised Code is outstanding where solid wastes generated within or transported into the district shall be taken for disposal, transfer, resource recovery, or recycling.

(b) A schedule for closure of existing solid waste facilities, expansion of existing facilities, and establishment of new facilities. The schedule for expansion of existing facilities or establishment of new facilities shall include, without limitation, the approximate dates for filing applications for appropriate permits to install or modify those facilities under section 3734.05 of the Revised Code.

(c) A schedule for implementation of solid waste recycling, reuse, and reduction programs needed to meet the waste reduction, recycling, reuse, and minimization objectives of the state solid waste management plan and rules adopted by the director under section 3734.50 of the Revised Code;

(d) The methods of financing implementation of the plan and a demonstration of the availability of financial resources for that purpose.

(14) A program for providing informational or technical assistance regarding source reduction to solid waste generators, or particular categories of solid waste generators, within the district. The plan shall set forth the types of assistance to be provided by the district and the specific categories of generators that are to be served. The district has the sole discretion to determine the types of assistance that are to be provided under the program and the categories of generators to be served by it.

(B) In addition to the information, projections, demonstrations, and certification required by division (A) of this section, a plan shall do all of the following:

(1) Establish the schedule of fees, if any, to be levied under divisions (B)(1) to (3) of section 3734.57 of the Revised Code;

(2) Establish the fee, if any, to be levied under division (A) of section 3734.573 of the Revised Code;

(3) Contain provisions governing the allocation among the purposes enumerated in divisions (G)(1) to (10) of section 3734.57 of the Revised Code of the moneys credited to the special fund of the district under division (G) of that section that are available for expenditure by the district under that division. The plan shall do all of the following:

(a) Ensure that sufficient of the moneys so credited to and available from the special fund are available for use by the solid waste management policy committee of the district at the time the moneys are needed to monitor implementation of the plan and conduct its periodic review and amendment as required under section 3734.56 of the Revised Code;

(b) Contain provisions governing the allocation and distribution of moneys credited to and available from the special fund of the district to health districts within the county or joint district that have approved programs under section 3734.08 of the Revised Code for the purposes of division (G)(3) of section 3734.57 of the Revised Code;

(c) Contain provisions governing the allocation and distribution of moneys credited to and available from the special fund of the district to the county in which solid waste facilities are or are to be located and operated under the plan for the purposes of division (G)(4) of section 3734.57 of the Revised Code;

(d) Contain provisions governing the allocation and distribution, pursuant to contracts entered into for that purpose, of moneys credited to and available from the special fund of the district to boards of health within the district in which solid waste facilities contained in the district's plan are located for the purposes of division (G)(5) of section 3734.57 of the Revised Code.

(4) Incorporate all solid waste recycling activities that were in operation within the district on the effective date of the plan.

(C) The solid waste management plan of a county or joint district may provide for the adoption of rules under division (G) of section 343.01 of the Revised Code after approval of the plan under section 3734.521 or 3734.55 of the Revised Code doing any or all of the following:

(1) Prohibiting or limiting the receipt at facilities ~~covered by the plan~~ **located within the solid waste management district** of solid wastes generated outside the district or outside a prescribed service area consistent with the projections under divisions (A)(6) and (7) of this section~~, except that~~ **. However, rules adopted by a board under division (C)(1) of this section may be adopted and enforced with respect to solid waste disposal facilities in the solid waste management district that are not owned by a county or the solid waste management district only if the board submits an application to the director of environmental protection that demonstrates that there is insufficient capacity to dispose of all solid wastes that are generated within the district at the solid waste disposal facilities located within the district and the director approves the application. The demonstration in the application shall be based on projections contained in the plan or amended plan of the district. The director shall establish the form of the application. The approval or disapproval of such an application by the director is an action that is appealable under section 3745.04 of the Revised Code.**

In addition, the director of environmental protection may issue an order modifying a rule authorized to be adopted under division (C)(1) of this section to allow the disposal in the district of wastes from another county or joint solid waste management district if all of the following apply:

(a) The district in which the wastes were generated does not have sufficient capacity to dispose of solid wastes generated within it for six months following the date of the director's order;

(b) No new solid waste facilities will begin operation during those six months in the district in which the wastes were generated and, despite good faith efforts to do so, it is impossible to site new solid

waste facilities within the district because of its high population density;

(c) The district in which the wastes were generated has made good faith efforts to negotiate with other districts to incorporate its disposal needs within those districts' solid waste management plans, including efforts to develop joint facilities authorized under section 343.02 of the Revised Code, and the efforts have been unsuccessful;

(d) The district in which the wastes were generated has located a facility willing to accept the district's solid wastes for disposal within the receiving district;

(e) The district in which the wastes were generated has demonstrated to the director that the conditions specified in divisions (C)(1)(a) to (d) of this section have been met;

(f) The director finds that the issuance of the order will be consistent with the state solid waste management plan and that receipt of the out-of-district wastes will not limit the capacity of the receiving district to dispose of its in-district wastes to less than eight years. Any order issued under division (C)(1) of this section shall not become final until thirty days after it has been served by certified mail upon the county or joint solid waste management district that will receive the out-of-district wastes.

(2) Governing the maintenance, protection, and use of solid waste collection, storage, disposal, transfer, recycling, processing, and resource recovery facilities within the district and requiring the submission of general plans and specifications for the construction, enlargement, or modification of any such facility to the board of county commissioners or board of directors of the district for review and approval as complying with the plan or amended plan of the district;

(3) Governing development and implementation of a program for the inspection of solid wastes generated outside the boundaries of the state that are being disposed of at solid waste facilities included in the district's plan;

(4) Exempting the owner or operator of any existing or proposed solid waste facility provided for in the plan from compliance with any amendment to a township zoning resolution adopted under section 519.12 of the Revised Code or to a county rural zoning resolution adopted under section 303.12 of the Revised Code that rezoned or redistricted the parcel or parcels upon which the facility is to be constructed or modified and that became effective within two years prior to the filing of an application for a permit required under division (A)(2)(a) of section 3734.05 of the Revised Code to open a new or modify an existing solid waste facility.

(D) Except for the inventories required by divisions (A)(1), (2), and (4) of this section and the projections required by division (A)(6) of this section, neither this section nor the solid waste management plan of a county or joint district applies to the construction, operation, use, repair, or maintenance of either of the following:

(1) A solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(2) A facility that exclusively disposes of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(E)(1) The initial solid waste management plans prepared by county or joint districts under section 3734.521 of the Revised Code and the amended plans prepared under section 3734.521 or 3734.56 of the Revised Code shall contain a clear statement as to whether the board of county commissioners or directors is authorized to or precluded from establishing facility designations under section 343.014 of the Revised Code.

(2) A policy committee that is preparing a draft or revised draft plan under section 3734.55 of the

Revised Code on October 29, 1993, may include in the draft or revised draft plan only one of the following pertaining to the solid waste facilities or recycling activities where solid wastes generated within or transported into the district are to be taken for disposal, transfer, resource recovery, or recycling:

(a) The designations required under former division (A)(12)(a) of this section as it existed prior to October 29, 1993;

(b) The identifications required in division (A)(12)(a) of this section and the statement required under division (E)(1) of this section;

(c) Both of the following:

(i) The designations required under former division (A)(12)(a) of this section as it existed prior to October 29, 1993, except that those designations only shall pertain to solid waste disposal, transfer, or resource recovery facilities or recycling activities that are owned by a municipal corporation, county, county or joint solid waste management district, township, or township waste disposal district created under section 505.28 of the Revised Code for which debt issued under Chapter 133., 343., or 6123. of the Revised Code is outstanding;

(ii) The identifications required under division (A)(12)(a) of this section, and the statement required under division (E)(1) of this section, pertaining to the solid waste facilities and recycling activities described in division (A) of section 343.014 of the Revised Code.

(F) Notwithstanding section 3734.01 of the Revised Code, "solid wastes" does not include scrap tires and "facility" does not include any scrap tire collection, storage, monocell, monofill, or recovery facility in either of the following circumstances:

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(1) For the purposes of an initial plan prepared and ordered to be implemented by the director under section 3734.55 of the Revised Code;

(2) For the purposes of an initial or amended plan prepared and ordered to be implemented by the director under division (D) or (F)(1) or (2) of section 3734.521 of the Revised Code in connection with a change in district composition as defined in that section that involves an existing district that is operating under either an initial plan approved or prepared and ordered to be implemented under section 3734.55 of the Revised Code or an initial or amended plan approved or prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities.

(G) Notwithstanding section 3734.01 of the Revised Code, and except as provided in division (A)(4) of this section, "solid wastes" need not include scrap tires and "facility" need not include any scrap tire collection, storage, monocell, monofill, or recovery facility in either of the following circumstances:

(1) For the purposes of an initial plan prepared under sections 3734.54 and 3734.55 of the Revised Code unless the solid waste management policy committee preparing the initial plan chooses to include the management of scrap tires and scrap tire facilities in the plan;

(2) For the purposes of a preliminary demonstration of capacity as defined in section 3734.521 of the Revised Code, if any, and an initial or amended plan prepared under that section by the solid waste management policy committee of a solid waste management district resulting from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code that involves an existing district that is operating either under an initial plan approved or prepared and ordered to be implemented under section 3734.55 of the Revised Code or under an initial or amended plan approved or prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities unless the solid waste management policy committee of the district resulting from the change chooses to include the management of scrap tires and scrap tire facilities in the preliminary demonstration of capacity, if any, and the initial or amended plan prepared under section 3734.521 of the Revised Code in connection with the change proceedings.

If a policy committee chooses to include the management of scrap tires and scrap tire facilities in an initial plan pursuant to division (G)(1) of this section, the initial plan shall incorporate all of the elements required under this section, and may incorporate any of the elements authorized under this section, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities. If a policy committee chooses to provide for the management of scrap tires and scrap tire facilities pursuant to division (G)(2) of this section, the preliminary demonstration of capacity, if one is required, shall incorporate all of the elements required under division (E)(1) or (2) of section 3734.521 of the Revised Code, as appropriate, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities. The initial or amended plan also shall incorporate all of the elements required under this section, and may incorporate any of the elements authorized under this section, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities.

(H) Neither this section nor the solid waste management plan of a county or joint district applies to the construction, operation, use, repair, or maintenance of any compost facility that exclusively composts raw rendering material.

<< OH ST 3734.57 >>

< This section contains vetoed provisions. >

(A) The following fees are hereby levied on the transfer or disposal of solid wastes in this state:

(1) One dollar per ton on and after July 1, 2003, through June 30, ~~2010~~ **2012**, one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section 3734.18 of the Revised Code and one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste clean-up fund created in section 3734.28 of the Revised Code;

(2) An additional one dollar per ton on and after July 1, 2003, through June 30, ~~2010~~ **2012**, the proceeds of which shall be deposited in the state treasury to the credit of the solid waste fund, which is hereby created. The environmental protection agency shall use money in the solid waste fund to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, providing compliance assistance to small businesses, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code.

(3) An additional one dollar and fifty cents per ton on and after July 1, 2005, through June 30, ~~2010~~ **2012**, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code;

(4) An additional one dollar per ton on and after August 1, 2009, through June 30, 2012, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund.<<VETOED MATERIAL The fee established in division (A)(4) of this section does not apply to a solid waste transfer facility or solid waste disposal facility if the facility is located in a county that has a population equal to or greater than four hundred thousand according to the most recent decennial federal census and the property boundary of the facility is located within fifteen miles of the property boundary of a solid waste disposal facility in another state. VETOED MATERIAL>>

(5) An additional twenty-five cents per ton on and after August 1, 2009, through June 30, 2012, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code.<<VETOED MATERIAL The fee established in division (A)(5) of this section does not apply to a solid waste transfer facility or solid waste disposal facility if the facility is located in a county that has a population equal to or greater than four hundred thousand according to the most recent decennial federal census and the property boundary of the facility is located within fifteen miles of the property boundary of a solid waste disposal facility in another state VETOED MATERIAL>>.

In the case of solid wastes that are taken to a solid waste transfer facility located in this state prior to being transported for disposal at a solid waste disposal facility located in this state or outside of this state, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is

defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return **or may submit the return and fees electronically in a manner approved by the director**. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, and if the request and evidence submitted with the request indicate that a refund or credit is warranted, the director shall grant a refund to the owner or operator or shall permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be paid by the customer or a political subdivision to the owner or operator of a solid waste transfer or disposal facility**. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid** notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment **regardless of whether the contract was entered prior to or after the effective date of this amendment. For those purposes, "customer" means a person who contracts with, or utilizes the solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.**

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. A solid waste management district that levies fees under this division on the basis of cubic yards shall do so in accordance with division (A) of this section.

The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section.

Prior to the approval of the solid waste management plan of a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the

resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid waste management plan has been ratified under division (B) of section 3734.55 of the Revised Code.

The committee may amend the schedule of fees levied pursuant to a resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may repeal the fees levied pursuant to such a resolution by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (B) and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under division (D)(8) of this section shall include a determination that the amount of the fees not received by a solid waste management district as a result of the order will not adversely impact the

implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the fiscal officer of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the fiscal officer of the township under that division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the township fiscal officer, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or

private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations and the fiscal officers of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section.

[FN1] Provisions subject to different effective dates. See Act section 812.30.

<< OH ST 3734.573 >>

(A) For the purposes specified in division (G) of section 3734.57 of the Revised Code, the solid waste management policy committee of a county or joint solid waste management district may levy a fee on the generation of solid wastes within the district.

The initial or amended solid waste management plan of the county or joint district approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code, an amendment to the district's plan adopted under division (E) of section 3734.56 of the Revised Code, or the resolution adopted and ratified under division (B) of this section shall establish the rate of the fee levied under this division and shall specify whether the fee is levied on the basis of tons or cubic yards as the unit of measurement.

(B) Prior to the approval under division (A) of section 3734.56 of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section 3734.521 of the Revised Code, the approval of an amended plan under section 3734.521 or division (D) of section 3734.56 of the Revised Code, or the amendment of the district's plan under division (E) of section 3734.56 of the Revised Code, the solid waste management policy committee of a county or joint district that is operating under an initial plan approved under section 3734.55 of the Revised Code, or one for which approval of its initial plan is pending before the director of environmental protection on October 29, 1993, under section 3734.55 of the Revised Code, may levy a fee under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the fee. A policy committee that, after December 1, 1993, concurrently proposes to levy a fee under division (A) of this section and to amend the fees levied by the district under divisions (B)(1) to (3) of section 3734.57 of the Revised Code may adopt and obtain ratification of one resolution proposing to do both. The requirements and procedures set forth in division (B) of section 3734.57 of the Revised Code governing the adoption, amendment, and repeal of resolutions levying fees under divisions (B)(1) to (3) of that section, the ratification of those resolutions, and the notification of owners and operators of solid waste facilities required to collect fees levied under those divisions govern the adoption of the resolutions authorized to be adopted under this division, the ratification thereof, and the notification of owners and operators required to collect the fees, except as otherwise specifically provided in division (C) of this section.

(C) Any initial or amended plan of a district adopted under section 3734.521 or 3734.56 of the Revised Code, or resolution adopted under division (B) of this section, that proposes to levy a fee under division (A) of this section that exceeds five dollars per ton shall be ratified in accordance with the provisions of section 3734.55 or division (B) of section 3734.57 of the Revised Code, as applicable, except that such an initial or amended plan or resolution shall be approved by a combination of municipal corporations and townships with a combined population within the boundaries of the district comprising at least seventy-five per cent, rather than at least sixty per cent, of the total population of the district.

(D) The policy committee of a county or joint district may amend the fee levied by the district under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the amended fee. The policy committee may abolish the fee or an amended fee established under this division by adopting and obtaining ratification of a resolution proposing to repeal it. The requirements and procedures under division (B) and, if applicable, division (C) of this section govern the adoption and ratification of a resolution authorized to be adopted under this division and the notification of owners and operators of solid waste facilities required to collect the fees.

(E) Collection of a fee or amended fee levied under division (A) or (D) of this section shall commence or cease in accordance with division (B) of section 3734.57 of the Revised Code. If a district is levying a fee under section 3734.572 of the Revised Code, collection of that fee shall cease on the date on which collection of the fee levied under division (A) of this section commences in accordance with division (B) of section 3734.57 of the Revised Code.

(F) In the case of solid wastes that are taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility for disposal, the fee levied under division (A) of this section shall be collected by the owner or operator of the transfer facility as a trustee for the district. In the case of solid wastes that are not taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility, the fee shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of. An owner or operator of a solid waste transfer or disposal facility who is required to collect the fee shall collect and forward the fee to the

district in accordance with section 3734.57 of the Revised Code and rules adopted under division (H) of that section.

If the owner or operator of a solid waste transfer or disposal facility who did not receive notice pursuant to division (B) of this section to collect the fee levied by a district under division (A) of this section receives solid wastes generated in the district, the owner or operator, within thirty days after receiving the wastes, shall send written notice of that fact to the board of county commissioners or directors of the district. Within thirty days after receiving such a notice, the board of county commissioners or directors shall send written notice to the owner or operator indicating whether the district is levying a fee under division (A) of this section and, if so, the amount of the fee.

(G) Moneys received by a district levying a fee under division (A) of this section shall be credited to the special fund of the district created in division (G) of section 3734.57 of the Revised Code and shall be used exclusively for the purposes specified in that division. Prior to the approval under division (A) of section 3734.56 of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section 3734.521 of the Revised Code, the approval of an amended plan under that section or division (D) of section 3734.56 of the Revised Code, or the amendment of the district's plan under division (E) of section 3734.56 of the Revised Code, moneys credited to the special fund arising from the fee levied pursuant to a resolution adopted and ratified under division (B) of this section shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

(H) The fee levied under division (A) of this section does not apply to the management of solid wastes that:

(1) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes were generated;

(2) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(I) When solid wastes that are burned in a disposal facility that is an incinerator or energy recovery facility are delivered to a solid waste transfer facility prior to being transported to the incinerator or energy recovery facility where they are burned, the fee levied under division (A) of this section shall be levied on the wastes delivered to the transfer facility.

(J) When solid wastes that are burned in a disposal facility that is an incinerator or energy recovery facility are not delivered to a solid waste transfer facility prior to being transported to the incinerator or energy recovery facility where they are burned, the fee levied under division (A) of this section shall be levied on the wastes delivered to the incinerator or energy recovery facility.

(K) The fee levied under division (A) of this section does not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(L) The fee levied under division (A) of this section does not apply to ~~yard waste~~ **solid waste** delivered to a solid waste composting facility for processing ~~or to a solid waste transfer facility~~. **If any unprocessed solid waste or compost product is transported off the premises of a composting facility for disposal at a landfill, the fee levied under division (A) of this section applies and shall be collected by the owner or operator of the landfill.**

(M) The fee levied under division (A) of this section does not apply to materials separated from a mixed waste stream for recycling by the generator **or materials removed from the solid waste stream as a result of recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code**.

(N) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under this division shall include a determination that the amount of fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste ~~managment~~ **management** plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

<< OH ST 3734.82 >>

(A) The annual fee for a scrap tire recovery facility license issued under section 3734.81 of the Revised Code shall be in accordance with the following schedule:

Daily Design Input Capacity (Tons)	Annual License Fee
1 or less	$ 100
2 to 25	500
26 to 50	1,000
51 to 100	1,500
101 to 200	2,500
201 to 500	3,500
501 or more	5,500

For the purpose of determining the applicable license fee under this division, the daily design input capacity shall be the quantity of scrap tires the facility is designed to process daily as set forth in the registration certificate or permit for the facility, and any modifications to the permit, if applicable, issued under section 3734.78 of the Revised Code.

(B) The annual fee for a scrap tire monocell or monofill facility license shall be in accordance with the following schedule:

Authorized Maximum Daily Waste Receipt (Tons)	Annual License Fee
100 or less	$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under this division, the authorized maximum daily waste receipt shall be the maximum amount of scrap tires the facility is authorized to receive daily that is established in the permit for the facility, and any modification to that permit, issued under section 3734.77 of the Revised Code.

(C)(1) Except as otherwise provided in division (C)(2) of this section, the annual fee for a scrap tire storage facility license shall equal one thousand dollars times the number of acres on which scrap tires are to be stored at the facility during the license year, as set forth on the application for the annual license, except that the total annual license fee for any such facility shall not exceed three thousand dollars.

(2) The annual fee for a scrap tire storage facility license for a storage facility that is owned or

operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is one hundred dollars.

(D)(1) Except as otherwise provided in division (D)(2) of this section, the annual fee for a scrap tire collection facility license is two hundred dollars.

(2) The annual fee for a scrap tire collection facility license for a collection facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is fifty dollars.

(E) Except as otherwise provided in divisions (C)(2) and (D)(2) of this section, the same fees apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after the issuance of a license. The fees include the cost of licensing, all inspections, and other costs associated with the administration of the scrap tire provisions of this chapter and rules adopted under them. Each license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director of environmental protection, as appropriate, within thirty days after the issuance of the license.

(F) The board of health shall retain fifteen thousand dollars of each license fee collected by the board under division (B) of this section, or the entire amount of any such fee that is less than fifteen thousand dollars, and the entire amount of each license fee collected by the board under divisions (A), (C), and (D) of this section. The moneys retained shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce the scrap tire provisions of this chapter and rules adopted under them. The remainder, if any, of each license fee collected by the board under division (B) of this section shall be transmitted to the director within forty-five days after receipt of the fee.

(G) The director shall transmit the moneys received by the director from license fees collected under division (B) of this section to the treasurer of state to be credited to the scrap tire management fund, which is hereby created in the state treasury. The fund shall consist of all federal moneys received by the environmental protection agency for the scrap tire management program; all grants, gifts, and contributions made to the director for that program; and all other moneys that may be provided by law for that program. The director shall use moneys in the fund as follows:

(1) Expend ~~not more than seven hundred fifty thousand dollars during each fiscal year~~ **amounts determined necessary by the director** to implement, administer, and enforce the scrap tire provisions of this chapter and rules adopted under them;

(2) During each fiscal year, request the director of budget and management to, and the director of budget and management shall, transfer one million dollars to the scrap tire grant fund created in section 1502.12 of the Revised Code for ~~the purposes specified in that section;~~ **supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes. In addition, during a fiscal year, the director of environmental protection may request the director of budget and management to, and the director of budget and management shall, transfer up to an additional five hundred thousand dollars to the scrap tire grant fund for scrap tire amnesty events and scrap tire cleanup events.**

(3) ~~Expend not more than three million dollars per year during fiscal years 2002 and 2003 to conduct removal actions under section 3734.85 of the Revised Code and to make grants to boards of health under section 3734.042 of the Revised Code. However, more than three million dollars may be expended in fiscal years 2002 and 2003 for the purposes of division (G)(3) of this section if more moneys are collected from the fee levied under division (A)(2) of section 3734.901 of the Revised Code. During each subsequent fiscal year the director shall expend not more than four million five hundred thousand dollars to conduct removal actions under section 3734.85 of the Revised Code and to make grants to boards of health under section 3734.042 of the Revised Code. However, more than four million five hundred thousand dollars may be expended in a fiscal year for the purposes of division (G)(3) of this section if more moneys are collected from the fee levied under division (A)(2)~~

~~of section 3734.901 of the Revised Code. The director shall request the approval of the controlling board prior to the use of the moneys to conduct removal actions under section 3734.85 of the Revised Code. The request shall be accompanied by a plan describing the removal actions to be conducted during the fiscal year and an estimate of the costs of conducting them. The controlling board shall approve the plan only if it finds that the proposed removal actions are in accordance with the priorities set forth in division (B) of section 3734.85 of the Revised Code and that the costs of conducting them are reasonable. Controlling board approval is not required for grants made to boards of health under section 3734.042 of the Revised Code.~~

~~(H) If, during a fiscal year, more than seven million dollars are credited to the scrap tire management fund, the director, at the conclusion of the fiscal year, shall request the director of budget and management to, and the director of budget and management shall, transfer one-half of those excess moneys to the scrap tire grant fund. The director shall expend the remaining excess moneys in the scrap tire management fund to conduct removal actions under section 3734.85 of the Revised Code in accordance with the procedures established under division (I) of this section.~~

~~(I) After the actions in divisions (G)(1) to (3) and (H) of this section are completed during each prior fiscal year, the director may expend up to the balance remaining from prior fiscal years in the scrap tire management fund to conduct removal actions under section 3734.85 of the Revised Code. Prior to using any moneys in the fund for that purpose in a fiscal year, the director shall request the approval of the controlling board for that use of the moneys. The request shall be accompanied by a plan describing the removal actions to be conducted during the fiscal year and an estimate of the costs of conducting them. The controlling board shall approve the plan only if the board finds that the proposed removal actions are in accordance with the priorities set forth in division (B) of section 3734.85 of the Revised Code and that the costs of conducting them are reasonable~~ **After the expenditures and transfers are made under divisions (G)(1) and (2) of this section, expend the balance of the money in the scrap tire management fund remaining in each fiscal year to conduct removal actions under section 3734.85 of the Revised Code and to provide grants to boards of health under section 3734.042 of the Revised Code**.

<< OH ST 3734.901 >>

(A)(1) For the purpose of providing revenue to defray the cost of administering and enforcing the scrap tire provisions of this chapter, rules adopted under those provisions, and terms and conditions of orders, variances, and licenses issued under those provisions; to abate accumulations of scrap tires; to make grants ~~to promote research regarding alternative methods of recycling scrap tires and~~ **supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes and to support scrap tire amnesty and cleanup events; to make** loans to promote the recycling or recovery of energy from scrap tires; and to defray the costs of administering and enforcing sections 3734.90 to 3734.9014 of the Revised Code, a fee of fifty cents per tire is hereby levied on the sale of tires. **The proceeds of the fee shall be deposited in the state treasury to the credit of the scrap tire management fund created in section 3734.82 of the Revised Code.** The fee is levied from the first day of the calendar month that begins next after thirty days from October 29, 1993, through June 30, 2011.

(2) Beginning on September 5, 2001, and ending on June 30, 2011, there is hereby levied an additional fee of fifty cents per tire on the sale of tires the proceeds of which shall be deposited in the state treasury to the credit of the scrap tire management fund ~~created in section 3734.82 of the Revised Code~~ and be used exclusively for the purposes specified in division (G)(3) of that section.

(B) Only one sale of the same article shall be used in computing the amount of the fee due.

<< OH ST 3734.9010 >>

Two per cent of all amounts paid to the treasurer of state pursuant to sections 3734.90 to 3734.9014 of the Revised Code shall be certified directly to the credit of the tire fee administrative fund, which is hereby created in the state treasury, for appropriation to the department of taxation for use in administering those sections. The remainder of the amounts paid to the treasurer of state shall be

deposited ~~to the credit of the scrap tire management fund created~~ **and credited** in **accordance with** section ~~3734.82~~ **3734.901** of the Revised Code.

<< OH ST 3737.71 >>

Each insurance company doing business in this state shall pay to the state in installments, at the time of making the payments required by section 5729.05 of the Revised Code, in addition to the taxes required to be paid by it, three-fourths of one per cent on the gross premium receipts derived from fire insurance and that portion of the premium reasonably allocable to insurance against the hazard of fire included in other coverages except life and sickness and accident insurance, after deducting return premiums paid and considerations received for reinsurances as shown by the annual statement of such company made pursuant to sections 3929.30, 3931.06, and 5729.02 of the Revised Code. The money received shall be paid into the state treasury to the credit of the state fire marshal's fund, which is hereby created. The fund shall be used for the maintenance and administration of the office of the fire marshal and the Ohio fire academy established by section 3737.33 of the Revised Code. If the director of commerce certifies to the director of budget and management that the cash balance in the state fire marshal's fund is in excess of the amount needed to pay ongoing operating expenses, the director **of commerce, with the approval of the director of budget and management,** may use the excess amount to acquire by purchase, lease, or otherwise, real property or interests in real property to be used for the benefit of the office of the state fire marshal, or to construct, acquire, enlarge, equip, furnish, or improve the fire marshal's office facilities or the facilities of the Ohio fire academy. The state fire marshal's fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. Such assessment shall be paid from the state fire marshal's fund to the division of administration fund.

Notwithstanding any other provision in this section, if the director of budget and management determines at any time that the money in the state fire marshal's fund exceeds the amount necessary to defray ongoing operating expenses in a fiscal year, the director may transfer the excess to the general revenue fund.

<< OH ST 3743.04 >>

(A) The license of a manufacturer of fireworks is effective for one year beginning on the first day of December. The **state** fire marshal shall issue or renew a license only on that date and at no other time. If a manufacturer of fireworks wishes to continue manufacturing fireworks at the designated fireworks plant after its then effective license expires, it shall apply no later than the first day of October for a new license pursuant to section 3743.02 of the Revised Code. The **state** fire marshal shall send a written notice of the expiration of its license to a licensed manufacturer at least three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed manufacturer of fireworks wishes to construct, locate, or relocate any buildings or other structures on the premises of its fireworks plant, to make any structural change or renovation in any building or other structure on the premises of its fireworks plant, or to change the nature of its manufacturing of fireworks so as to include the processing of fireworks, the manufacturer shall notify the **state** fire marshal in writing. The **state** fire marshal may require a licensed manufacturer also to submit documentation, including, but not limited to, plans covering the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks, if the **state** fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks.

Upon receipt of the notification and additional documentation required by the **state** fire marshal, the **state** fire marshal shall inspect the premises of the fireworks plant to determine if the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to sections 3743.02 to 3743.08 of the Revised Code and the rules adopted by the **state** fire marshal pursuant to section 3743.05 of the Revised Code. The **state** fire marshal shall issue a written authorization to the manufacturer for the construction, location, relocation, structural

change or renovation, or change in manufacturing of fireworks if the **state** fire marshal determines, upon the inspection and a review of submitted documentation, that the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to those sections and rules. Upon authorizing a change in manufacturing of fireworks to include the processing of fireworks, the **state** fire marshal shall make notations on the manufacturer's license and in the list of licensed manufacturers in accordance with section 3743.03 of the Revised Code.

On or before June 1, 1998, a licensed manufacturer shall install, in every licensed building in which fireworks are manufactured, stored, or displayed and to which the public has access, interlinked fire detection, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of ~~the division of industrial compliance~~ **labor**, and shall comply with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the **state** fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code. Notwithstanding section 3743.59 of the Revised Code, the construction and safety requirements established in this division are not subject to any variance, waiver, or exclusion.

(C) The license of a manufacturer of fireworks authorizes the manufacturer to engage only in the following activities:

(1) The manufacturing of fireworks on the premises of the fireworks plant as described in the application for licensure or in the notification submitted under division (B) of this section, except that a licensed manufacturer shall not engage in the processing of fireworks unless authorized to do so by its license.

(2) To possess for sale at wholesale and sell at wholesale the fireworks manufactured by the manufacturer, to persons who are licensed wholesalers of fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, also may possess for sale and sell pursuant to division (C)(2) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

(3) Possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, other than 1.4G fireworks as designated by the **state** fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, including 1.4G fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, may also possess for sale and sell pursuant to division (C)(3) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

A licensed manufacturer of fireworks shall sell under division (C) of this section only fireworks that meet the standards set by the consumer product safety commission or by the American fireworks standard laboratories or that have received an EX number from the United States department of transportation.

(D) The license of a manufacturer of fireworks shall be protected under glass and posted in a conspicuous place on the premises of the fireworks plant. Except as otherwise provided in this

division, the license is not transferable or assignable. A license may be transferred to another person for the same fireworks plant for which the license was issued if the assets of the plant are transferred to that person by inheritance or by a sale approved by the **state** fire marshal. The license is subject to revocation in accordance with section 3743.08 of the Revised Code.

(E) The **state** fire marshal shall not place the license of a manufacturer of fireworks in a temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

(F) Each licensed manufacturer of fireworks that possesses fireworks for sale and sells fireworks under division (C) of section 3743.04 of the Revised Code, or a designee of the manufacturer, whose identity is provided to the **state** fire marshal by the manufacturer, annually shall attend a continuing education program. The **state** fire marshal shall develop the program and the **state** fire marshal or a person or public agency approved by the **state** fire marshal shall conduct it. A licensed manufacturer or the manufacturer's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training as approved by the **state** fire marshal for other employees of the licensed manufacturer regarding the information obtained in the program. A licensed manufacturer shall provide the **state** fire marshal with notice of the date, time, and place of all in-service training. For any program conducted under this division, the **state** fire marshal shall, in accordance with rules adopted by the **state** fire marshal under Chapter 119. of the Revised Code, establish the subjects to be taught, the length of classes, the standards for approval, and time periods for notification by the licensee to the state fire marshal of any in-service training.

(G) A licensed manufacturer shall maintain comprehensive general liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.02 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the **state** fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed manufacturer shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed manufacturer who secures supplemental insurance shall file evidence of the supplemental insurance with the **state** fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

(H) The **state** fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for approval of such expansions or contractions. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the **state** fire marshal in accordance with rules the **state** fire marshal adopts. If the licensed premises consists of more than one parcel of real estate, those parcels shall be contiguous unless an exception is allowed pursuant to division (I) of this section.

(I)(1) A licensed manufacturer may expand its licensed premises within this state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the licensed premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:

(a) The licensee submits an application to the **state** fire marshal and an application fee of one hundred dollars per storage location for which the licensee is requesting approval.

(b) The identity of the holder of the license remains the same at the storage location.

(c) The storage location has received a valid certificate of zoning compliance as applicable and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations.

(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structures on the licensed premises in accordance with the distances specified in the rules adopted by the **state** fire marshal pursuant to section 3743.05 of the Revised Code.

(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after September 29, 2005.

(f) The **state** fire marshal approves the application for expansion.

(2) The **state** fire marshal shall approve an application for expansion requested under division (I)(1) of this section if the **state** fire marshal receives the application fee and proof that the requirements of divisions (I)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the **state** fire marshal deems necessary in accordance with section 3743.03 of the Revised Code.

(J)(1) A licensee who obtains approval for the use of a storage location in accordance with division (I) of this section shall use the storage location exclusively for the following activities, in accordance with division (C) of this section:

(a) The packaging, assembling, or storing of fireworks, which shall only occur in buildings or structures approved for such hazardous uses by the building code official having jurisdiction for the storage location or, for 1.4G fireworks, in containers or trailers approved for such hazardous uses by the **state** fire marshal if such containers or trailers are not subject to regulation by the building code adopted in accordance with Chapter 3781. of the Revised Code. All such storage shall be in accordance with the rules adopted by the **state** fire marshal under division (G) of section 3743.05 of the Revised Code for the packaging, assembling, and storage of fireworks.

(b) Distributing fireworks to other parcels of real estate located on the manufacturer's licensed premises, to licensed wholesalers or other licensed manufacturers in this state or to similarly licensed persons located in another state or country;

(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with section 3743.54 of the Revised Code.

(2) A licensed manufacturer shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) or (C)(3) of this section, or pursuant to section 3743.44 or 3743.45 of the Revised Code, at the storage location approved under this section.

(3) A storage location may not be relocated for a minimum period of five years after the storage location is approved by the **state** fire marshal in accordance with division (I) of this section.

(K) The licensee shall prohibit public access to the storage location. The **state** fire marshal shall adopt rules to describe the acceptable measures a manufacturer shall use to prohibit access to the storage site.

<< OH ST 3743.25 >>

(A)(1) Except as described in division (A)(2) of this section, all retail sales of 1.4G fireworks by a licensed manufacturer or wholesaler shall only occur from an approved retail sales showroom on a licensed premises or from a representative sample showroom as described in this section on a licensed premises. For the purposes of this section, a retail sale includes the transfer of the possession of the 1.4G fireworks from the licensed manufacturer or wholesaler to the purchaser of the fireworks.

(2) Sales of 1.4G fireworks to a licensed exhibitor for a properly permitted exhibition shall occur in accordance with the provisions of the Revised Code and rules adopted by the **state** fire marshal under Chapter 119. of the Revised Code. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under section 3743.51 of the Revised Code, that the exhibitor possesses a valid exhibition permit issued in accordance with section 3743.54 of the Revised Code, and that the fireworks shipped are to be used at the specifically permitted exhibition.

(B) All wholesale sales of fireworks by a licensed manufacturer or wholesaler shall only occur from a licensed premises to persons who intend to resell the fireworks purchased at wholesale. A wholesale sale by a licensed manufacturer or wholesaler may occur as follows:

(1) The direct sale and shipment of fireworks to a person outside of this state;

(2) From an approved retail sales showroom as described in this section;

(3) From a representative sample showroom as described in this section;

(4) By delivery of wholesale fireworks to a purchaser at a licensed premises outside of a structure or building on that premises. All other portions of the wholesale sales transaction may occur at any location on a licensed premises.

(5) Any other method as described in rules adopted by the state fire marshal under Chapter 119. of the Revised Code.

(C) A licensed manufacturer or wholesaler shall only sell 1.4G fireworks from a representative sample showroom or a retail sales showroom. Each licensed premises shall only contain one sales structure.

A representative sample showroom shall consist of a structure constructed and maintained in accordance with the nonresidential building code adopted under Chapter 3781. of the Revised Code and the fire code adopted under section 3737.82 of the Revised Code for a use and occupancy group that permits mercantile sales. A representative sample showroom shall not contain any pyrotechnics, pyrotechnic materials, fireworks, explosives, explosive materials, or any similar hazardous materials or substances. A representative sample showroom shall be used only for the public viewing of fireworks product representations, including paper materials, packaging materials, catalogs, photographs, or other similar product depictions. The delivery of product to a purchaser of fireworks at a licensed premises that has a representative sample structure shall not occur inside any structure on a licensed premises. Such product delivery shall occur on the licensed premises in a manner prescribed by rules adopted by the **state** fire marshal pursuant to Chapter 119. of the Revised Code.

If a manufacturer or wholesaler elects to conduct sales from a retail sales showroom, the showroom structures, to which the public may have any access and in which employees are required to work, on all licensed premises, shall comply with the following safety requirements:

(1) A fireworks showroom that is constructed or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of ~~the division of industrial compliance~~ **labor** in the department of commerce.

(2) A fireworks showroom that first begins to operate on or after June 30, 1997, and to which the public has access for retail purposes shall not exceed five thousand square feet in floor area.

(3) A newly constructed or an existing fireworks showroom structure that exists on ~~the effective date of this amendment~~ **September 23, 2008**, but that, on or after ~~the effective date of this amendment~~ **September 23, 2008**, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to section 3791.04 of the Revised Code, shall comply with a graphic floor plan layout that is approved by the **state** fire marshal and superintendent ~~of the division of industrial compliance~~ showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display

of merchandise, and other information as may be required by the **state** fire marshal and superintendent.

(4) A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the **state** fire marshal and superintendent ~~of industrial compliance~~, and that are submitted under seal as required by section 3791.04 of the Revised Code.

(D) The safety requirements established in division (C) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code.

<< OH ST 3745.015 >>

There is hereby created in the state treasury the environmental protection fund consisting of money credited to the fund under ~~division~~ **divisions** (A)(3) **and (4)** of section 3734.57 of the Revised Code. The environmental protection agency shall use money in the fund to pay the agency's costs associated with administering and enforcing, or otherwise conducting activities under, this chapter and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of the Revised Code.

<< OH ST 3745.05 >>

(A) In hearing the appeal, if an adjudication hearing was conducted by the director of environmental protection in accordance with sections 119.09 and 119.10 of the Revised Code or conducted by a board of health, the environmental review appeals commission is confined to the record as certified to it by the director or the board of health, as applicable. The commission may grant a request for the admission of additional evidence when satisfied that such additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the director or the board, as applicable. If no adjudication hearing was conducted in accordance with sections 119.09 and 119.10 of the Revised Code or conducted by a board of health, the commission shall conduct a hearing de novo on the appeal.

For the purpose of conducting a de novo hearing, or where the commission has granted a request for the admission of additional evidence, the commission may require the attendance of witnesses and the production of written or printed materials.

When conducting a de novo hearing, or when a request for the admission of additional evidence has been granted, the commission may, and at the request of any party it shall, issue subpoenas for witnesses or for books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the inquiry directed to the sheriff of the counties where the witnesses or documents or records are found, which subpoenas shall be served and returned in the same manner as those allowed by the court of common pleas in criminal cases.

(B) The fees of sheriffs shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fee and mileage expenses incurred at the request of the appellant shall be paid in advance by the appellant, and the remainder of the expenses shall be paid out of funds appropriated for the expenses of the commission.

(C) In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which the disobedience, neglect, or refusal occurs, or any judge thereof, on application of the commission or any member thereof, may compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

(D) A witness at any hearing shall testify under oath or affirmation, which any member of the

commission may administer. A witness, if the witness requests, shall be permitted to be accompanied, represented, and advised by an attorney, whose participation in the hearing shall be limited to the protection of the rights of the witness, and who may not examine or cross-examine witnesses. A witness shall be advised of the right to counsel before the witness is interrogated.

(E) A stenographic record of the testimony and other evidence submitted shall be taken by an official court shorthand reporter. The record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The commission shall pass upon the admissibility of evidence, but any party may at the time object to the admission of any evidence and except to the rulings of the commission thereon, and if the commission refuses to admit evidence the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

Any party may request the stenographic record of the hearing. Promptly after receiving such a request, the commission shall prepare and provide the stenographic record of the hearing to the party who requested it. The commission may charge a fee to the party who requested the stenographic record that does not exceed the cost to the commission for preparing and transcribing it.

(F) If, upon completion of the hearing, the commission finds that the action appealed from was lawful and reasonable, it shall make a written order affirming the action, or if the commission finds that the action was unreasonable or unlawful, it shall make a written order vacating or modifying the action appealed from. ~~Every~~

The commission shall issue a written order affirming, vacating, or modifying an action pursuant to the following schedule:

(1) For an appeal that was filed with the commission before April 15, 2008, the commission shall issue a written order not later than December 15, 2009.

(2) For all other appeals that have been filed with the commission as of October 15, 2009, the commission shall issue a written order not later than July 15, 2010.

(3) For an appeal that is filed with the commission after October 15, 2009, the commission shall issue a written order not later than twelve months after the filing of the appeal with the commission.

(G) Every order made by the commission shall contain a written finding by the commission of the facts upon which the order is based. Notice of the making of the order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each party by certified mail, with a statement of the time and method by which an appeal may be perfected.

(H) The order of the commission is final unless vacated or modified upon judicial review.

<< OH ST 3745.11 >>

(A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) Each person who is issued a permit to install prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers)

Input capacity (maximum)

(million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	$ 200
10 or more, but less than 100	400
100 or more, but less than 300	800
300 or more, but less than 500	1500
500 or more, but less than 1000	2500
1000 or more, but less than 5000	4000
5000 or more	6000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section.

(2) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	$ 100
101 to 500	400
501 to 2000	750
2001 to 20,000	1000
more than 20,000	2500

(3)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	$ 200
1001 to 5000	400
5001 to 10,000	600
10,001 to 50,000	800
more than 50,000	1000

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:

1211 Bituminous coal and lignite mining;

1213 Bituminous coal and lignite mining services;

1411 Dimension stone;

1422 Crushed and broken limestone;

1427 Crushed and broken stone, not elsewhere classified;

1442 Construction sand and gravel;

1446 Industrial sand;

3281 Cut stone and stone products;

3295 Minerals and earth, ground or otherwise treated.

(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant

to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 1000	$ 200
10,001 to 50,000	300
50,001 to 100,000	400
100,001 to 200,000	500
200,001 to 400,000	600
400,001 or more	700

(4) Storage tanks

Gallons (maximum useful capacity)	Permit to install
0 to 20,000	$ 100
20,001 to 40,000	150
40,001 to 100,000	200
100,001 to 250,000	250
250,001 to 500,000	350
500,001 to 1,000,000	500
1,000,001 or greater	750

(5) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility	Permit to install $ 100

(6) Dry cleaning facilities

For each dry cleaning facility (includes all units at the facility)	Permit to install $ 100

(7) Registration status

For each source covered by registration status	Permit to install $ 75

(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under division (C)(1) of this section do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(2) The fees assessed under division (C)(1) of this section are for the purpose of providing funding for the Title V permit program.

(3) The fees assessed under division (C)(1) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

First Part | <<Previous Part | Next Part>>

	Executive	As Reported by House Finance and Appropriations
1	EPA - 6 Scrap Tire Fund Transfer	
	R.C. *1502.12, 3734.82*	R.C. *1502.12, 3734.82*
	Eliminates the $750,000 cap on the Scrap Tire Management Fund that may be used for the administration of the Scrap Tire Program.	Same as the Executive.
	Alters the purposes for which money in the Scrap Tire Management Fund (Fund 4R50) can be used by authorizing up to $500,000 in each fiscal year to be transferred to the Scrap Tire Grant Fund (Fund 5860) in the Department of Natural Resources for scrap tire amnesty and clean up events, in addition to the $1 million transferred under current law in each fiscal year for scrap tire and synthetic rubber from tire manufacturers and recycling processes.	Same as the Executive.
	Fiscal effect: Results in more money that could be used for scrap tire amnesty and clean up events.	**Fiscal effect: Same as the Executive.**
2	EPA - 5 E-Check Extension; Fee on Tire Sales for Auto Emissions Testing	
	R.C. *3704.14, 3737.901*	R.C. *3704.14, 3734.901, 3734.9010, Section 277.10*
	Abolishes the Motor Vehicle Inspection and Maintenance Fund (Fund 6020) and replaces it with the Auto Emissions Test Fund (Fund 5BY0) in permanent law.	Same as the Executive.
	Establishes a $2.30 fee on the sale of each new tire and requires the proceeds of the fee to be deposited into the Auto Emission Test Fund (Fund 5BY0).	No provision.
	Authorizes the Director of Administrative Services, upon the request of the Director of Environmental Protection, to extend the existing E-Check contract, which expires on	Same as the Executive.

Executive	As Reported by House Finance and Appropriations
June 30, 2009, for up to six months. Allows the Director of Administrative Services, upon the request of the Director of Environmental Protection, to enter into a new E-Check contract through a competitive selection process, beginning upon the termination of the six-month contract extension through June 30, 2011, and authorizes an additional one-year extension of the contract through June 30, 2012.	
Requires the Director of Budget and Management to transfer up to $1.5 million in cash from the Central Support Indirect Fund (Fund 2190) to the Auto Emissions Test Fund (Fund 5BY0) for the operation and oversight of the auto emissions testing program. Requires that Fund 2190 be reimbursed once Fund 5BY0 has accrued sufficient cash to maintain the program.	Replaces the Executive provision with a provision requiring that the Director of Budget and Management transfer $14.4 million in FY 2010 and $14.8 million in FY 2011 from the GRF to Fund 5BY0 for the operation and oversight of the auto emissions testing program.
Requires the Director of Budget and Management, on September 30, 2009, or as soon as possible thereafter, to transfer cash balance in the Motor Vehicle Inspection and Maintenance Fund (Fund 6020), abolished in the bill, to Fund 5BY0.	Same as the Executive.
Fiscal effect: Authorizes the extension of the E-Check program until June 30, 2011. Funds the program with the proceeds from an increase in the fee on the sale of new tires. Generates an estimated additional $15 million in each fiscal year for the operation of the Auto Emissions Testing Program	**Fiscal effect: Authorizes the extention of the E-Check program until June 20, 2011, removes the tire fee and instead makes GRF transfers in each fiscal year the funding source for the program.**

	Executive		As Reported by House Finance and Appropriations
3	EPA - 17	Clean Diesel School Bus Fund	
			R.C. *3704.144*
	No provision.		Authorizes the Director of Environmental Protection to make grants from the Clean Diesel School Bus Fund to county boards of mental retardation and developmental disabilities rather than only to school districts as authorized in current law.
4	EPA - 22	Construction and Demolition Debris Disposal Fees	
			R.C. *3714.073, 3745.015, 1515.14*
	Increases the construction and demolition debris disposal fee that is deposited into SSR Fund 5BV0, the Soil and Water Conservation District Assistance Fund, which is used by the Department of Natural Resources, from $0.125 per cubic yard and $0.25 per ton to $1.25 per cubic yard or $2.50 per ton, as applicable.		Same as the Executive.
	Establishes a new construction and demolition debris disposal fee of $0.225 per cubic yard or $0.45 per ton, as applicable, to be credited to SSR Fund 5BC0, the Environmental Protection Fund, which is used by the Environmental Protection Agency. Requires that these fees take effect on July 1, 2009.		No provision.
	No provision.		Specifies that fees on the disposal of construction and demolition debris apply to the disposal of asbestos and asbestos-containing materials and products.

	Executive	As Reported by House Finance and Appropriations
	Fiscal effect: Increases revenue to the Department of Natural Resources Division of Soil and Water through new and increased fees to SSR Fund 5BV0, the Soil and Water Conservation Fund, and increases revenue to the Environmental Protection Agency through new and increased fee to SSR Fund 5BC0, the Environmental Protection Fund. Offsets an estimated $11,930,000 in DNR GRF Funding for Soil and Water Conservation Projects.	**Fiscal effect: Same as the Executive, but decreases revenues to Fund 5BC0, the Environmental Protection Fund, due to the removal of new construction and demolition debris fees deposited into that fund. However, including asbestos as a material to which the disposal fee applies could increase revenues to each applicable fund.**
5	EPA - 20 Hazardous Waste Facility Permit Modifications	
		R.C. *3734.05*
	No provision.	Declares that the transfer of a hazardous waste facility installation and operation permit for a facility that is not an off-site facility is a Class 1 modification rather than a Class 3 modification as in current law, and specifically declares that the transfer of a hazardous waste facility installation and operation permit for an off-site facility is a Class 3 modification.
	No provision.	Eliminates provisions of law concerning the modification of a hazardous waste facility involving permit transfers that require the Director of Environmental Protection to make certain determinations regarding the background of the transferee if the transferee has been involved in any prior activity involving hazardous waste. **Fiscal effect: Because Class 1 permits generally involve minor changes to a facility and usually take less time to be processed, this provision could reduce the amount of time it takes EPA to process these permit modifications.**

Executive	As Reported by House Finance and Appropriations
6 EPA - 4 Natural Resource Damages Fund	
R.C. *3734.28, 3734.281, 3734.282*	R.C. *3734.28, 3734.281, 3734.282*
Creates the Natural Resource Damages Fund (Fund 3C50), which consists of federal money distributed to the state for natural resource damages, and repeals current law provisions that the Hazardous Waste Clean-Up Fund (Fund 5050) and Environmental Protection Remediation Fund (Fund 5BC0) consist of, in part, natural resource damages collected by the state under federal law. Repeals a current law provision under which money in Fund 5050 may be used only through October 15, 2005, to fund certain emergency and remedial actions and the Voluntary Action Program, thus allowing money in the Fund to be used for those purposes permanently	Same as the Executive.
Authorizes the Director of Environmental Protection to enter into contracts and grant agreements with federal, state, or local government agencies for the purposes of carrying out the responsibilities for which monies can be expended from the Natural Resource Damages Fund (Fund 3C50), Hazardous Waste Clean-up Fund (Fund 5050), and the Environmental Protection Remediation Fund (Fund 5BC0).	Same as the Executive.
Fiscal effect: No direct fiscal impact, but directs federal moneys for natural resource damages collected under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) to Fund 3C50.	**Fiscal effect: Same as the Executive.**

	Executive		As Reported by House Finance and Appropriations
7	EPA - 21	Solid Waste Management District Rules	
			R.C. *3734.53, Section 343.01*
	No provision.		Provides that rules of a solid waste management district governing out-of-district waste apply only to county and district solid waste facilities unless the board of county commissioners or board of directors of the district submits an application to the Director of Environmental Protection that demonstrates insufficient disposal capacity in the district and the Director approves the application.
8	EPA - 2	Electronic Payment of Construction and Demolition Debris and Solid Waste Disposal Fees	
	R.C. *3714.07*		R.C. *3734.57, 3714.07*
	Authorizes owners or operators of construction and demolition debris facilities to submit monthly construction and demolition debris disposal fee returns electronically rather than by mail as in current law.		Same as the Executive.
	Authorizes owners or operators of solid waste transfer facilities and disposal facilities to submit solid waste disposal fee returns electronically rather than by mail as in current law.		Same as the Executive.
	Fiscal effect: Reduces some administrative costs for EPA for receiving and processing these fees.		**Fiscal effect: Same as the Executive.**

Executive	As Reported by House Finance and Appropriations
9 EPA - 10 State Solid Waste Disposal and Generation Fees	
R.C. *3734.57*	R.C. *3734.57, 3734.573*
Extends from June 30, 2010, to June 30, 2012, the expiration date of the state fees on the disposal of solid waste, the proceeds of which are used to fund solid, infectious, and hazardous waste and construction and demolition debris management programs and to pay EPA's costs associated with administering and enforcing environmental protection programs.	Same as the Executive, but also permits solid waste disposal fees to be paid by a customer or political subdivision to a transporter of solid waste rather than only to the owner or operator of a solid waste transfer or disposal facility.
Increases the solid waste disposal fee that is deposited into Fund 5BC0, the Environmental Protection Fund, which is used by the Environmental Protection Agency, from $1.50 per ton to $2.50 per ton and establishes a new solid waste disposal fee of $0.25 per ton to be deposited into Fund 5BV0, the Soil and Water Conservation District Assistance Fund. Requires that the increased fee and the new fee be levied from July 1, 2009, through June 30, 2012, and extends all of the existing state solid waste disposal fees through June 30, 2012.	Same as the Executive, but delays the implementation of these new and increased fees from July 1, 2009 to August 1, 2009.
No provision.	Specifies that the existing solid waste generation fees do not apply to solid waste delivered to a solid waste composting facility for processing rather than specifying that it does not apply to yard waste, as well as to materials removed from the solid waste stream for recycling. Declares that unprocessed solid waste or compost products transported off the premises of a composting facility for disposal at a landfill are subject to solid waste disposal fees.

Executive	As Reported by House Finance and Appropriations
Fiscal effect: Continues this revenue stream for funds that collect solid waste disposal fee revenues, and therefore has no new fiscal effect. Increases revenue to the Environmental Protection Agency through new and increased fees to SSR Fund 5BC0, the Environmental Protection Fund, and to the Department of Natural Resources Soil and Water Conservation Fund (Fund 5BV0).	**Fiscal effect: Same as the Executive.**

10 EPA - 11 Synthetic Minor Facility Emission Fees, Water Pollution Control Fees, and Safe Drinking Water Fees

R.C. *3745.11, 6109.21*	R.C. *3745.11, 6109.21*
Extends for two years the authority to levy higher fees for the following: applications for plan approvals of wastewater treatment works and public water systems, certification of laboratories and laboratory personnel, applications and examinations for certification as operators of water supply or wastewater systems, and applications for permits, variances, and plan approvals.	Same as the Executive but also extends for two years the following two fees: (1) $100 application fee for a permit, variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law and (2) $200 application fee for a National Pollutant Discharge Elimination System permit.
Extends for two years the sunset on annual emissions fees for minor synthetic facilities (air permits).	Same as the Executive.
Extends for two years the sunset on the following EPA fees related to the Water Pollution Control Law or Safe Drinking Water Law: annual discharge fees for holders of NPDES permits, and annual license fees for public water system licenses.	Same as the Executive.
Fiscal effect: Continues this revenue stream for funds that collect minor facility emission fees, water pollution control fees, and safe drinking water fee revenues, and therefore has no new fiscal effect.	**Fiscal effect: The fee extensions added in this version were inadvertently omitted from the Executive version.**

	Executive	As Reported by House Finance and Appropriations
11	**EPA - 8 Areawide Planning Agencies**	
	Section: *277.10*	**Section:** *277.10*
	Requires the Director of Environmental Protection Agency to award grants from appropriation item 715687, Areawide Planning Agencies, to areawide planning agencies engaged in areawide water quality management and planning activities in accordance with Section 208 of the Federal Clean Water Act, 33 U.S.C. 1288.	Same as the executive.
12	**EPA - 9 Corrective Cash Transfer for the Copperweld Settlement**	
	Section: *277.10*	**Section:** *277.10*
	Requires the Director of Budget and Management to transfer $1,323,933.19 in cash, which the Agency received from the Copperweld bankruptcy settlement, that was mistakenly deposited in the Hazardous Waste Cleanup Fund (Fund 5050) to the Environmental Protection Remediation Fund (Fund 5410).	Same as the Executive.
13	**EPA - 19 Environmental Review Appeals Commission Funding**	
		Sections: *277.10, 279.10*
	No provision.	Removes the current GRF funding source for the Environmental Review Appeals Commission and instead requires the EPA to fund the Commission from appropriation item 715690, Environmental Review Appeals, within the Environmental Protection Fund (Fund 5BC0).

Executive	As Reported by House Finance and Appropriations
No provision.	Requires that a portion of the appropriation be used to hire two staff attorneys.

	Executive	As Reported by House Finance and Appropriations
14	PUC - 1 Utility Radiological Safety Board Assessments	
	Section: *506.10* Specifies the maximum amounts that may be assessed against nuclear electric utilities under R.C.4937.05 on behalf of four state agencies and that may be deposited into the specified funds as follows: (1) $134,631 in each fiscal year to the Utility Radiological Safety Fund (fund 4E40), which is used by the Department of Agriculture; (2) $887,445 in FY 2010 and $920,372 in FY 2011 to the Radiation Emergency Response Fund (Fund 6100), which is used by the Department of Health; (3) $286,114 in each fiscal year to the ER Radiological Safety Fund (Fund 6440), which is used by the Environmental Protection Agency; and (4) $1,413,889 in FY 2010 and $1,415,945 FY 2011 to the Emergency Response Plan Fund (Fund 6570), which is used by the Department of Public Safety. **Fiscal effect: Less than $5.5 million will be assessed against nuclear utilities and spent by state agencies over the biennium.**	Section: *506.10* Same as the Executive. **Fiscal effect: Same as the Executive.**

	Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
1	**EPA - 21 Solid Waste Management District Rules**		
		R.C. *3734.53, Section 343.01*	
	No provision.	Provides that rules of a solid waste management district governing out-of-district waste apply only to county and district solid waste facilities unless the board of county commissioners or board of directors of the district submits an application to the Director of Environmental Protection that demonstrates insufficient disposal capacity in the district and the Director approves the application.	No provision.
2	**EPA - 6 Scrap Tire Fund Transfer**		
	R.C. *1502.12, 3734.82*	R.C. *1502.12, 3734.82*	R.C. *1502.12, 3734.82*
	Eliminates the $750,000 cap on the Scrap Tire Management Fund that may be used for the administration of the Scrap Tire Program.	Same as the Executive.	No provision.
	Alters the purposes for which money in the Scrap Tire Management Fund (Fund 4R50) can be used by authorizing up to $500,000 in each fiscal year to be transferred to the Scrap Tire Grant Fund (Fund 5860) in the Department of Natural Resources for scrap tire amnesty and clean up events, in addition to the $1 million transferred under current law in each fiscal year for scrap tire and synthetic rubber from tire manufacturers and recycling processes.	Same as the Executive.	Same as the Executive.
	Fiscal effect: Results in more money that could be used for scrap tire amnesty and clean up events.	**Fiscal effect: Same as the Executive.**	**Fiscal effect: Reduces the amount available for tire amnesty projects.**

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
3 EPA - 5 E-Check Extension; Fee on Tire Sales for Auto Emissions Testing		
R.C. *3704.14, 3737.901*	R.C. *3704.14, 3734.901, 3734.9010, Section 277.10*	R.C. *3704.14, 3734.901, 3734.9010, Section 277.10*
Abolishes the Motor Vehicle Inspection and Maintenance Fund (Fund 6020) and replaces it with the Auto Emissions Test Fund (Fund 5BY0) in permanent law.	Same as the Executive.	Same as the Executive.
Authorizes the Director of Administrative Services, upon the request of the Director of Environmental Protection, to extend the existing E-Check contract, which expires on June 30, 2009, for up to six months. Allows the Director of Administrative Services, upon the request of the Director of Environmental Protection, to enter into a new E-Check contract through a competitive selection process, beginning upon the termination of the six-month contract extension through June 30, 2011, and authorizes an additional one-year extension of the contract through June 30, 2012.	Same as the Executive.	Replaces the Executive provision with provisions that authorize the Governor to issue an executive order providing for the extension for a period of six months of the motor vehicle inspection and maintenance program contract that is scheduled to expire on June 30, 2009, and, upon termination of the six month contract extension; authorizes the Governor to issue such an executive order ordering any new contract governing the motor vehicle inspection and maintenance program through June 30, 2011, with a possible extension through June 30, 2012; limits the implementation of the program to counties in which the program was operating on January 1, 2009; and eliminates the provision that allows the program to be implemented beyond the date of termination of all contracts pertaining to the program if the program is federally mandated.
Establishes a $2.30 fee on the sale of each new tire and requires the proceeds of the fee to be deposited into the Auto Emission Test Fund (Fund 5BY0).	No provision.	No Provision.
Requires the Director of Budget and Management to transfer up to $1.5 million in cash from the Central Support Indirect Fund (Fund 2190) to the Auto Emissions Test Fund (Fund 5BY0) for the operation and oversight of the auto emissions testing program. Requires that Fund 2190 be reimbursed once Fund 5BY0 has accrued sufficient cash to maintain the program.	Replaces the Executive provision with a provision requiring that the Director of Budget and Management transfer $14.4 million in FY 2010 and $14.8 million in FY 2011 from the GRF to Fund 5BY0 for the operation and oversight of the auto emissions testing program.	Same as the House.

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
Requires the Director of Budget and Management, on September 30, 2009, or as soon as possible thereafter, to transfer cash balance in the Motor Vehicle Inspection and Maintenance Fund (Fund 6020), abolished in the bill, to the Auto Emissions Test Fund (Fund 5BY0).	Same as the Executive.	Same as the Executive.
No provision.	No provision.	Makes other changes regarding the motor vehicle inspection and maintenance program, including provisions that establish requirements governing a competitive selection process for a contract to operate the program, state the General Assembly's intent concerning the program, and require the Director of Environmental Protection annually to request the United States Environmental Protection Agency to provide information on alternative approaches to meet federal performance standards and program changes.
Fiscal effect: Authorizes the extension of the E-Check program until June 30, 2011. Funds the program with the proceeds from an increase in the fee on the sale of new tires. Generates an estimated additional $15 million in each fiscal year for the operation of the Auto Emissions Testing Program	**Fiscal effect: Authorizes the extention of the E-Check program until June 20, 2011, removes the tire fee and instead makes GRF transfers in each fiscal year the funding source for the program.**	**Fiscal effect: Same as the House.**

4 EPA - 17 **Clean Diesel School Bus Fund**

	R.C. *3704.144*	R.C. *3704.144*
No provision.	Authorizes the Director of Environmental Protection to make grants from the Clean Diesel School Bus Fund to county boards of mental retardation and developmental disabilities rather than only to school districts as authorized in current law.	Same as the House.

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
5 EPA - 23 **Changes to the Construction and Demolition Debris Law**		
		R.C. *3714.01, 3714.011, 3714.02, 3714.074, 3714.081, 3714.083, 3745.31*
No provision.	No provision.	Alters the definition of "new construction and demolition debris facility" or "new facility" in the Construction and Demolition Debris Law by stating that: (1) New facility means a facility applying for an initial permit to install after December 22, 2005; (2) New facility includes a facility in existence on December 22, 2005, that is proposing to horizontally expand the facility beyond the boundary of the property owned or controlled by the owner or operator of the facility as of December 22, 2005; (3) New facility includes a facility for which an initial permit to install has been issued after December 22, 2005, for which there is a proposal to horizontally expand the limits of construction and demolition debris placement beyond the limits approved in the initial permit to install; (4) New facility does not include a facility for which there is a proposal to vertically expand the limits of construction and demolition debris placement approved for the facility under the Construction and Demolition Debris Law.
No provision.	No provision.	Specifies that for purposes of the statute that establishes certain notification requirements when a load of construction and demolition debris is rejected, acceptance of a load of construction and demolition debris is deemed to occur when the debris is placed on the working face of a construction and demolition debris facility for final disposal and rejection

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
		of a load of construction and demolition debris before acceptance of the load of debris is not a violation of the Construction and Demolition Debris Law.
No provision.	No provision.	Revises the definition of "pulverized debris" in the Construction and Demolition Debris Law to mean a load of debris that has been uniformly shredded, ground, or reduced by mechanical means prior to acceptance for disposal to such an extent that the majority of the load of debris cannot be identified as resulting from construction and demolition debris activities, and specifies that the existence of small particles and dust in a load of construction and demolition debris does not render the load unidentifiable as construction and demolition debris.
No provision.	No provision.	Requires the Director of Environmental Protection to appoint and convene an advisory board to advise the Director with respect to the adoption of rules governing construction and demolition debris facilities and the inspection of and issuance of permits to install and licenses for those facilities, and requires the board to include three representatives of construction and demolition debris facilities in the state and three representatives from certain types of health districts.
No provision.	No provision.	Adds the Construction and Demolition Debris Law and rules adopted under it to the list of environmental laws to which the existing five-year statute of limitations for civil actions for civil or administrative penalties brought under those laws applies, and, with regard to the Construction and Demolition Debris Law and rules adopted under it, provides that if an agency, department, or governmental authority actually knew or was informed of an occurrence, omission, or facts on which a civil action is based prior to the amendment's effective date, the action for civil or administrative penalties must be commenced not later than five years after the

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
		amendment's effective date.
No provision.	No provision.	Requires the fees on the disposal of construction and demolition debris levied under the Construction and Demolition Debris Law to be paid by a customer, to the owner or operator of a construction and demolition debris facility or solid waste facility.
No provision.	No provision.	Specifies that the owner or operator may request a refund or credit of the fees that are remitted to a board of health or to the Director of Environmental Protection, if the customer fails to pay the fees to the owner or operator, and declares that the owner or operator is also not responsible for any penalties regarding those fees.
6 EPA - 22 **Construction and Demolition Debris Disposal Fees**		
	R.C. *3714.073, 3745.015, 1515.14*	R.C. *3714.073, 3745.015, 1515.14*
Increases the construction and demolition debris disposal fee that is deposited into SSR Fund 5BV0, the Soil and Water Conservation District Assistance Fund, which is used by the Department of Natural Resources to provide grants to local soil and water conservation districts, from $0.125 per cubic yard and $0.25 per ton to $1.25 per cubic yard or $2.50 per ton, as applicable.	Same as the Executive.	No provision.
Establishes a new construction and demolition debris disposal fee of $0.225 per cubic yard or $0.45 per ton, as applicable, to be credited to SSR Fund 5BC0, the Environmental Protection Fund, which is used by the Environmental Protection Agency. Requires that these fees take effect on July 1, 2009.	No provision.	No provision.

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
No provision.	Specifies that fees on the disposal of construction and demolition debris apply to the disposal of asbestos and asbestos-containing materials and products.	Same as the House.
Fiscal effect: Increases revenue to the Department of Natural Resources Division of Soil and Water through new and increased fees to SSR Fund 5BV0, the Soil and Water Conservation Fund, and increases revenue to the Environmental Protection Agency through new and increased fee to SSR Fund 5BC0, the Environmental Protection Fund. Offsets an estimated $11,930,000 in DNR GRF Funding for Soil and Water Conservation Projects.	**Fiscal effect: Same as the Executive, but decreases revenues to Fund 5BC0, the Environmental Protection Fund, due to the removal of new construction and demolition debris fees deposited into that fund. However, including asbestos as a material to which the disposal fee applies could increase revenues to each applicable fund.**	**Fiscal effect: Reduces soil and water district funding from this source; however, a related change provides soil and water districts funding from the Facilities Establishment Fund (Fund 7037) (see Compare Doc entry DNR 31).**
7 EPA - 20 **Hazardous Waste Facility Permit Modifications**		
	R.C. *3734.05*	R.C. *3734.05*
No provision.	Declares that the transfer of a hazardous waste facility installation and operation permit for a facility that is not an off-site facility is a Class 1 modification rather than a Class 3 modification as in current law, and specifically declares that the transfer of a hazardous waste facility installation and operation permit for an off-site facility is a Class 3 modification.	Same as the House.
No provision.	Eliminates provisions of law concerning the modification of a hazardous waste facility involving permit transfers that require the Director of Environmental Protection to make certain determinations regarding the background of the transferee if the transferee has been involved in any prior activity involving hazardous waste.	Same as the House.

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
	Fiscal effect: Because Class 1 permits generally involve minor changes to a facility and usually take less time to be processed, this provision could reduce the amount of time it takes EPA to process these permit modifications.	**Fiscal effect: Same as the House.**
8 EPA - 4 **Natural Resource Damages Fund**		
R.C. *3734.28, 3734.281, 3734.282*	R.C. *3734.28, 3734.281, 3734.282*	R.C. *3734.28, 3734.281, 3734.282*
Creates the Natural Resource Damages Fund (Fund 3C50), which consists of federal money distributed to the state for natural resource damages, and repeals current law provisions that the Hazardous Waste Clean-Up Fund (Fund 5050) and Environmental Protection Remediation Fund (Fund 5BC0) consist of, in part, natural resource damages collected by the state under federal law. Repeals a current law provision under which money in Fund 5050 may be used only through October 15, 2005, to fund certain emergency and remedial actions and the Voluntary Action Program, thus allowing money in the Fund to be used for those purposes permanently	Same as the Executive.	Same as the Executive.
Authorizes the Director of Environmental Protection to enter into contracts and grant agreements with federal, state, or local government agencies for the purposes of carrying out the responsibilities for which monies can be expended from the Natural Resource Damages Fund (Fund 3C50), Hazardous Waste Clean-up Fund (Fund 5050), and the Environmental Protection Remediation Fund (Fund 5BC0).	Same as the Executive.	Same as the Executive.

	Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
	Fiscal effect: No direct fiscal impact, but directs federal moneys for natural resource damages collected under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) to Fund 3C60.	**Fiscal effect: Same as the Executive.**	**Fiscal effect: Same as the Executive.**
9	EPA - 2 **Electronic Payment of Construction and Demolition Debris and Solid Waste Disposal Fees**		
	R.C. *3714.07*	R.C. *3734.57, 3714.07*	R.C. *3734.57, 3714.07*
	Authorizes owners or operators of construction and demolition debris facilities to submit monthly construction and demolition debris disposal fee returns electronically rather than by mail as in current law.	Same as the Executive.	Same as the Executive.
	Authorizes owners or operators of solid waste transfer facilities and disposal facilities to submit solid waste disposal fee returns electronically rather than by mail as in current law.	Same as the Executive.	Same as the Executive.
	Fiscal effect: Reduces some administrative costs for EPA for receiving and processing these fees.		
10	EPA - 10 **State Solid Waste Disposal and Generation Fees**		
	R.C. *3734.57*	R.C. *3734.57, 3734.573*	R.C. *3734.57, 3734.573*
	Extends from June 30, 2010, to June 30, 2012, the expiration date of the state fees on the disposal of solid waste, the proceeds of which are used to fund solid, infectious, and hazardous waste and construction and demolition debris management programs and to pay EPA's costs associated with administering and enforcing environmental protection programs.	Same as the Executive, but also permits solid waste disposal fees to be paid by a customer or political subdivision to a transporter of solid waste rather than only to the owner or operator of a solid waste transfer or disposal facility.	Same as the House.

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
Increases the solid waste disposal fee that is deposited into Fund 5BC0, the Environmental Protection Fund, which is used by the Environmental Protection Agency, from $1.50 per ton to $2.50 per ton and establishes a new solid waste disposal fee of $0.25 per ton to be deposited into Fund 5BV0, the Soil and Water Conservation District Assistance Fund. Requires that the increased fee and the new fee be levied from July 1, 2009, through June 30, 2012, and extends all of the existing state solid waste disposal fees through June 30, 2012.	Same as the Executive, but delays the implementation of these new and increased fees from July 1, 2009 to August 1, 2009.	No provision.
No provision.	Specifies that the existing solid waste management district generation fees do not apply to solid waste delivered to a solid waste composting facility for processing rather than specifying that it does not apply to yard waste, as well as to materials removed from the solid waste stream for recycling. Declares that if any unprocessed solid waste or compost product is transported off the premises of a composting facility for disposal at a landfill, the solid waste generation fee applies and must be collected by the owner or operator of the landfill.	Same as the House.
Fiscal effect: Continues this revenue stream for funds that collect solid waste disposal fee revenues, and therefore has no new fiscal effect. Increases revenue to the Environmental Protection Agency through new and increased fees to SSR Fund 5BC0, the Environmental Protection Fund, and to the Department of Natural Resources Soil and Water Conservation Fund (Fund 5BV0).	**Fiscal effect: Same as the Executive.**	**Fiscal effect: Same as the Executive, but eliminates any additional revenues that may have resulted from increased fees.**

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
11 EPA - 11 Synthetic Minor Facility Emission Fees, Water Pollution Control Fees, and Safe Drinking Water Fees		
R.C. *3745.11, 6109.21*	R.C. *3745.11, 6109.21*	R.C. *3745.11, 6109.21*
Extends for two years the sunset on annual emissions fees for minor synthetic facilities (air permits).	Same as the Executive.	Same as the House.
Extends for two years the authority to levy higher fees for the following: applications for plan approvals of wastewater treatment works and public water systems, certification of laboratories and laboratory personnel, applications and examinations for certification as operators of water supply or wastewater systems, and applications for permits, variances, and plan approvals.	Same as the Executive except provides for a two-year extension of the $100 application fee for a permit, variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law and provides for a two-year extension of the $200 application fee for a National Pollutant Discharge Elimination System permit.	Same as the House.
Extends for two years the sunset on the following EPA fees related to the Water Pollution Control Law or Safe Drinking Water Law: annual discharge fees for holders of NPDES permits, and annual license fees for public water system licenses.	Same as the Executive.	Same as the House.
Fiscal effect: Continues this revenue stream for funds that collect minor facility emission fees, water pollution control fees, and safe drinking water fee revenues, and therefore has no new fiscal effect.	**Fiscal effect: The fee extensions added in this version were inadvertently omitted from the Executive version.**	**Fiscal effect: Same as the House.**

	Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
12	**EPA - 8 Areawide Planning Agencies**		
	Section: *277.10* Requires the Director of Environmental Protection Agency to award grants from appropriation item 715687, Areawide Planning Agencies, to areawide planning agencies engaged in areawide water quality management and planning activities in accordance with Section 208 of the Federal Clean Water Act, 33 U.S.C. 1288.	**Section:** *277.10* Same as the Executive.	**Section:** *277.10* Same as the Executive.
13	**EPA - 9 Corrective Cash Transfer for the Copperweld Settlement**		
	Section: *277.10* Requires the Director of Budget and Management to transfer $1,323,933.19 in cash, which the Agency received from the Copperweld bankruptcy settlement, that was mistakenly deposited in the Hazardous Waste Cleanup Fund (Fund 5050) to the Environmental Protection Remediation Fund (Fund 5410).	**Section:** *277.10* Same as the Executive.	**Section:** *277.10* Same as the Executive.
14	**EPA - 19 Environmental Review Appeals Commission Funding**		
	No provision.	**Section:** *277.10* Specifies that Fund 5BC0 appropriation item 715690, Environmental Review Appeals, be used to support the Environmental Review Appeals Commission, including the hiring of two staff attorneys.	**Section:** *277.10* Same as the House, but removes the requirement that the funding be used to hire two staff attorneys.

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
	Fiscal effect: Eliminates $487,000 per year in GRF funding for the Commission and instead provides funding of $637,000 per year derived from the environmental protection fee.	**Fiscal effect: Reduces the appropriation by $150,000 to $487,000 in each fiscal year to reflect the removal of the requirement.**
15 EPA - 24 State Clean Diesel Funding Task Force		
		Section: *709.20*
No provision.	No provision.	Creates the ten-member State Clean Diesel Funding Task Force to study methods of funding state clean diesel incentive programs and to issue a report, including a recommendation for a stable and dedicated long-term funding source for the Diesel Emissions Reduction Grant Program, to the General Assembly and the Governor by January 1, 2010. Abolishes the Task Force upon the issuance of the report.

	Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
16	**DNR - 33 Joint Permitting for Energy Facilities**		
	No provision.	No provision.	R.C. *3745.50* Requires the Directors of Environmental Protection, Natural Resources, and Development to establish a streamlined joint permitting process for permits issued by the Environmental Protection Agency and any other state agency that are related to the siting or expansion of oil and gas refineries, coal gasification facilities, and other energy resource facilities. **Fiscal effect: May increase administrative costs to the Department of Natural Resources, Environmental Protection Agency, and Department of Development to develop a joint permitting process.**
17	**DNR - 34 Energy Planning Task Force**		
	No provision.	No provision.	**Section:** *715.10* Creates the Energy Planning Task Force, to consist of the Directors of Natural Resources, Environmental Protection, and Development, or their designees; two members from each chamber of the General Assembly; members representing small and larger businesses, commercial energy users, and a statewide environmental advocacy organization; a member with knowledge and expertise in alternative energy; and a member with knowledge and expertise in coal gasification.
	No provision.	No provision.	Requires the Task Force to develop a state energy plan with the goal of maximizing access to and utilization of Ohio's energy resources for the purpose of facilitating Ohio's

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
		energy independence. Requires the Task Force to deliver its plan to the Governor and General Assembly no later than 18 months after the effective date of its establishment.

Executive	As Passed by the House	As Reported by Senate Finance and Financial Institutions
18 PUC - 1 **Utility Radiological Safety Board Assessments**		
Section: *506.10* Specifies, absent contractual agreement, the maximum amounts that may be assessed against nuclear electric utilities under R.C.4937.05 on behalf of four state agencies and that may be deposited into the specified funds as follows: (1) $134,631 in each fiscal year to the Utility Radiological Safety Fund (fund 4E40) used by the Department of Agriculture; (2) $887,445 in FY 2010 and $920,372 in FY 2011 to the Radiation Emergency Response Fund (Fund 6100) used by the Department of Health; (3) $286,114 in each fiscal year to the ER Radiological Safety Fund (Fund 6440) used by the Environmental Protection Agency; and (4) $1,413,889 in FY 2010 and $1,415,945 FY 2011 to the Emergency Response Plan Fund (Fund 6570) used by the Department of Public Safety. **Fiscal effect: Less than $5.5 million will be assessed against nuclear utilities and spent by state agencies over the biennium.**	**Section:** *506.10* Same as the Executive. **Fiscal effect: Same as the Executive.**	**Section:** *506.10* Same as the Executive. **Fiscal effect: Same as the Executive.**

	Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
1	**EPA - 21 Solid Waste Management District Rules**			
		R.C. *343.01, 3734.53*		R.C. *343.01, 3734.53*
	No provision.	Provides that rules of a solid waste management district governing out-of-district waste apply only to county and district solid waste disposal facilities unless the board of county commissioners or board of directors of the district submits an application to the Director of Environmental Protection that demonstrates insufficient disposal capacity in the district and the Director approves the application.	No provision.	Same as the House.
2	**EPA - 6 Scrap Tire Fund Transfer**			
	R.C. *1502.12, 3734.82*	R.C. *1502.12, 3734.82*	R.C. *1502.12, 3734.82*	R.C. *1502.12, 3734.82*
	Eliminates the $750,000 cap on the Scrap Tire Management Fund that may be used for the administration of the Scrap Tire Program.	Same as the Executive.	No provision.	Same as the Executive.
	Alters the purposes for which money in the Scrap Tire Management Fund (Fund 4R50) can be used by authorizing up to $500,000 in each fiscal year to be transferred to the Scrap Tire Grant Fund (Fund 5860) in the Department of Natural Resources for scrap tire amnesty and clean up events, in addition to the $1 million transferred under current law in each fiscal year for scrap tire and synthetic rubber from tire manufacturers and recycling processes.	Same as the Executive.	Same as the Executive.	Same as the Executive.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
Fiscal effect: Results in more money that could be used for scrap tire amnesty and clean up events.	**Fiscal effect: Same as the Executive.**	**Fiscal effect: Reduces the amount available for tire amnesty projects.**	**Fiscal effect: Same as the Executive.**
3 EPA - 5 E-Check Extension; Fee on Tire Sales for Auto Emissions Testing			
R.C. *3704.14, 3737.901*	R.C. *3704.14, 3734.901, 3734.9010, Section 277.10*	R.C. *3704.14, 3734.901, 3734.9010, Section 277.10*	R.C. *3704.14, 3734.901, 3734.9010, Section 277.10*
Establishes a $2.30 fee on the sale of each new tire and requires the proceeds of the fee to be deposited into the Auto Emission Test Fund (Fund 5BY0).	No provision.	No provision.	No provision.
Abolishes the Motor Vehicle Inspection and Maintenance Fund (Fund 6020) and replaces it with the Auto Emissions Test Fund (Fund 5BY0) in permanent law.	Same as the Executive.	Same as the Executive.	Same as the Executive.
Authorizes the Director of Administrative Services, upon the request of the Director of Environmental Protection, to extend the existing E-Check contract, which expires on June 30, 2009, for up to six months. Allows the Director of Administrative Services, upon the request of the Director of Environmental Protection, to enter into a new E-Check contract through a competitive selection process, beginning upon the termination of the six-month contract extension through June 30, 2011, and authorizes an additional one-year extension of the contract through June 30, 2012.	Same as the Executive.	Replaces the Executive provision with provisions that authorize the Governor to issue an executive order ordering the Director of Administrative Services to extend, for a period of six months, the motor vehicle inspection and maintenance program contract that is scheduled to expire on June 30, 2009; upon termination of the six month contract extension, authorizes the Governor to issue such an executive order ordering the Director to enter into a new contract governing the motor vehicle inspection and maintenance program through June 30, 2011, with a possible extension through June 30, 2012; limits the implementation of the program to counties in which the program was operating on January 1, 2009;	Same as the Executive, except retains the provisions from the Senate version requiring legislative approval for the continuation of the program after the termination of all contracts and the expansion of the program to counties not governed by those contracts.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
		and eliminates the provision that allows the program to be implemented beyond the date of termination of all contracts pertaining to the program if the program is federally mandated, and instead requires legislative approval for the extension of the program after the termination of all contracts or expansion of the program to new counties not governed by those contracts.	
Requires the Director of Budget and Management to transfer up to $1.5 million in cash from the Central Support Indirect Fund (Fund 2190) to the Auto Emissions Test Fund (Fund 5BY0) for the operation and oversight of the auto emissions testing program. Requires that Fund 2190 be reimbursed once Fund 5BY0 has accrued sufficient cash to maintain the program.	Replaces the Executive provision with a provision requiring that the Director of Budget and Management transfer $14.4 million in FY 2010 and $14.8 million in FY 2011 from the GRF to Fund 5BY0 for the operation and oversight of the auto emissions testing program.	Same as the House.	Same as the House.
Requires the Director of Budget and Management, on September 30, 2009, or as soon as possible thereafter, to transfer cash balance in the Motor Vehicle Inspection and Maintenance Fund (Fund 6020), abolished in the bill, to the Auto Emissions Test Fund (Fund 5BY0).	Same as the Executive.	Same as the Executive.	Same as the Executive.
No provision.	No provision.	Makes other changes regarding the motor vehicle inspection and maintenance program, including provisions that establish requirements governing a competitive selection process for a contract to operate the program, state the General Assembly's intent concerning the program, and require the Director of Environmental Protection annually to request the United States	Same as the Senate, but removes language that states the General Assembly's intent concerning the program and that requires the Director of Environmental Protection annually to request the United States Environmental Protection Agency to provide information on alternative approaches to meet federal performance standards and program changes.

	Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
			Environmental Protection Agency to provide information on alternative approaches to meet federal performance standards and program changes.	
	Fiscal effect: Authorizes the extension of the E-Check program until June 30, 2011. Funds the program with the proceeds from an increase in the fee on the sale of new tires. Generates an estimated additional $15 million in each fiscal year for the operation of the Auto Emissions Testing Program	**Fiscal effect: Authorizes the extention of the E-Check program until June 20, 2011, removes the tire fee and instead makes GRF transfers in each fiscal year the funding source for the program.**	**Fiscal effect: Same as the House.**	**Fiscal effect: Same as the House.**
4	**EPA - 17 Clean Diesel School Bus Fund**			
		R.C. *3704.144*	R.C. *3704.144*	R.C. *3704.144*
	No provision.	Authorizes the Director of Environmental Protection to make grants from the Clean Diesel School Bus Fund to county boards of mental retardation and developmental disabilities rather than only to school districts as authorized in current law.	Same as the House.	Same as the House.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
5 EPA - 23 Changes to the Construction and Demolition Debris Law			
		R.C. *3714.01, 3714.011, 3714.02, 3714.074, 3714.081, 3714.083, 3745.31*	
No provision.	No provision.	Alters the definition of "new construction and demolition debris facility" or "new facility" in the Construction and Demolition Debris Law by stating that: (1) New facility means a facility applying for an initial permit to install after December 22, 2005; (2) New facility includes a facility in existence on December 22, 2005, that is proposing to horizontally expand the facility beyond the boundary of the property owned or controlled by the owner or operator of the facility as of December 22, 2005; (3) New facility includes a facility for which an initial permit to install has been issued after December 22, 2005, for which there is a proposal to horizontally expand the limits of construction and demolition debris placement beyond the limits approved in the initial permit to install; (4) New facility does not include a facility for which there is a proposal to vertically expand the limits of construction and demolition debris placement approved for the facility under the Construction and Demolition	No provision.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
		Debris Law.	
No provision.	No provision.	Specifies that for purposes of the statute that establishes certain notification requirements when a load of construction and demolition debris is rejected, acceptance of a load of construction and demolition debris is deemed to occur when the debris is placed on the working face of a construction and demolition debris facility for final disposal and rejection of a load of construction and demolition debris before acceptance of the load of debris is not a violation of the Construction and Demolition Debris Law.	No provision.
No provision.	No provision.	Revises the definition of "pulverized debris" in the Construction and Demolition Debris Law to mean a load of debris that has been uniformly shredded, ground, or reduced by mechanical means prior to acceptance for disposal to such an extent that the majority of the load of debris cannot be identified as resulting from construction and demolition debris activities, and specifies that the existence of small particles and dust in a load of construction and demolition debris does not render the load unidentifiable as construction and demolition debris.	No provision.
No provision.	No provision.	Requires the Director of Environmental Protection to appoint and convene an advisory board to advise the Director with respect to the adoption of rules governing construction and demolition debris facilities and the inspection of and issuance of permits to install and licenses for those	No provision.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
		facilities, and requires the board to include three representatives of construction and demolition debris facilities in the state and three representatives from certain types of health districts.	
No provision.	No provision.	Adds the Construction and Demolition Debris Law and rules adopted under it to the list of environmental laws to which the existing five-year statute of limitations for civil actions for civil or administrative penalties brought under those laws applies, and, with regard to the Construction and Demolition Debris Law and rules adopted under it, provides that if an agency, department, or governmental authority actually knew or was informed of an occurrence, omission, or facts on which a civil action is based prior to the amendment's effective date, the action for civil or administrative penalties must be commenced not later than five years after the amendment's effective date.	No provision.
No provision.	No provision.	Requires the fees on the disposal of construction and demolition debris levied under the Construction and Demolition Debris Law to be paid by a customer, to the owner or operator of a construction and demolition debris facility or solid waste facility.	No provision.
No provision.	No provision.	Specifies that the owner or operator may request a refund or credit of the fees that are remitted to a board of health or to the Director of Environmental Protection, if the customer fails to pay the fees to the owner	No provision.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
		or operator, and declares that the owner or operator is also not responsible for any penalties regarding those fees.	
6 EPA - 22 Construction and Demolition Debris Disposal Fees			
	R.C. *3714.073, 3745.015, 1515.14*	R.C. *3714.073, 3745.015, 1515.14*	
Increases the construction and demolition debris disposal fee that is deposited into SSR Fund 5BV0, the Soil and Water Conservation District Assistance Fund, which is used by the Department of Natural Resources to provide grants to local soil and water conservation districts, from $0.125 per cubic yard and $0.25 per ton to $1.25 per cubic yard or $2.50 per ton, as applicable.	Same as the Executive.	No provision.	No provision.
Establishes a new construction and demolition debris disposal fee of $0.225 per cubic yard or $0.45 per ton, as applicable, to be credited to SSR Fund 5BC0, the Environmental Protection Fund, which is used by the Environmental Protection Agency. Requires that these fees take effect on July 1, 2009.	No provision.	No provision.	No provision.
No provision.	Specifies that fees on the disposal of construction and demolition debris apply to the disposal of asbestos and asbestos-containing materials and products.	Same as the House.	No provision.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
Fiscal effect: Increases revenue to the Department of Natural Resources Division of Soil and Water through new and increased fees to SSR Fund 5BV0, the Soil and Water Conservation Fund, and increases revenue to the Environmental Protection Agency through new and increased fee to SSR Fund 5BC0, the Environmental Protection Fund. Offsets an estimated $11,930,000 in DNR GRF Funding for Soil and Water Conservation Projects.	**Fiscal effect: Same as the Executive, but decreases revenues to Fund 5BC0, the Environmental Protection Fund, due to the removal of new construction and demolition debris fees deposited into that fund. However, including asbestos as a material to which the disposal fee applies could increase revenues to each applicable fund.**	**Fiscal effect: Reduces soil and water district funding from this source; however, a related change provides soil and water districts funding from the Facilities Establishment Fund (Fund 7037) (see Compare Doc entry DNR 31).**	

7 EPA - 20 Hazardous Waste Facility Permit Modifications

	R.C. *3734.05*	R.C. *3734.05*	R.C. *3734.05*
No provision.	Declares that the transfer of a hazardous waste facility installation and operation permit for a facility that is not an off-site facility is a Class 1 modification rather than a Class 3 modification as in current law, and specifically declares that the transfer of a hazardous waste facility installation and operation permit for an off-site facility is a Class 3 modification.	Same as the House.	Same as the House, but restores the definitions of "owner" and "operator" for purposes of the law related to modifications of hazardous wastes facilities, and makes other technical changes.
No provision.	Eliminates provisions of law concerning the modification of a hazardous waste facility involving permit transfers that require the Director of Environmental Protection to make certain determinations regarding the background of the transferee if the transferee has been involved in any prior activity involving hazardous waste.	Same as the House.	Same as the House.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
	Fiscal effect: Because Class 1 permits generally involve minor changes to a facility and usually take less time to be processed, this provision could reduce the amount of time it takes EPA to process these permit modifications.	**Fiscal effect: Same as the House.**	**Fiscal effect: Same as the House.**
8 EPA - 4 Natural Resource Damages Fund			
R.C. *3734.28, 3734.281, 3734.282*	R.C. *3734.28, 3734.281, 3734.282*	R.C. *3734.28, 3734.281, 3734.282*	R.C. *3734.28, 3734.281, 3734.282*
Creates the Natural Resource Damages Fund (Fund 3C50), which consists of federal money distributed to the state for natural resource damages, and repeals current law provisions that specify that the Hazardous Waste Clean-Up Fund (Fund 5050) and Environmental Protection Remediation Fund (Fund 5BC0) consist of, in part, natural resource damages collected by the state under federal law. Repeals a current law provision under which money in Fund 5050 may be used only through October 15, 2005, to fund certain emergency and remedial actions and the Voluntary Action Program, thus allowing money in the Fund to be used for those purposes permanently.	Same as the Executive.	Same as the Executive.	Same as the Executive.
Authorizes the Director of Environmental Protection to enter into contracts and grant agreements with federal, state, or local government agencies for the purposes of carrying out the responsibilities for which monies may be expended from the Natural Resource Damages Fund (Fund 3C50),	Same as the Executive.	Same as the Executive.	Same as the Executive.

	Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
	Hazardous Waste Clean-up Fund (Fund 5050), and the Environmental Protection Remediation Fund (Fund 5BC0).			
	Fiscal effect: No direct fiscal impact, but directs federal moneys for natural resource damages collected under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) to Fund 3C50.	**Fiscal effect: Same as the Executive.**	**Fiscal effect: Same as the Executive.**	**Fiscal effect: Same as the Executive.**
9	**EPA - 2 Electronic Payment of Construction and Demolition Debris and Solid Waste Disposal Fees**			
	R.C. *3714.07*	R.C. *3734.57, 3714.07*	R.C. *3734.57, 3714.07*	R.C. *3734.57, 3714.07*
	Authorizes owners or operators of construction and demolition debris facilities to submit monthly construction and demolition debris disposal fee returns electronically rather than by mail as in current law.	Same as the Executive.	Same as the Executive.	Same as the Executive.
	Authorizes owners or operators of solid waste transfer facilities and disposal facilities to submit solid waste disposal fee returns electronically rather than by mail as in current law.	Same as the Executive.	Same as the Executive.	Same as the Executive.
	Fiscal effect: Reduces some administrative costs for EPA for receiving and processing these fees.	**Fiscal effect: Same as the Executive.**	**Fiscal effect: Same as the Executive.**	**Fiscal effect: Same as the Executive.**

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
10 EPA - 10 State Solid Waste Disposal and Generation Fees			
R.C. *3734.57*	R.C. *3734.57, 3734.573*	R.C. *3734.57, 3734.573*	R.C. *3734.57, 3734.573*
Extends from June 30, 2010, to June 30, 2012, the expiration date of the state fees on the disposal of solid waste, the proceeds of which are used to fund solid, infectious, and hazardous waste and construction and demolition debris management programs and to pay EPA's costs associated with administering and enforcing environmental protection programs.	Same as the Executive, but also permits solid waste disposal fees to be paid by a customer or political subdivision to a transporter of solid waste rather than only to the owner or operator of a solid waste transfer or disposal facility.	Same as the House.	Same as the House.
Increases the solid waste disposal fee that is deposited into Fund 5BC0, the Environmental Protection Fund, which is used by the Environmental Protection Agency, from $1.50 per ton to $2.50 per ton and establishes a new solid waste disposal fee of $0.25 per ton to be deposited into Fund 5BV0, the Soil and Water Conservation District Assistance Fund. Requires that the increased fee and the new fee be levied from July 1, 2009, through June 30, 2012.	Same as the Executive, but delays the implementation of these new and increased fees from July 1, 2009 to August 1, 2009.	No provision.	Same as the House, but exempts a solid waste transfer facility or solid waste disposal facility that is located in a county that has a population that is equal to or greater than 400,000 and that is within 15 miles of a solid waste disposal facility located in another state from the new fee.
No provision.	Specifies that the existing solid waste management district generation fees do not apply to solid waste delivered to a solid waste composting facility for processing rather than specifying that it does not apply to yard waste, as well as to materials removed from the solid waste stream for recycling. Declares that if any unprocessed	Same as the House.	Same as the House.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
	solid waste or compost product is transported off the premises of a composting facility for disposal at a landfill, the solid waste generation fee applies and must be collected by the owner or operator of the landfill.		
Fiscal effect: Continues this revenue stream for funds that collect solid waste disposal fee revenues, and therefore has no new fiscal effect. Increases revenue to the Environmental Protection Agency through new and increased fees to SSR Fund 5BC0, the Environmental Protection Fund, and to the Department of Natural Resources Soil and Water Conservation Fund (Fund 5BV0).	**Fiscal effect: Same as the Executive.**	**Fiscal effect: Same as the Executive, but eliminates any additional revenues that may have resulted from increased fees.**	**Fiscal effect: Same as the Executive.**

11 **EPA - 11 Synthetic Minor Facility Emission Fees, Water Pollution Control Fees, and Safe Drinking Water Fees**

R.C. *3745.11, 6109.21*	R.C. *3745.11, 6109.21*	R.C. *3745.11, 6109.21*	R.C. *3745.11, 6109.21*
Extends for two years the sunset on annual emissions fees for minor synthetic facilities (air permits).	Same as the Executive.	Same as the House.	Same as the House.
Extends for two years the authority to levy higher fees for the following: applications for plan approvals of wastewater treatment works and public water systems, certification of laboratories and laboratory personnel, applications and examinations for certification as operators of water supply or wastewater systems, and applications for permits, variances, and plan approvals.	Same as the Executive except provides for a two-year extension of the $100 application fee for a permit, variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law and provides for a two-year extension of the $200 application fee for a National Pollutant Discharge Elimination System permit.	Same as the Executive.	Same as the Executive.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
Extends for two years the sunset on the following EPA fees related to the Water Pollution Control Law or Safe Drinking Water Law: annual discharge fees for holders of NPDES permits, and annual license fees for public water system licenses.	Same as the Executive.	Same as the Executive.	Same as the Executive.
Fiscal effect: Continues this revenue stream for funds that collect minor facility emission fees, water pollution control fees, and safe drinking water fee revenues, and therefore has no new fiscal effect.	**Fiscal effect: The fee extensions added in this version were inadvertently omitted from the Executive version.**	**Fiscal effect: Same as the House.**	**Fiscal effect: Same as the House.**
12 EPA - 25 ERAC Deadlines			
			R.C. *37045.03, 3745.05*
No provision.	No provision.	No provision.	Establishes statutory deadlines by which the Environmental Review Appeals Commission must issue written orders regarding appeals pending before the commission.
No provision.	No provision.	No provision.	Specifies that an air contaminant source that is the subject of an installation permit must be installed or modified in accordance with the permit not later than 18 months after the permit's effective date at which point the permit must terminate unless any of specified circumstances exists.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
			Fiscal effect: The Environmental Review Appeals Commission could experience some minimal cost increases to meet any statutory deadlines, but EPA could also experience some minimal revenue gains if additional permits must be obtained due to missed effective dates.
13 EPA - 8 Areawide Planning Agencies			
Section: *277.10* Requires the Director of Environmental Protection Agency to award grants from appropriation item 715687, Areawide Planning Agencies, to areawide planning agencies engaged in areawide water quality management and planning activities in accordance with Section 208 of the Federal Clean Water Act, 33 U.S.C. 1288.	**Section:** *277.10* Same as the Executive.	**Section:** *277.10* Same as the Executive.	**Section:** *277.10* Same as the Executive.
14 EPA - 9 Corrective Cash Transfer for the Copperweld Settlement			
Section: *277.10* Requires the Director of Budget and Management to transfer $1,323,933.19 in cash, which the Agency received from the Copperweld bankruptcy settlement, that was mistakenly deposited in the Hazardous Waste Cleanup Fund (Fund 5050) to the Environmental Protection Remediation Fund (Fund 5410).	**Section:** *277.10* Same as the Executive.	**Section:** *277.10* Same as the Executive.	**Section:** *277.10* Same as the Executive.

	Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
15	**EPA - 19 Environmental Review Appeals Commission Funding**			
		Section: *277.10*	**Section:** *277.10*	
	No provision.	Specifies that Fund 5BC0 appropriation item 715690, Environmental Review Appeals, be used to support the Environmental Review Appeals Commission, including the hiring of two staff attorneys. **Fiscal effect: Eliminates $487,000 per year in GRF funding for the Commission and instead provides funding of $637,000 per year derived from the environmental protection fee.**	Same as the House, but removes the requirement that the funding be used to hire two staff attorneys. **Fiscal effect: Reduces the appropriation by $150,000 to $487,000 in each fiscal year to reflect the removal of the requirement.**	No provision.
16	**EPA - 24 State Clean Diesel Funding Task Force**			
			Section: *709.20*	
	No provision.	No provision.	Creates the ten-member State Clean Diesel Funding Task Force to study methods of funding state clean diesel incentive programs and to issue a report, including a recommendation for a stable and dedicated long-term funding source for the Diesel Emissions Reduction Grant Program, to the General Assembly and the Governor by January 1, 2010. Abolishes the Task Force upon the issuance of the report.	No provision.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
17 DOH - 49 Extend Termination of Certain Statutes for Sewage Treatment Systems			
		R.C. *640.20, 640.21*	R.C. *640.20, 640.21*
No provision.	No provision.	Amends provisions of Am. Sub. H.B. 119 of the 127th General Assembly that temporarily suspended the operation of certain provisions of the Household and Small Flow On-Site Sewage Treatment Systems Law that enacted temporary provisions regarding that Law by extending the termination of the suspension and temporary law from July 1, 2009, to July 1, 2011.	Replaces the provision with one that amends and extends the termination date of provisions of Am. Sub. H.B. 119 of the 127th General Assembly that temporarily suspended the operation of certain provisions of the Household and Small Flow On-Site Sewage Treatment Systems Law and that enacted temporary provisions regarding that Law. Extends the termination of that suspension and temporary law from July 1, 2009, to January 1, 2010. Restores until that date provisions of law related to household sewage disposal systems that existed prior to that Law's enactment.
		Fiscal effect: The moratorium will maintain current operations in regards to sewage treatment systems until July 1, 2011. Thus, there should be no fiscal impact.	**Fiscal effect: This will maintain current operations until January 1, 2010. Thus, there should be no fiscal impact.**

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
18 DNR - 33 Joint Permitting Process for Energy Facilities			
		R.C. *3745.50*	
No provision.	No provision.	Requires the Directors of Environmental Protection, Natural Resources, and Development jointly to establish a streamlined permitting process for permits issued by the Environmental Protection Agency and any other state agency that are related to the siting or expansion of oil and gas refineries, coal gasification facilities, and other energy resource facilities. **Fiscal effect: May increase administrative costs to the Department of Natural Resources, Environmental Protection Agency, and Department of Development to jointly develop a permitting process.**	No provision.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
19 DNR - 34 Energy Planning Task Force			
		Section: *715.10*	
No provision.	No provision.	Creates the Energy Planning Task Force, to consist of the Directors of Natural Resources, Environmental Protection, and Development, or their designees; two members from each chamber of the General Assembly; members representing small and larger businesses, commercial energy users, and a statewide environmental advocacy organization; a member with knowledge and expertise in alternative energy; and a member with knowledge and expertise in coal gasification.	No provision.
No provision.	No provision.	Requires the Task Force to develop a state energy plan with the goal of maximizing access to and utilization of Ohio's energy resources for the purpose of facilitating Ohio's energy independence. Requires the Task Force to deliver its plan to the Governor and General Assembly no later than 18 months after the effective date of its establishment.	No provision.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
20 PUC - 1 Utility Radiological Safety Board Assessments			
Section: *506.10*	Section: *506.10*	Section: *506.10*	Section: *506.10*
Specifies, absent contractual agreement, the maximum amounts that may be assessed against nuclear electric utilities under R.C.4937.05 on behalf of four state agencies and that may be deposited into the specified funds as follows: (1) $134,631 in each fiscal year to the Utility Radiological Safety Fund (fund 4E40) used by the Department of Agriculture; (2) $887,445 in FY 2010 and $920,372 in FY 2011 to the Radiation Emergency Response Fund (Fund 6100) used by the Department of Health; (3) $286,114 in each fiscal year to the ER Radiological Safety Fund (Fund 6440) used by the Environmental Protection Agency; and (4) $1,413,889 in FY 2010 and $1,415,945 FY 2011 to the Emergency Response Plan Fund (Fund 6570) used by the Department of Public Safety.	Same as the Executive.	Same as the Executive.	Same as the Executive.
Fiscal effect: Less than $5.5 million will be assessed against nuclear utilities and spent by state agencies over the biennium.	**Fiscal effect: Same as the Executive.**	**Fiscal effect: Same as the Executive.**	**Fiscal effect: Same as the Executive.**

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
21 DOT - 43 Appropriations - Federal Stimulus			
	Sections: ***327.10, Section 521.30***	**Sections:** ***327.10, Section 521.30***	**Sections:** ***327.10, Section 521.30***
No provision.	Reappropriates the unexpended, unencumbered portions of the appropriation items made in Sections 303.10, 305.10, 307.10, 309.10, 311.10, 313.10, 315.10, 317.10, 319.10, 321.10 and 325.10 of this act at the end of FY 2009 to FY 2010 for the same purposes.	Same as the House.	Same as the House, but adds a reference to Section 325.05 to account for a federal stimulus line item added for the Department of Public Safety.
No provision.	Requires that federal stimulus moneys, to the extent possible, be used in a way that encourages the purchase of supplies and services from Ohio companies and stimulates Ohio job growth and retention.	Same as the House, but requires that, to the extent permitted by federal law, federal stimulus moneys be used in accordance with preferences for goods and services under the Buy Ohio and Buy American programs in Ohio law.	Same as the Senate.
22 DOT - 35 **VETOED Diesel Emissions Reduction Grant Program**			
	Section: ***512.43***	**Section:** ***512.43***	**Section:** ***512.43***
No provision.	[***VETOED: Establishes a Diesel Emissions Reduction Grant Program using Congestion Mitigation and Air Quality (CMAQ) program funds for public entities, small businesses and disadvantaged business enterprises to be administered by the Department of Development in consultation with the Directors of EPA and Transportation.	Same as the House.	Same as the House.

Executive	As Passed by the House	As Passed by the Senate	As Amended by Conference Committee
No provision.	Allows program funds to be used to fund projects involving hybrid or alternative fuel vehicles eligible under Congestion Mitigation and Air Quality (CMAQ) program guidelines.	Same as the House.	Same as the House.
No provision.	Provides funds for this program using the Highway Operating Fund (Fund 7002) or transfers from Fund 7002 to the Diesel Emissions Reduction Grant Fund (Fund 3BD0), dependent on the recipient.	Same as the House.	Same as the House.
No provision.	Establishes Department of Development appropriation item 195697, Diesel Emissions Reduction Grants, with an appropriation of $4.4 million in FY 2010 and reappropriates the FY 2010 year-end balance to FY 2011 for the same purposes.***]	Same as the House, [***VETOED: but increases the appropriation to $20 million in FY 2010.***]	Same as the Senate.

OH Const. Art. II, § 15

Baldwin's Ohio Revised Code Annotated Currentness
Constitution of the State of Ohio (Refs & Annos)
Article II. Legislative (Refs & Annos)
➡O Const II Sec. 15 Bills and joint resolutions; single subject; procedures

(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.

CREDIT(S)

(1973 HJR 5, adopted eff. 5-8-73)

UNCODIFIED LAW

2000 H 711, § 3, eff. 10-5-00, reads:

The amendments to sections 3.15, 3301.01, 3301.02, 3301.03, 3301.04, 3301.06, and 3501.02 of the Revised Code are virtually identical to amendments made to those sections purpose by Am. Sub. H.B. 117 of the 121st General Assembly, 146 Ohio Laws 900. The original enactment of those amendments in Am. Sub. H.B. 117 has been questioned on grounds it violated the one-subject rule of Ohio Constitution, Article II, Section 15(D). Re-enactment of the amendments and the corresponding partial reconstitution of the State Board of Education by this act are intended to render this question moot. The amendments in this act differ from those in Am. Sub. H.B. 117 only insofar as necessary to conform to changes in sentence structure made by amendments subsequent to Am. Sub. H.B. 117.

1999 H 282, § 41, eff. 6-29-99, reads:

Sections 3313.974, 3313.975, 3313.976, 3313.977, 3313.978, and 3313.979 of the Revised Code contained within the purview of Sections 1 and 2 of this act, which establish the Pilot Project Scholarship and Tutorial Assistance Program, are repealed and reenacted with a modification in order

to restore them to effectiveness as part of the law and to reinstate the program with a modification. The Supreme Court of Ohio, in *Simmons-Harris v. Goff* (1999), ___Ohio St.3d ___, invalidated the sections as they resulted from Am. Sub. H.B. 117 of the 121st General Assembly, 146 Ohio Laws 900, holding their enactment in that act to have been violative of the one-subject rule, Ohio Constitution, Article II, Section 15(D).

This reinstatement of the Pilot Project Scholarship and Tutorial Assistance Program is a continuation of the program operating in the 1998-1999 school year, with the modifications made in this act. Students who received scholarships that year may continue to receive scholarships in subsequent years, as provided in division (C)(1) of new section 3313.975 of the Revised Code, until they complete eighth grade, as long as they comply with the requirements of new sections 3313.974 to 3313.979 of the Revised Code and the General Assembly appropriates funds for the program.

Amendments to the Pilot Project Scholarship Program subsequent to Am. Sub. H.B. 117 also lost effectiveness because of the invalidation of the original enactment. The repeal and reenactment of section 3313.975 of the Revised Code contained within the purview of Sections 1 and 2 of this act also restore these subsequent amendments, by Am. Sub. H.B. 215 and Am. Sub. H.B. 770 of the 122nd General Assembly, to effectiveness as part of the law. The amendment of section 3313.975 of the Revised Code in Am. Sub. H.B. 215 corrected a constitutional deficiency noted in *Simmons-Harris v. Goff*, unreported, 10th District Court of Appeals (1997).

Section 3313.977 as repealed and reenacted within the purview of Sections 1 and 2 of this act omits original division (A)(1)(d) of that section to correct a constitutional deficiency noted in *Simmons-Harris v. Goff* (1999), ___Ohio St.3d ___.

1995 S 105, § 3, eff. 11-24-95, reads: The amendment by this act of section 4109.06 of the Revised Code strikes through and reenacts (with revised text) an amendment made to the section by Am. Sub. H.B. 107 of the 120th General Assembly, in order to restore the amendment to effectiveness as part of the law. The Supreme Court of Ohio, in *State, ex rel. Ohio AFL-CIO, v. Voinovich* (1994), 69 Ohio St. 3d 225, 228-230, invalidated the amendment as contained in Am. Sub. H.B. 107 as being violative of the one-subject rule, Ohio Constitution, Article II, Section 15(D). The reenacted amendment is identical, except for noninclusion of a provision that made the amendment applicable for only two years, to the Am. Sub. H.B. 107 amendment, which is stricken through in this act.

HISTORICAL AND STATUTORY NOTES

Ed. Note: Art II, § 15 contains provisions analogous to former Art II, § 9, 16, 17, and 18 before action by 1973 HJR 5, eff. 5-8-73.
Ed. Note: Former Art II, § 15 repealed by 1973 HJR 5, eff. 5-8-73; 1851 constitutional convention, adopted eff. 9-1-1851.

EDITOR'S COMMENT

1990:

This section outlines the basic procedures for enacting a law. It includes the language adopted in 1851, augmented in 1973 by provisions formerly found in §9, 16, 17, and 18, Article II, modified to reflect modern legislative practice. The predecessor provisions were §16, 17, and 18, Article I, 1802 Ohio Constitution. The federal Constitution contains no comparable provisions, other than oblique references to bills in §7, Article I, US Constitution.

The vehicle for enacting a law is a bill, which may be introduced in either house by a member of that house. Bills are then referred to a committee for consideration and report before floor action. A majority of the members elected to both the House and Senate (not a majority of a quorum) is required for passage. The requirement for considering a bill on three separate days is met in practice by counting introduction as the first day's consideration and reference to a committee as the second day's consideration. Bringing the bill up for floor action is the third day's consideration. Each separate day's "consideration" (or the suspension of the three-day rule) must be noted on the journal, or the

WAY OBLIGATIONS OF THE STATE MAY BE ISSUED FOR ANY HIGHWAY PURPOSES UNDER SECTION 2i OF ARTICLE VIII, OHIO CONSTITUTION, EXCEPT TO REFUND HIGHWAY OBLIGATIONS ISSUED UNDER SECTION 2i THAT ARE OUTSTANDING ON THAT DATE.

EFFECTIVE DATE

If adopted by a majority of the electors voting on this amendment, the amendment shall take immediate effect.

AMENDED SUBSTITUTE HOUSE BILL NO. 117

Act Effective Date:	6-30-95
Date Passed:	6-28-95
Date Approved by Governor:	6-30-95
Date Filed:	6-30-95
File Number:	28
Chief Sponsor:	JOHNSON

Line Item Veto: Pursuant to O Const Art II, § 16; the Governor disapproved certain provisions of this Act.

General and Permanent Nature: Per the Director of the Ohio Legislative Service Commission, this Act's section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code; however, LSC's certification required correcting the designation of several Act sections noted in margins.

Emergency: Pursuant to O Const, Art II, § 1d, this Act was declared to be an emergency measure necessary for the preservation of the public peace, health, and safety. See Act section 151, 152.

Section Effective Date(s): This Act contains provisions which take effect on dates different from the effective date of the Act itself. See Act section(s) 158, 198, 199.

Future Repeal: This Act repeals certain provisions of law, the repeal of which takes effect on dates different from the effective date of the Act itself. See Act section(s) 153, 170, 192, 194.

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To amend sections 3.15, 101.34, 102.02, 105.41, 107.36, 107.37, 107.38, 111.15, 111.18, 117.38, 119.04, 120.18, 120.28, 120.33, 120.52, 120.53, 120.54, 120.55, 121.37, 122.05, 122.30, 122.33, 122.42, 122.70, 122.71, 122.72, 122.73, 122.74, 122.75[5], 122.77, 122.78, 122.79, 122.81, 122.83, 122.84, 122.85, 122.88, 122.89, 122.92, 123.01, 123.011, 124.09, 124.11, 124.14, 124.15, 124.23, 124.26, 124.27, 124.311, 124.381, 125.05, 125.212, 125.22, 125.31, 125.831, 126.11, 126.31, 131.35, 131.43, 133.01, 133.06, 135.01, 140.01, 140.08, 145.012, 145.298, 145.299, 149.32, 149.331, 149.41, 152.01, 154.08, 166.03, 166.08, 173.14, 173.26, 173.35, 175.21, 307.031, 307.85, 307.93, 319.301, 323.01, 323.151, 323.152, 339.43, 341.01, 341.34, 709.50, 717.10, 717.11, 718.01, 753.03, 753.15, 753.21, 757.03, 757.04, 757.08, 901.17, 901.43, 907.02, 918.15, 918.43, 918.44, 924.51, 924.52, 991.03, 991.04, 991.06, 1151.323, 1161.52, 1525.11, 1533.181, 1547.01, 1547.08, 1547.54, 2151.357, 2305.24, 2305.25, 2305.251, 2501.181, 2743.191, 2941.51, 2967.15, 3301.01, 3301.02, 3301.03, 3301.04, 3301.06, 3301.07, 3301.075, 3301.076, 3301.0712, 3301.16, 3301.17, 3301.541, 3302.07, 3307.311, 3309.012, 3309.311, 3311.01, 3311.03, 3311.05, 3311.051, 3311.052, 3311.053, 3311.054, 3311.08, 3311.09,

[5]So in original; text of this section does not appear as amended in Act but as repealed and recodified from former 122.77.

Code; to repeal sections 3311.051, 3311.052, 3311.09, 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, 5112.20, 5112.21, and 5112.99 of the Revised Code, effective July 1, 1997; to amend Sections 3 and 4 of Am. Sub. H.B. 98 of the 120th General Assembly; to amend Section 184 of Am. Sub. H.B. 152 of the 120th General Assembly; to amend Section 3 of Sub. H.B. 870 of the 119th General Assembly, as subsequently amended; to amend Section 31 of Sub. H.B. 715 of the 120th General Assembly; to amend Section 44 of Sub. H.B. 715 of the 120th General Assembly, as subsequently amended; to amend Section 3 of Sub. H.B. 254 of the 118th General Assembly; to amend Sections 22 and 76 of Am. Sub. H.B. 790 of the 120th General Assembly; to repeal Section 2 of Am. Sub. H.B. 453 of the 118th General Assembly, as subsequently amended; to repeal Section 181 of Am. Sub. H.B. 152 of the 120th General Assembly; and to repeal Section 16 of Sub. H.B. 715 of the 120th General Assembly to make appropriations for the biennium beginning July 1, 1995, and ending June 30, 1997, and to provide authorization and conditions for the operation of state programs.

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

SECTION 1. That sections 3.15, 101.34, 102.02, 105.41, 107.36, 107.37, 107.38, 111.15, 111.18, 117.38, 119.04, 120.18, 120.28, 120.33, 120.52, 120.53, 120.54, 120.55, 121.37, 122.05, 122.30, 122.33, 122.42, 122.70, 122.71, 122.72, 122.73, 122.74, 122.75[7], 122.77, 122.78, 122.79, 122.81, 122.83, 122.84, 122.85, 122.88, 122.89, 122.92, 123.01, 123.011, 124.09, 124.11, 124.14, 124.15, 124.23, 124.26, 124.27, 124.311, 124.381, 125.05, 125.212, 125.22, 125.31, 125.831, 126.11, 126.31, 131.35, 131.43, 133.01, 133.06, 135.01, 140.01, 140.08, 145.012, 145.298, 145.299, 149.32, 149.331, 149.41, 152.01, 154.08, 166.03, 166.08, 173.14, 173.26, 173.35, 175.21, 307.031, 307.85, 307.93, 319.301, 323.01, 323.121[8], 323.152, 339.43, 341.01, 341.34, 709.50, 717.10, 717.11, 718.01, 753.03, 753.15, 753.21, 757.03, 757.04, 757.08, 901.17, 901.43, 907.02, 918.15, 918.43, 918.44, 924.51, 924.52, 991.03, 991.04, 991.06, 1151.323, 1161.52, 1525.11, 1533.181, 1547.01, 1547.08, 1547.54, 2151.357, 2305.24, 2305.25, 2305.251, 2501.181, 2743.191, 2941.51, 2967.15, 3301.01, 3301.02, 3301.03, 3301.04, 3301.06, 3301.07, 3301.075, 3301.076, 3301.0712, 3301.16, 3301.17, 3301.541, 3302.07, 3307.311, 3309.012, 3309.311, 3311.01, 3311.03, 3311.05, 3311.051, 3311.052, 3311.053, 3311.054, 3311.08, 3311.09, 3311.10, 3311.16, 3311.19, 3311.213, 3311.22, 3311.231, 3311.24, 3311.26, 3311.37, 3311.38, 3311.50, 3311.51, 3311.52, 3311.53, 3313.01, 3313.12, 3313.14, 3313.172, 3313.173, 3313.174, 3313.18, 3313.20, 3313.22, 3313.222, 3313.24, 3313.261, 3313.35, 3313.37, 3313.371, 3313.46, 3313.60, 3313.602, 3313.605, 3313.642, 3313.65, 3313.715, 3313.751, 3313.841, 3313.843, 3313.85, 3313.96; 3313.98, 3315.06, 3315.07, 3315.09, 3315.091, 3315.15, 3315.33, 3315.40, 3317.01, 3317.012, 3317.02, 3317.022, 3317.023, 3317.024, 3317.0212, 3317.0214, 3317.03, 3317.031, 3317.032, 3317.033, 3317.05, 3317.051, 3317.06, 3317.061, 3317.063, 3317.09, 3317.10, 3317.11, 3317.13, 3317.14, 3317.62, 3319.01, 3319.02, 3319.07, 3319.072, 3319.073, 3319.08, 3319.11, 3319.111, 3319.16, 3319.17, 3319.19, 3319.28, 3319.282, 3319.33, 3319.34, 3319.35, 3319.36, 3319.37, 3319.39, 3321.01, 3321.04, 3321.13, 3321.15, 3323.08, 3323.09, 3323.091, 3327.08, 3327.10, 3329.08, 3331.01, 3332.07, 3333.04, 3333.12, 3333.21, 3333.22, 3334.08, 3334.09, 3334.10, 3334.11, 3334.17, 3345.32, 3345.33, 3345.50, 3345.51, 3351.07, 3353.01, 3353.02, 3353.03, 3353.04, 3357.02, 3357.021, 3357.05, 3357.09, 3365.01, 3383.07, 3501.02, 3513.10, 3513.254, 3513.255, 3513.259, 3701.04, 3702.68, 3709.02, 3709.05, 3717.63, 3719.02, 3719.021, 3721.01, 3721.011, 3721.012, 3721.02, 3721.04, 3721.05, 3721.07, 3721.15, 3721.19, 3721.21, 3721.22, 3721.23, 3721.25, 3721.30, 3721.32, 3721.56, 3722.01, 3722.12, 3724.01, 3729.01, 3729.23, 3729.61, 3734.57, 3737.841, 3745.11, 3745.25, 3769.08, 3769.28, 3791.031, 3793.16, 3901.02, 3901.043, 3902.22, 3929.56, 3929.721, 3953.10[9], 4111.03, 4115.31, 4115.32, 4115.33, 4115.34, 4115.35, 4117.04, 4121.03, 4141.14, 4301.43, 4399.11, 4503.065, 4504.21, 4505.06, 4511.191, 4517.22, 4701.03, 4701.04, 4701.26, 4703.12, 4703.13, 4703.16, 4705.09, 4705.10, 4715.51, 4723.06, 4723.08, 4723.28, 4729.15, 4729.16, 4729.52, 4729.54, 4732.14, 4732.141, 4733.10, 4735.06, 4735.09, 4735.12, 4735.13, 4735.15, 4753.12, 4755.61, 4755.63, 4765.55, 4773.06, 4901.021, 4901.19, 4905.54, 4905.57, 4905.83, 4907.60, 4907.61, 4911.12, 4919.99, 4921.99,

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[7]So in original; text of this section does not appear as amended in Act but as repealed and recodified from former 122.77.

[8]So in original; appears as 323.151 in the title, body, and repealer clause of the Act.

[9]So in original; appears as 3953.01 in the title, body, and repealer clause of the Act.