

Sec. 135.01. Except as otherwise provided in sections 135.14, 135.143, 135.181, and 135.182 of the Revised Code, as used in sections 135.01 to 135.21 of the Revised Code:

(A) "Active deposit" means a public deposit necessary to meet current demands on the treasury, and that is deposited in any of the following:

(1) A commercial account that is payable or withdrawable, in whole or in part, on demand;

(2) A negotiable order of withdrawal account as authorized in the "Consumer Checking Account Equity Act of 1980," 94 Stat. 146, 12 U.S.C.A. 1832(a);

(3) A money market deposit account as authorized in the "Garn-St. Germain Depository Institutions Act of 1982," 96 Stat. 1501, 12 U.S.C. 3503.

(B) "Auditor" includes the auditor of state and the auditor, or officer exercising the functions of an auditor, of any subdivision.

(C) "Capital funds" means the sum of the following: the par value of the outstanding common capital stock, the par value of the outstanding preferred capital stock, the aggregate par value of all outstanding capital notes and debentures, and the surplus. In the case of an institution having offices in more than one county, the capital funds of such institution, for the purposes of sections 135.01 to 135.21 of the Revised Code, relative to the deposit of the public moneys of the subdivisions in one such county, shall be considered to be that proportion of the capital funds of the institution that is represented by the ratio that the deposit liabilities of such institution originating at the office located in the county bears to the total deposit liabilities of the institution.

(D) "Governing board" means, in the case of the state, the state board of deposit; in the case of all school districts and educational service centers except as otherwise provided in this section, the board of education or governing board of a service center, and when the case so requires, the board of commissioners of the sinking fund; in the case of a municipal corporation, the legislative authority, and when the case so requires, the board of trustees of the sinking fund; in the case of a township, the board of township trustees; in the case of a union or joint institution or enterprise of two or more subdivisions not having a treasurer, the board of directors or trustees thereof; and in the case of any other subdivision electing or appointing a treasurer, the directors, trustees, or other similar officers of such subdivision. The governing board of a subdivision electing or appointing a treasurer shall be the governing board of all other subdivisions for which such treasurer is authorized by law to act. In the case of a county school financing district that levies a tax pursuant to section 5705.215 of the Revised Code, the county board of education that serves as its taxing authority shall operate as a governing board. Any other county board of education shall operate as a governing board unless it adopts a resolution designating the board of county commissioners as the governing board for the county school district.

(E) "Inactive deposit" means a public deposit other than an interim deposit or an active deposit.

(F) "Interim deposit" means a deposit of interim moneys. "Interim moneys" means public moneys in the treasury of any subdivision after the award of inactive deposits has been made in

accordance with section 135.07 of the Revised Code, which moneys are in excess of the aggregate amount of the inactive deposits as estimated by the governing board prior to the period of designation and which the governing board finds should not be deposited as active or inactive deposits for the reason that such moneys will not be needed for immediate use but will be needed before the end of the period of designation. In the case of the state treasury, "interim moneys" means public moneys that are not active deposits and may be invested in accordance with section 135.143 of the Revised Code.

(G) "Permissible rate of interest" means a rate of interest that all eligible institutions mentioned in section 135.03 of the Revised Code are permitted to pay by law or valid regulations.

(H) "Warrant clearance account" means an account established by the treasurer of state for either of the following purposes:

~~(a)~~(1) The deposit of active state moneys for the purposes of clearing state paper warrants or checks through the banking system, funding electronic benefit transfer cards, issuing stored value cards, or otherwise facilitating the settlement of state obligations;

~~(b)~~(2) The deposit of custodial moneys from an account held in the custody of the treasurer of state to facilitate settlement of obligations of the custodial fund.

(I) "Public deposit" means public moneys deposited in a public depository pursuant to sections 135.01 to 135.21 of the Revised Code.

(J) "Public depository" means an institution which receives or holds any public deposits.

(K) "Public moneys" means all moneys in the treasury of the state or any subdivision of the state, or moneys coming lawfully into the possession or custody of the treasurer of state or of the treasurer of any subdivision. "Public moneys of the state" includes all such moneys coming lawfully into the possession of the treasurer of state; and "public moneys of a subdivision" includes all such moneys coming lawfully into the possession of the treasurer of the subdivision.

(L) "Subdivision" means any municipal corporation, except one which has adopted a charter under Article XVIII, Ohio Constitution, and the charter or ordinances of the chartered municipal corporation set forth special provisions respecting the deposit or investment of its public moneys, or any school district or educational service center, a county school financing district, township, municipal or school district sinking fund, special taxing or assessment district, or other district or local authority electing or appointing a treasurer, except a county. In the case of a school district or educational service center, special taxing or assessment district, or other local authority for which a treasurer, elected or appointed primarily as the treasurer of a subdivision, is authorized or required by law to act as ex officio treasurer, the subdivision for which such a treasurer has been primarily elected or appointed shall be considered to be the "subdivision." The term also includes a union or joint institution or enterprise of two or more subdivisions, that is not authorized to elect or appoint a treasurer, and for which no ex officio treasurer is provided by law.

(M) "Treasurer" means, in the case of the state, the treasurer of state and in the case of any subdivision, the treasurer, or officer exercising the functions of a treasurer, of such subdivision. In

the case of a board of trustees of the sinking fund of a municipal corporation, the board of commissioners of the sinking fund of a school district, or a board of directors or trustees of any union or joint institution or enterprise of two or more subdivisions not having a treasurer, such term means such board of trustees of the sinking fund, board of commissioners of the sinking fund, or board of directors or trustees.

(N) "Treasury investment board" of a municipal corporation means the mayor or other chief executive officer, the village solicitor or city director of law, and the auditor or other chief fiscal officer.

(O) "No-load money market mutual fund" means a no-load money market mutual fund to which all of the following apply:

(1) The fund is registered as an investment company under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-1 to 80a-64;

(2) The fund has the highest letter or numerical rating provided by at least one nationally recognized statistical rating organization;

(3) The fund does not include any investment in a derivative. As used in division (O)(3) of this section, "derivative" means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument. An eligible investment described in section 135.14 or 135.35 of the Revised Code with a variable interest rate payment, based upon a single interest payment or single index comprised of other investments provided for in division (B)(1) or (2) of section 135.14 of the Revised Code, is not a derivative, provided that such variable rate investment has a maximum maturity of two years.

(P) "Public depositor" means the state or a subdivision, as applicable, that deposits public moneys in a public depository pursuant to sections 135.01 to 135.21 of the Revised Code.

(Q) "Uninsured public deposit" means the portion of a public deposit that is not insured by the federal deposit insurance corporation or by any other agency or instrumentality of the federal government.

Sec. 135.03. (A) As used in this section, "banking office" has the same meaning as in section 1101.01 of the Revised Code.

(B) Any national bank, any bank doing business under authority granted by the superintendent of financial institutions, or any bank doing business under authority granted by the regulatory authority of another state of the United States, and which has a banking office located in this state, is eligible to become a public depository, subject to sections 135.01 to 135.21 of the Revised Code. No bank shall receive or have on deposit at any one time public moneys, including public moneys as defined in section 135.31 of the Revised Code, in an aggregate amount in excess of thirty per cent of its total assets, as shown in its latest report to the comptroller of the currency, the

superintendent of financial institutions, the federal deposit insurance corporation, or the board of governors of the federal reserve system.

(C) Any federal savings association or any savings and loan association or savings bank doing business under authority granted by the regulatory authority of another state of the United States, and which has a banking office located in this state, and authorized to accept deposits is eligible to become a public depository, subject to sections 135.01 to 135.21 of the Revised Code. No savings association, savings and loan association, or savings bank shall receive or have on deposit at any one time public moneys, including public moneys as defined in section 135.31 of the Revised Code, in an aggregate amount in excess of thirty per cent of its total assets, as shown in its latest report to the former office of thrift supervision, the comptroller of the currency, the superintendent of financial institutions, the federal deposit insurance corporation, or the board of governors of the federal reserve system.

Sec. 135.143. (A) The treasurer of state may invest or execute transactions for any part or all of the interim funds of the state in the following classifications of obligations:

(1) United States treasury bills, notes, bonds, or any other obligations or securities issued by the United States treasury or any other obligation guaranteed as to principal and interest by the United States;

(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality;

(3)(a) Bonds, notes, and other obligations of the state of Ohio, including, but not limited to, any obligations issued by the treasurer of state, the Ohio public facilities commission, the Ohio housing finance agency, the Ohio water development authority, the Ohio turnpike infrastructure commission, the Ohio higher educational facility commission, and state institutions of higher education as defined in section 3345.011 of the Revised Code;

(b) Bonds, notes, and other obligations of any state or political subdivision thereof rated in the three highest categories by at least one nationally recognized statistical rating organization and purchased through a registered securities broker or dealer, provided the treasurer of state is not the sole purchaser of the bonds, notes, or other obligations at original issuance.

(4)(a) Written repurchase agreements with any eligible Ohio financial institution that is a member of the federal reserve system or federal home loan bank, any registered United States government securities dealer, or any counterparty rated in one of the three highest categories by at least one nationally recognized statistical rating organization or otherwise determined by the treasurer of state to have adequate capital and liquidity, under the terms of which agreement the treasurer of state purchases and the eligible financial institution, dealer, or counterparty agrees unconditionally to repurchase any of the securities that are listed in division (A)(1), (2), (3), (6), or (11) of this section. The market value of securities subject to these transactions must exceed the principal value of the repurchase agreement by an amount specified by the treasurer of state, and the securities must be delivered into the custody of the treasurer of state or the qualified trustee or agent

designated by the treasurer of state. The agreement shall contain the requirement that for each transaction pursuant to the agreement, the participating institution, dealer, or counterparty shall provide all of the following information:

- (i) The par value of the securities;
- (ii) The type, rate, and maturity date of the securities;
- (iii) A numerical identifier generally accepted in the securities industry that designates the securities.

(b) The treasurer of state also may sell any securities, listed in division (A)(1), (2), (6), or (11) of this section, regardless of maturity or time of redemption of the securities, under the same terms and conditions for repurchase, provided that the securities have been fully paid for and are owned by the treasurer of state at the time of the sale.

(c) For purposes of division (A)(4) of this section, the treasurer of state shall only buy or sell securities listed in division (A)(11) of this section issued by entities that are organized under the laws of this state, any other state, or the United States.

(5) Securities lending agreements with any eligible financial institution that is a member of the federal reserve system or federal home loan bank or any recognized United States government securities dealer, under the terms of which agreements the treasurer of state lends securities and the eligible financial institution or dealer agrees to simultaneously exchange similar securities or cash, equal value for equal value.

Securities and cash received as collateral for a securities lending agreement are not interim funds of the state. The investment of cash collateral received pursuant to a securities lending agreement may be invested only in such instruments specified by the treasurer of state in accordance with a written investment policy.

(6) Various forms of commercial paper issued by any entity that is organized under the laws of the United States or a state, which notes are rated in the two highest categories by two nationally recognized statistical rating organizations, provided that the total amount invested under this section in any commercial paper at any time shall not exceed forty per cent of the state's total average portfolio, as determined and calculated by the treasurer of state;

(7) Bankers acceptances, maturing in two hundred seventy days or less, provided that the total amount invested in bankers acceptances at any time shall not exceed ten per cent of the state's total average portfolio, as determined and calculated by the treasurer of state;

(8) Certificates of deposit, savings accounts, or deposit accounts in eligible institutions applying for interim moneys as provided in section 135.08 of the Revised Code, including linked deposits as authorized under section 135.61 of the Revised Code; For interim funds invested in accordance with division (A)(8) of this section, the pledging requirements described in section 135.18, 135.181, or 135.182 of the Revised Code may be reduced by up to ten per cent in accordance with rules adopted by the treasurer of state.

(9) Negotiable certificates of deposit denominated in United States dollars issued by a

nationally or state-chartered bank, a savings association or a federal savings association, a state or federal credit union, or a federally licensed or state-licensed branch of a foreign bank, which are rated in the two highest categories by two nationally recognized statistical rating organizations, provided that the total amount invested under this section in negotiable certificates of deposit at any time shall not exceed twenty-five per cent of the state's total average portfolio, as determined and calculated by the treasurer of state. Interim funds invested in accordance with division (A)(9) of this section are not limited to institutions applying for interim moneys under section 135.08 of the Revised Code, nor are they subject to any pledging requirements described in sections 135.18, 135.181, or 135.182 of the Revised Code.

(10) The state treasurer's investment pool authorized under section 135.45 of the Revised Code;

(11) Debt interests, other than commercial paper described in division (A)(6) of this section, rated in the ~~three~~four highest categories by two nationally recognized statistical rating organizations and issued by entities that are organized under the laws of the United States or a state, or issued by foreign nations diplomatically recognized by the United States government, or any instrument based on, derived from, or related to such interests, provided that:

(a) The investments in debt interests other than commercial paper, when added to the investment in written repurchase agreements for securities listed in division (A)(3) or (11) of this section, shall not exceed in the aggregate twenty-five per cent of the state's portfolio.

(b) The investments in debt interests rated in the fourth highest category shall not exceed in the aggregate ten per cent of the state's portfolio.

(c) The investments in debt interests issued by foreign nations shall not exceed in the aggregate two per cent of the state's portfolio.

The treasurer of state shall invest under division (A)(11) of this section in a debt interest issued by a foreign nation only if the debt interest is backed by the full faith and credit of that foreign nation, and provided that all interest and principal shall be denominated and payable in United States funds.

(~~e~~)(d) When added to the investment in commercial paper and negotiable certificates of deposit, the investments in the debt interests of a single issuer shall not exceed in the aggregate five per cent of the state's portfolio.

(~~d~~)(c) For purposes of division (A)(11) of this section, a debt interest is rated in the ~~three~~four highest categories by two nationally recognized statistical rating organizations if either the debt interest itself or the issuer of the debt interest is rated, or is implicitly rated, in the ~~three~~four highest categories by two nationally recognized statistical rating organizations.

(~~e~~)(f) For purposes of division (A)(11) of this section, the "state's portfolio" means the state's total average portfolio, as determined and calculated by the treasurer of state.

(12) No-load money market mutual funds rated in the highest category by one nationally recognized statistical rating organization or consisting exclusively of obligations described in

division (A)(1), (2), or (6) of this section and repurchase agreements secured by such obligations;

(13) Obligations issued by, or on behalf of, an Ohio political subdivision under Chapter 133. of the Revised Code or Section 12 of Article XVIII, Ohio Constitution, and identified in an agreement described in division (G) of this section;

(14) Obligations issued by the state of Ohio, any political subdivision thereof, or by or on behalf of any nonprofit corporation or association doing business in this state rated in the four highest categories by at least one nationally recognized statistical rating organization and identified in an agreement described in division (K) of this section.

~~(B)~~(B)(1) On or before the tenth day of each month, the treasurer of state shall notify the state board of deposit that the following reports pertaining to the immediately preceding month have been posted to the web site maintained by the treasurer of state:

~~(1)~~(a) The daily ledger report of state funds prepared in accordance with section 113.13 of the Revised Code;

~~(2)~~(b) The monthly portfolio report detailing the current inventory of all investments and deposits held within the classification of interim moneys;

~~(3)~~(c) The monthly activity report within the classification of interim moneys summarized by type of investment or deposit.

(2) In the event the state board of deposit does not concur in such classification or in the investments or deposits made under this section, subject to division (B)(3) of this section, the board may order the treasurer of state to sell or liquidate any of the investments or deposits, and any such order shall specifically describe the investments or deposits and fix the date upon which they are to be sold or liquidated. Investments or deposits so ordered to be sold or liquidated shall be sold or liquidated for cash by the treasurer of state on the date fixed in such order at the then current market price. Neither the treasurer of state nor the members of the state board of deposit shall be held accountable for any loss occasioned by sales or liquidations of investments or deposits at prices lower than their cost. Any loss or expense incurred in making these sales or liquidations is payable as other expenses of the treasurer's office.

(3) Unless expressly authorized by the laws of this state, the state board of deposit shall not order the treasurer of state to sell or liquidate investments or deposits with the primary purpose of influencing any environmental, social, personal, or ideological policy.

(C) If any securities or obligations invested in by the treasurer of state pursuant to this section are registrable either as to principal or interest, or both, such securities or obligations shall be registered in the name of the treasurer of state.

(D) The treasurer of state is responsible for the safekeeping of all securities or obligations under this section. Any such securities or obligations may be deposited for safekeeping as provided in section 113.05 of the Revised Code.

(E) Interest earned on any investments or deposits authorized by this section shall be collected by the treasurer of state and credited by the treasurer of state to the proper fund of the state.

(F) Whenever investments or deposits acquired under this section mature and become due and payable, the treasurer of state shall present them for payment according to their tenor, and shall collect the moneys payable thereon. The moneys so collected shall be treated as public moneys subject to sections 135.01 to 135.21 of the Revised Code.

(G) The treasurer of state and any entity issuing obligations referred to in division (A)(13) of this section, which obligations mature within one year from the original date of issuance, may enter into an agreement providing for:

(1) The purchase of those obligations by the treasurer of state on terms and subject to conditions set forth in the agreement;

(2) The payment to the treasurer of state of a reasonable fee as consideration for the agreement of the treasurer of state to purchase those obligations; provided, however, that the treasurer of state shall not be authorized to enter into any such agreement with a board of education of a school district that has an outstanding obligation with respect to a loan received under authority of section 3313.483 of the Revised Code.

(H) For purposes of division (G) of this section, a fee shall not be considered reasonable unless it is set to recover only the direct costs, a reasonable estimate of the indirect costs associated with the purchasing of obligations under division (G) of this section and any reselling of the obligations or any interest in the obligations, including interests in a fund comprised of the obligations, and the administration thereof. No money from the general revenue fund shall be used to subsidize the purchase or resale of these obligations.

(I) All money collected by the treasurer of state from the fee imposed by division (G) of this section shall be deposited to the credit of the state political subdivision obligations fund, which is hereby created in the state treasury. Money credited to the fund shall be used solely to pay the treasurer of state's direct and indirect costs associated with purchasing and reselling obligations under division (G) of this section.

(J) As used in this section, "political subdivision" means a county, township, municipal corporation, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.

(K)(1) The treasurer of state and any entity issuing obligations referred to in division (A)(14) of this section, which obligations require a conditional liquidity requirement, may enter into an agreement providing for the following:

(a) The purchase of the obligations by the treasurer of state on terms and subject to conditions set forth in the agreement;

(b) Payment to the treasurer of state of a fee as consideration for the agreement of the treasurer of state to purchase the obligations.

(2) The treasurer of state shall not enter into agreements under division (K)(1) of this section for obligations that, in the aggregate, exceed ten per cent of the state's total average portfolio, as determined and calculated by the treasurer of state.

(3) For purposes of division (A)(14) of this section, an obligation is rated in the four highest categories by at least one nationally recognized statistical rating organization if either the debt interest itself or the obligor of the debt interest is rated in the four highest categories by at least one nationally recognized statistical rating organization.

(4) All money collected by the treasurer of state from the fee imposed by division (K) of this section shall be deposited to the credit of the state securities tender program fund, which is hereby created in the state treasury. The amount of income from the state securities tender program credited to the state securities tender program fund shall not exceed one per cent of the average par value of obligations subject to agreements under division (K)(1) of this section. All other such income shall be credited to the general revenue fund. The treasurer of state may use the state securities tender program fund solely for operations of the office of the treasurer of state.

(L)(1) The treasurer of state and a state university or college issuing obligations under section 3345.12 of the Revised Code may enter into an agreement providing for the following:

(a) The purchase of those obligations by the treasurer of state pursuant to division (A)(3)(a) of this section on terms and subject to conditions set forth in the agreement;

(b) The department of higher education to withhold, in the event the state university or college does not pay bond service charges on the obligations when due, appropriated funds allocated to the state university or college in an amount sufficient to pay bond service charges on the obligations, less any amounts deposited for that purpose under the bond proceedings. Upon the request of the treasurer of state, the department of higher education shall promptly pay to the treasurer of state the amounts withheld.

(2) For purposes of division (L)(1) of this section, "obligations," "state university or college," "bond service charges," and "bond proceedings" have the same meanings as in section 3345.12 of the Revised Code.

(M) Unless expressly authorized by the laws of this state, the treasurer of state shall not do either of the following:

(1) Make an investment decision with the primary purpose of influencing any environmental, social, personal, or ideological policy;

(2) Permit any person or entity to which the treasurer of state delegates the management of the investment of state money to make investment decisions with state money with the primary purpose of influencing any environmental, social, personal, or ideological policy.

Sec. 135.1411. Unless expressly authorized by the laws of this state, the treasurer or the governing board of a municipal corporation shall not do either of the following:

(A) Make an investment decision with the primary purpose of influencing any environmental, social, personal, or ideological policy;

(B) Permit any person or entity to which the treasurer or governing board delegates the management of the investment of public money to make investment decisions with public money with the primary purpose of influencing any environmental, social, personal, or ideological policy.

Sec. 135.18. (A) Each institution designated as a public depository and awarded public deposits under sections 135.01 to 135.21 of the Revised Code, except as provided in section ~~135.144~~ ~~or~~ 135.145 of the Revised Code, shall provide security for the repayment of all public deposits by selecting one of the following methods:

(1) Securing all uninsured public deposits of each public depositor separately as set forth in divisions (B) to (J) of this section;

(2) Securing all uninsured public deposits of every public depositor pursuant to section 135.181 or 135.182 of the Revised Code, as applicable, by establishing and pledging to the treasurer of state a single pool of collateral for the benefit of every public depositor at the public depository.

(B) If a public depository elects to provide security pursuant to division (A)(1) of this section, the public depository shall pledge to the public depositor, as security for the repayment of all public moneys deposited in the public depository during the period of designation pursuant to an award made under sections 135.01 to 135.21 of the Revised Code, eligible securities of aggregate market value at all times equal to at least one hundred five per cent of the total amount of the public depositor's uninsured public deposits.

(C) In order for a public depository to receive public moneys under this section, the public depository and the public depositor shall first execute an agreement that sets forth the entire arrangement among the parties and that meets the requirements described in 12 U.S.C. 1823(e). In addition, the agreement shall authorize the public depositor to obtain control of the collateral pursuant to division (D) of section 1308.24 of the Revised Code.

(D) The following securities or other obligations shall be eligible for the purposes of this section:

(1) Bonds, notes, or other obligations of the United States; or bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the faith of the United States is pledged for the payment of principal and interest thereon, by language appearing in the instrument specifically providing such guarantee or pledge and not merely by interpretation or otherwise;

(2) Bonds, notes, debentures, letters of credit, or other obligations or securities issued by any federal government agency or instrumentality, or the export-import bank of Washington; bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the faith of the United States is pledged for the payment of principal and interest thereon, by interpretation or otherwise and not by language appearing in the instrument specifically providing such guarantee or pledge;

(3) Obligations of or fully insured or fully guaranteed by the United States or any federal government agency or instrumentality;

(4) Obligations partially insured or partially guaranteed by any federal agency or instrumentality;

(5) Obligations of or fully guaranteed by the federal national mortgage association, federal

home loan mortgage corporation, federal farm credit bank, or student loan marketing association;

(6) Bonds and other obligations of this state;

(7) Bonds and other obligations of any county, township, school district, municipal corporation, or other legally constituted taxing subdivision of this state, which is not at the time of such deposit, in default in the payment of principal or interest on any of its bonds or other obligations, for which the full faith and credit of the issuing subdivision is pledged;

(8) Bonds of other states of the United States which have not during the ten years immediately preceding the time of such deposit defaulted in payments of either interest or principal on any of their bonds;

(9) Shares of no-load money market mutual funds consisting exclusively of obligations described in division (D)(1) or (2) of this section and repurchase agreements secured by such obligations;

(10) A surety bond issued by a corporate surety licensed by the state and authorized to issue surety bonds in this state pursuant to Chapter 3929. of the Revised Code, and qualified to provide surety bonds to the federal government pursuant to 96 Stat. 1047 (1982), 31 U.S.C.A. 9304;

(11) Bonds or other obligations of any county, municipal corporation, or other legally constituted taxing subdivision of another state of the United States, or of any instrumentality of such county, municipal corporation, or other taxing subdivision, for which the full faith and credit of the issuer is pledged and, at the time of purchase of the bonds or other obligations, rated in one of the two highest categories by at least one nationally recognized statistical rating organization.

(E) An institution designated as a public depository shall designate a qualified trustee and place the eligible securities required by division (D) of this section with the trustee for safekeeping. The trustee shall hold the eligible securities in an account indicating the public depositor's security interest in the securities. The trustee shall report to the public depositor information relating to the securities pledged to secure the public deposits in the manner and frequency required by the public depositor.

(F) The qualified trustee shall enter into a custodial agreement with the public depositor and public depository in which the trustee agrees to comply with entitlement orders originated by the public depositor without further consent by the public depository or, in the case of collateral held by the public depository in an account at a federal reserve bank, the public depositor shall have the public depositor's security interest marked on the books of the federal reserve bank where the account for the collateral is maintained. If the public depository fails to pay over any part of the public deposits made by the public depositor therein as provided by law, the public depositor shall give written notice of this failure to the qualified trustee holding the securities pledged against its public deposits and, at the same time, shall send a copy of this notice to the public depository. Upon receipt of this notice, the trustee shall transfer to the public depositor for sale, the securities that are necessary to produce an amount equal to the public deposits made by the public depositor and not paid over, less the portion of the deposits covered by any federal deposit insurance, plus any accrued

interest due on the deposits. The public depositor shall sell any of the bonds or other securities so transferred. When a sale of bonds or other securities has been so made and upon payment to the public depositor of the purchase money, the public depositor shall transfer such bonds or securities whereupon the absolute ownership of such bonds or securities shall pass to the purchasers. Any surplus after deducting the amount due the public depositor and expenses of sale shall be paid to the public depository.

(G) When the public depository has placed eligible securities described in division (D)(1) of this section with a trustee for safekeeping, the public depository may at any time substitute or exchange eligible securities described in division (D)(1) of this section having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged, without specific authorization from any public depositor's governing board, boards, or treasurer of any such substitution or exchange.

(H) When the public depository has placed eligible securities described in divisions (D)(2) to (9) of this section with a trustee for safekeeping, the public depository may at any time substitute or exchange eligible securities having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged without specific authorization of any public depositor's governing board, boards, or treasurer of any such substitution or exchange only if one of the following applies:

(1) The public depositor has authorized the public depository to make such substitution or exchange on a continuing basis during a specified period without prior approval of each substitution or exchange. The authorization may be effected by the public depositor sending to the trustee a written notice stating that substitution may be effected on a continuing basis during a specified period which shall not extend beyond the end of the period of designation during which the notice is given. The trustee may rely upon this notice and upon the period of authorization stated therein and upon the period of designation stated therein.

(2) The public depository notifies the public depositor and the trustee of an intended substitution or exchange, and the public depositor does not object to the trustee as to the eligibility or market value of the securities being substituted within three business days after the date appearing on the notice of proposed substitution. The notice to the public depositor and to the trustee shall be given in writing and delivered electronically. The trustee may assume in any case that the notice has been delivered to the public depositor. In order for objections of the public depositor to be effective, receipt of the objections must be acknowledged in writing by the trustee.

(3) The public depositor gives written authorization for a substitution or exchange of specific securities.

(I) The public depository shall notify any public depositor of any substitution or exchange under division (H)(1) or (2) of this section.

(J) Any federal reserve bank or branch thereof located in this state or federal home loan bank, without compliance with Chapter 1111. of the Revised Code and without becoming subject to

any other law of this state relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in section 135.03 or 135.32 of the Revised Code that holds a certificate of qualification issued by the superintendent of financial institutions or any institution complying with sections 1111.04, 1111.05, and 1111.06 of the Revised Code, is qualified to act as trustee for the safekeeping of securities under this section, other than those belonging to itself or to an affiliate as defined in section 1101.01 of the Revised Code.

Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee has no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, without limitation, a substitution or exchange of securities.

Any charges or compensation of a designated trustee for acting as such under this section shall be paid by the public depository and in no event shall be chargeable to the state or the subdivision or to any officer of the state or subdivision. The charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the rights to and interests in the securities of the public depositor. The treasurer and the treasurer's bonders or surety shall be relieved from any liability to the public depositor or to the public depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.

Sec. 135.35. (A) The investing authority shall deposit or invest any part or all of the county's inactive moneys and shall invest all of the money in the county public library fund when required by section 135.352 of the Revised Code. The following classifications of securities and obligations are eligible for such deposit or investment:

(1) United States treasury bills, notes, bonds, or any other obligation or security issued by the United States treasury, any other obligation guaranteed as to principal or interest by the United States, or any book entry, zero-coupon United States treasury security that is a direct obligation of the United States.

Nothing in the classification of eligible securities and obligations set forth in divisions (A)(2) to (10) of this section shall be construed to authorize any investment in stripped principal or interest obligations of such eligible securities and obligations.

(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality, including, but not limited to, the federal national mortgage association, federal home loan bank, federal farm credit bank, federal home loan mortgage corporation, and government national mortgage association. All federal agency securities shall be direct issuances of federal government agencies or instrumentalities.

(3) Time certificates of deposit or savings or deposit accounts, including, but not limited to, passbook accounts, in any eligible institution mentioned in section 135.32 of the Revised Code;

(4) Bonds and other obligations of this state or the political subdivisions of this state,

provided the bonds or other obligations of political subdivisions mature within ten years from the date of settlement;

(5) No-load money market mutual funds rated in the highest category at the time of purchase by at least one nationally recognized statistical rating organization or consisting exclusively of obligations described in division (A)(1), (2), or (6) of section 135.143 of the Revised Code and repurchase agreements secured by such obligations, provided that investments in securities described in this division are made only through eligible institutions mentioned in section 135.32 of the Revised Code;

(6) The Ohio subdivision's fund as provided in section 135.45 of the Revised Code;

(7) Securities lending agreements with any eligible institution mentioned in section 135.32 of the Revised Code that is a member of the federal reserve system or federal home loan bank or with any recognized United States government securities dealer meeting the description in division (J)(1) of this section, under the terms of which agreements the investing authority lends securities and the eligible institution or dealer agrees to simultaneously exchange similar securities or cash, equal value for equal value.

Securities and cash received as collateral for a securities lending agreement are not inactive moneys of the county or moneys of a county public library fund. The investment of cash collateral received pursuant to a securities lending agreement may be invested only in instruments specified by the investing authority in the written investment policy described in division (K) of this section.

(8) Up to forty per cent of the county's total average portfolio in either of the following investments:

(a) Commercial paper notes issued by an entity that is defined in ~~division (D) of section 1705.01 or division (E)-(K) of section 1706.01~~ of the Revised Code and that has assets exceeding five hundred million dollars, to which notes all of the following apply:

(i) The notes are rated at the time of purchase in the highest classification established by at least two nationally recognized statistical rating organizations.

(ii) The aggregate value of the notes does not exceed ten per cent of the aggregate value of the outstanding commercial paper of the issuing corporation.

(iii) The notes mature not later than two hundred seventy days after purchase.

(iv) The investment in commercial paper notes of a single issuer shall not exceed in the aggregate five per cent of interim moneys available for investment at the time of purchase.

(b) Bankers acceptances of banks that are insured by the federal deposit insurance corporation and that mature not later than one hundred eighty days after purchase.

No investment shall be made pursuant to division (A)(8) of this section unless the investing authority has completed additional training for making the investments authorized by division (A)(8) of this section. The type and amount of additional training shall be approved by the treasurer of state and may be conducted by or provided under the supervision of the treasurer of state.

(9) Up to fifteen per cent of the county's total average portfolio in notes issued by

corporations that are incorporated under the laws of the United States and that are operating within the United States, or by depository institutions that are doing business under authority granted by the United States or any state and that are operating within the United States, provided both of the following apply:

(a) The notes are rated in the three highest categories by at least two nationally recognized statistical rating organizations at the time of purchase.

(b) The notes mature not later than three years after purchase.

(10) Debt interests rated at the time of purchase in the three highest categories by two nationally recognized statistical rating organizations and issued by foreign nations diplomatically recognized by the United States government. All interest and principal shall be denominated and payable in United States funds. The investments made under division (A)(10) of this section shall not exceed in the aggregate two per cent of a county's total average portfolio.

The investing authority shall invest under division (A)(10) of this section in a debt interest issued by a foreign nation only if the debt interest is backed by the full faith and credit of that foreign nation, there is no prior history of default, and the debt interest matures not later than five years after purchase. For purposes of division (A)(10) of this section, a debt interest is rated in the three highest categories by two nationally recognized statistical rating organizations if either the debt interest itself or the issuer of the debt interest is rated, or is implicitly rated, at the time of purchase in the three highest categories by two nationally recognized statistical rating organizations.

(11) A current unpaid or delinquent tax line of credit authorized under division (G) of section 135.341 of the Revised Code, provided that all of the conditions for entering into such a line of credit under that division are satisfied, or bonds and other obligations of a county land reutilization corporation organized under Chapter 1724. of the Revised Code, if the county land reutilization corporation is located wholly or partly within the same county as the investing authority.

(B) Nothing in the classifications of eligible obligations and securities set forth in divisions (A)(1) to (10) of this section shall be construed to authorize investment in a derivative, and no investing authority shall invest any county inactive moneys or any moneys in a county public library fund in a derivative. For purposes of this division, "derivative" means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument. An eligible investment described in this section with a variable interest rate payment, based upon a single interest payment or single index comprised of other eligible investments provided for in division (A)(1) or (2) of this section, is not a derivative, provided that such variable rate investment has a maximum maturity of two years. A treasury inflation-protected security shall not be considered a derivative, provided the security matures not

later than five years after purchase.

(C) Except as provided in division (A)(4) or (D) of this section, any investment made pursuant to this section must mature within five years from the date of settlement, unless the investment is matched to a specific obligation or debt of the county or to a specific obligation or debt of a political subdivision of this state, and the investment is specifically approved by the investment advisory committee.

(D) The investing authority may also enter into a written repurchase agreement with any eligible institution mentioned in section 135.32 of the Revised Code or any eligible securities dealer pursuant to division (J) of this section, under the terms of which agreement the investing authority purchases and the eligible institution or dealer agrees unconditionally to repurchase any of the securities listed in divisions (D)(1) to (5), except letters of credit described in division (D)(2), of section 135.18 of the Revised Code. The market value of securities subject to an overnight written repurchase agreement must exceed the principal value of the overnight written repurchase agreement by at least two per cent. A written repurchase agreement must exceed the principal value of the overnight written repurchase agreement, by at least two per cent. A written repurchase agreement shall not exceed thirty days, and the market value of securities subject to a written repurchase agreement must exceed the principal value of the written repurchase agreement by at least two per cent and be marked to market daily. All securities purchased pursuant to this division shall be delivered into the custody of the investing authority or the qualified custodian of the investing authority or an agent designated by the investing authority. A written repurchase agreement with an eligible securities dealer shall be transacted on a delivery versus payment basis. The agreement shall contain the requirement that for each transaction pursuant to the agreement the participating institution shall provide all of the following information:

- (1) The par value of the securities;
- (2) The type, rate, and maturity date of the securities;
- (3) A numerical identifier generally accepted in the securities industry that designates the securities.

No investing authority shall enter into a written repurchase agreement under the terms of which the investing authority agrees to sell securities owned by the county to a purchaser and agrees with that purchaser to unconditionally repurchase those securities.

(E) No investing authority shall make an investment under this section, unless the investing authority, at the time of making the investment, reasonably expects that the investment can be held until its maturity. The investing authority's written investment policy shall specify the conditions under which an investment may be redeemed or sold prior to maturity.

(F) No investing authority shall pay a county's inactive moneys or moneys of a county public library fund into a fund established by another subdivision, treasurer, governing board, or investing authority, if that fund was established by the subdivision, treasurer, governing board, or investing authority for the purpose of investing or depositing the public moneys of other subdivisions. This

division does not apply to the payment of public moneys into either of the following:

- (1) The Ohio subdivision's fund pursuant to division (A)(6) of this section;
- (2) A fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to the authority provided under section 715.02 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution.

For purposes of division (F) of this section, "subdivision" includes a county.

(G) The use of leverage, in which the county uses its current investment assets as collateral for the purpose of purchasing other assets, is prohibited. The issuance of taxable notes for the purpose of arbitrage is prohibited. Contracting to sell securities not owned by the county, for the purpose of purchasing such securities on the speculation that bond prices will decline, is prohibited.

(H) Any securities, certificates of deposit, deposit accounts, or any other documents evidencing deposits or investments made under authority of this section shall be issued in the name of the county with the county treasurer or investing authority as the designated payee. If any such deposits or investments are registrable either as to principal or interest, or both, they shall be registered in the name of the treasurer.

(I) The investing authority shall be responsible for the safekeeping of all documents evidencing a deposit or investment acquired under this section, including, but not limited to, safekeeping receipts evidencing securities deposited with a qualified trustee, as provided in section 135.37 of the Revised Code, and documents confirming the purchase of securities under any repurchase agreement under this section shall be deposited with a qualified trustee, provided, however, that the qualified trustee shall be required to report to the investing authority, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security, and that if the participating institution is a designated depository of the county for the current period of designation, the securities that are the subject of the repurchase agreement may be delivered to the treasurer or held in trust by the participating institution on behalf of the investing authority.

Upon the expiration of the term of office of an investing authority or in the event of a vacancy in the office for any reason, the officer or the officer's legal representative shall transfer and deliver to the officer's successor all documents mentioned in this division for which the officer has been responsible for safekeeping. For all such documents transferred and delivered, the officer shall be credited with, and the officer's successor shall be charged with, the amount of moneys evidenced by such documents.

(J)(1) All investments, except for investments in securities described in divisions (A)(5), (6), and (11) of this section, shall be made only through a member of the financial industry regulatory authority (FINRA), through a bank, savings bank, or savings and loan association regulated by the superintendent of financial institutions, or through an institution regulated by the comptroller of the currency, federal deposit insurance corporation, or board of governors of the federal reserve system.

(2) Payment for investments shall be made only upon the delivery of securities representing

such investments to the treasurer, investing authority, or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee.

(K)(1) Except as otherwise provided in division (K)(2) of this section, no investing authority shall make an investment or deposit under this section, unless there is on file with the auditor of state a written investment policy approved by the investing authority. The policy shall require that all entities conducting investment business with the investing authority shall sign the investment policy of that investing authority. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, initiating transactions with the investing authority by giving advice or making investment recommendations shall sign the investing authority's investment policy thereby acknowledging their agreement to abide by the policy's contents. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, executing transactions initiated by the investing authority, having read the policy's contents, shall sign the investment policy thereby acknowledging their comprehension and receipt.

(2) If a written investment policy described in division (K)(1) of this section is not filed on behalf of the county with the auditor of state, the investing authority of that county shall invest the county's inactive moneys and moneys of the county public library fund only in time certificates of deposits or savings or deposit accounts pursuant to division (A)(3) of this section, no-load money market mutual funds pursuant to division (A)(5) of this section, or the Ohio subdivision's fund pursuant to division (A)(6) of this section.

(L)(1) The investing authority shall establish and maintain an inventory of all obligations and securities acquired by the investing authority pursuant to this section. The inventory shall include a description of each obligation or security, including type, cost, par value, maturity date, settlement date, and any coupon rate.

(2) The investing authority shall also keep a complete record of all purchases and sales of the obligations and securities made pursuant to this section.

(3) The investing authority shall maintain a monthly portfolio report and issue a copy of the monthly portfolio report describing such investments to the county investment advisory committee, detailing the current inventory of all obligations and securities, all transactions during the month that affected the inventory, any income received from the obligations and securities, and any investment expenses paid, and stating the names of any persons effecting transactions on behalf of the investing authority.

(4) The monthly portfolio report shall be a public record and available for inspection under section 149.43 of the Revised Code.

(5) The inventory and the monthly portfolio report shall be filed with the board of county commissioners. The monthly portfolio report also shall be filed with the treasurer of state.

(M) An investing authority may enter into a written investment or deposit agreement that includes a provision under which the parties agree to submit to nonbinding arbitration to settle any

controversy that may arise out of the agreement, including any controversy pertaining to losses of public moneys resulting from investment or deposit. The arbitration provision shall be set forth entirely in the agreement, and the agreement shall include a conspicuous notice to the parties that any party to the arbitration may apply to the court of common pleas of the county in which the arbitration was held for an order to vacate, modify, or correct the award. Any such party may also apply to the court for an order to change venue to a court of common pleas located more than one hundred miles from the county in which the investing authority is located.

For purposes of this division, "investment or deposit agreement" means any agreement between an investing authority and a person, under which agreement the person agrees to invest, deposit, or otherwise manage, on behalf of the investing authority, a county's inactive moneys or moneys in a county public library fund, or agrees to provide investment advice to the investing authority.

(N)(1) An investment held in the county portfolio on September 27, 1996, that was a legal investment under the law as it existed before September 27, 1996, may be held until maturity.

(2) An investment held in the county portfolio on September 10, 2012, that was a legal investment under the law as it existed before September 10, 2012, may be held until maturity.

(O) Unless expressly authorized by the laws of this state, an investing authority shall not do either of the following:

(1) Make an investment decision with the primary purpose of influencing any environmental, social, personal, or ideological policy;

(2) Permit any person or entity to which the investing authority delegates the management of the investment of public money to make investment decisions with public money with the primary purpose of influencing any environmental, social, personal, or ideological policy.

Sec. 135.70. As used in sections 135.70 to 135.71 of the Revised Code:

(A) "Closing costs" means a disbursement listed on a closing disclosure for the purchase of a home by an eligible participant.

(B) "Closing disclosure" means the statement of receipts and disbursements for a transaction related to real estate, including a statement prescribed under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601 et seq., as amended, and the regulations thereunder.

(C) "Discount interest rate" means an interest rate below the prevailing interest rate that the treasurer of state determines eligible savings institutions are willing to pay to hold linked deposits.

(D) "Eligible credit union" has the same meaning as in section 135.62 of the Revised Code.

(E) "Eligible expenses" has the same meaning as in section 5747.85 of the Revised Code.

(F) "Eligible home costs" means the down payment, eligible expenses, and closing costs for the purchase of a home by an eligible participant, ~~or the transfer of funds from one homeownership savings account to another homeownership savings account~~ belonging to the eligible participant at a different eligible savings institution, or the withdrawal of funds from a homeownership savings account that are redeposited into the same or another homeownership savings account belonging to

the eligible participant within ninety days of the initial withdrawal.

(G) "Eligible participant" means an individual who has met all of the requirements necessary to participate in the specific linked deposit program for which they have applied.

(H) "Eligible program costs" means costs corresponding to the purpose of the eligible linked deposit program.

(I) "Eligible savings institution" means a financial institution that:

(1) Offers accounts to residents of this state to save for the purposes related to the applicable linked deposit program;

(2) Agrees to participate in the applicable linked deposit program;

(3) Is a public depository of state funds, or an eligible credit union designated under division (A) of section 135.12 of the Revised Code.

(J) "Home" means "primary residence" as defined by section 5747.85 of the Revised Code.

(K) "Homeownership savings account" means a linked deposit savings account opened exclusively for the purpose of paying eligible home costs and in compliance with the requirements of section 135.71 of the Revised Code.

(L) "Linked deposit" means a certificate of deposit, share certificate, other financial institution instrument, or portion of an existing deposit of interim funds made in accordance with section 135.09 of the Revised Code that is placed, purchased, or designated by the treasurer of state with an eligible savings institution; provided the institution agrees to pay the premium savings rate to approved eligible participants, in accordance with the deposit agreement required by section 135.703 of the Revised Code.

(M) "Linked deposit program" means a program authorized under section 135.61 and sections 135.70 to 135.71 of the Revised Code and established by the treasurer of state pursuant to those sections.

(N) "Linked deposit savings account" means an interest-bearing account that is opened by an eligible participant at an eligible savings institution exclusively for the purpose of the applicable linked deposit program.

(O) "Other financial institution instrument" means a product that otherwise would pay the prevailing interest rate approved by the treasurer of state, for the purpose of providing eligible participants with the benefits of the applicable linked deposit program, and in accordance with the deposit agreement under section 135.703 of the Revised Code.

(P) "Premium savings rate" means a rate, established under section 135.704 of the Revised Code, that reflects the percentage rate increase above the present savings rate, as determined by the eligible savings institution, applicable to each eligible participant.

(Q) "Prevailing interest rate" means a current market interest rate selected by the treasurer of state that eligible savings institutions are willing to pay to hold deposits of the treasurer of state.

(R) "Program period" means five years from the date the eligible participant opens a linked deposit savings account with the eligible savings institution.

(S) "Treasurer of state's assessment rate" has the same meaning as in section 135.62 of the Revised Code.

Sec. 135.71. (A) The general assembly finds that making homeownership more attainable is an important part of fostering a robust and lasting population across the state. However, individuals often struggle to accumulate the financial resources needed to purchase a home. Accordingly, it is declared to be the public policy of the state through the homeownership savings linked deposit program to make available premium rate savings accounts for the down payment and closing costs associated with the purchase of a home.

(B) An eligible participant for the homeownership savings linked deposit program is an individual who is a resident of this state, or a member of the uniformed services, on active duty assignment, who is a resident of this state via a residency or domicile election in accordance with 50 U.S.C. 4001, and has applied for a homeownership savings account at an eligible savings institution. A member of the uniformed services, who is an eligible participant, may apply for a homeownership savings account at an eligible savings institution on or after the date affixed to the permanent change of station orders. As used in this division, "active duty" and "uniformed services" have the meanings defined in 10 U.S.C. 101.

(C) An eligible participant shall certify on the application that the funds in the homeownership savings account shall be used exclusively for eligible home costs.

(D) A homeownership savings account shall be owned by not more than one eligible participant and an eligible participant shall hold not more than one homeownership savings account per program period at any eligible savings institution.

(E) The treasurer of state shall report to the tax commissioner any information in the treasurer of state's possession deemed necessary by the tax commissioner to properly administer section 5747.85 of the Revised Code.

(F) Not later than January 31, 2027, the treasurer of state and the tax commissioner shall issue a report regarding the efficacy of the homeownership savings linked deposit program. The report shall include all of the following:

- (1) The number of homeownership savings accounts created;
- (2) The number of participating eligible savings institutions;
- (3) The total amount contributed into the accounts;
- (4) The average ~~yield-premium~~ savings rate paid on the accounts;
- (5) Any other information the treasurer of state or tax commissioner deems relevant.

The report shall be delivered to the governor, the speaker of the house of representatives, and the president of the senate.

Sec. 141.04. (A) The annual salaries of the chief justice of the supreme court and of the justices and judges named in this section payable from the state treasury are as follows:

(1) For the chief justice of the supreme court, the following amounts effective in the following years:

(a) Beginning January 1, 2018, one hundred seventy-four thousand seven hundred dollars;
(b) Beginning January 1, 2019, one hundred eighty-three thousand four hundred fifty dollars;
(c) Beginning January 1, 2020, and in each calendar year thereafter through calendar year ~~2028-2025~~ beginning on the first day of January, the annual compensation amount shall be increased by one and three-quarters per cent;

(d) Beginning January 1, 2026, and in each calendar year thereafter through calendar year 2029 beginning on the first day of January, the annual compensation amount shall be increased by five per cent.

(2) For the justices of the supreme court, the following amounts effective in the following years:

(a) Beginning January 1, 2018, one hundred sixty-four thousand dollars;
(b) Beginning January 1, 2019, one hundred seventy-two thousand two hundred dollars;
(c) Beginning January 1, 2020, and in each calendar year thereafter through calendar year ~~2028-2025~~ beginning on the first day of January, the annual compensation amount shall be increased by one and three-quarters per cent;

(d) Beginning January 1, 2026, and in each calendar year thereafter through calendar year 2029 beginning on the first day of January, the annual compensation amount shall be increased by five per cent.

(3) For the judges of the courts of appeals, the following amounts effective in the following years:

(a) Beginning January 1, 2018, one hundred fifty-two thousand eight hundred fifty dollars;
(b) Beginning January 1, 2019, one hundred sixty thousand five hundred dollars;
(c) Beginning January 1, 2020, and in each calendar year thereafter through calendar year ~~2028-2025~~ beginning on the first day of January, the annual compensation amount shall be increased by one and three-quarters per cent;

(d) Beginning January 1, 2026, and in each calendar year thereafter through calendar year 2029 beginning on the first day of January, the annual compensation amount shall be increased by five per cent.

(4) For the judges of the courts of common pleas, the following amounts effective in the following years, reduced by an amount equal to the annual compensation paid to that judge from the county treasury pursuant to section 141.05 of the Revised Code:

(a) Beginning January 1, 2018, one hundred forty thousand five hundred fifty dollars;
(b) Beginning January 1, 2019, one hundred forty-seven thousand six hundred dollars;
(c) Beginning January 1, 2020, and in each calendar year thereafter through calendar year ~~2028-2025~~ beginning on the first day of January, the annual compensation amount shall be increased by one and three-quarters per cent;

(d) Beginning January 1, 2026, and in each calendar year thereafter through calendar year 2029 beginning on the first day of January, the annual compensation amount shall be increased by

five per cent.

(5) For the full-time judges of a municipal court or the part-time judges of a municipal court of a territory having a population of more than fifty thousand, the following amounts effective in the following years, reduced by an amount equal to the annual compensation paid to that judge pursuant to division (B)(1)(a) of section 1901.11 of the Revised Code from municipal corporations and counties:

(a) Beginning January 1, 2018, one hundred thirty-two thousand one hundred fifty dollars;

(b) Beginning January 1, 2019, one hundred thirty-eight thousand eight hundred dollars;

(c) Beginning January 1, 2020, and in each calendar year thereafter through calendar year ~~2028-2025~~ beginning on the first day of January, the annual compensation amount shall be increased by one and three-quarters per cent;

(d) Beginning January 1, 2026, and in each calendar year thereafter through calendar year 2029 beginning on the first day of January, the annual compensation amount shall be increased by five per cent.

(6) For judges of a municipal court designated as part-time judges by section 1901.08 of the Revised Code, other than part-time judges to whom division (A)(5) of this section applies, and for judges of a county court, the following amounts effective in the following years, reduced by an amount equal to the annual compensation paid to that judge pursuant to division (A) of section 1901.11 of the Revised Code from municipal corporations and counties or pursuant to division (A) of section 1907.16 of the Revised Code from counties:

(a) Beginning January 1, 2018, seventy-six thousand fifty dollars;

(b) Beginning January 1, 2019, seventy-nine thousand nine hundred dollars;

(c) Beginning January 1, 2020, and in each calendar year thereafter through calendar year ~~2028-2025~~ beginning on the first day of January, the annual compensation amount shall be increased by one and three-quarters per cent;

(d) Beginning January 1, 2026, and in each calendar year thereafter through calendar year 2029 beginning on the first day of January, the annual compensation amount shall be increased by five per cent.

(B) Except as provided in sections 1901.122 and 1901.123 of the Revised Code, except as otherwise provided in this division, and except for the compensation to which the judges described in division (A)(5) of this section are entitled pursuant to divisions (B)(1)(a) and (2) of section 1901.11 of the Revised Code, the annual salary of the chief justice of the supreme court and of each justice or judge listed in division (A) of this section shall be paid in equal monthly installments from the state treasury. If the chief justice of the supreme court or any justice or judge listed in division (A)(2), (3), or (4) of this section delivers a written request to be paid biweekly to the administrative director of the supreme court prior to the first day of January of any year, the annual salary of the chief justice or the justice or judge that is listed in division (A)(2), (3), or (4) of this section shall be paid, during the year immediately following the year in which the request is delivered to the

administrative director of the supreme court, biweekly from the state treasury.

(C) Upon the death of the chief justice or a justice of the supreme court during that person's term of office, an amount shall be paid in accordance with section 2113.04 of the Revised Code, or to that person's estate. The amount shall equal the amount of the salary that the chief justice or justice would have received during the remainder of the unexpired term or an amount equal to the salary of office for two years, whichever is less.

(D) Neither the chief justice of the supreme court nor any justice or judge of the supreme court, the court of appeals, the court of common pleas, or the probate court shall hold any other office of trust or profit under the authority of this state or the United States.

(E) In addition to the salaries payable pursuant to this section, the chief justice of the supreme court and the justices of the supreme court shall be entitled to a vehicle allowance of five hundred dollars per month, payable from the state treasury. The allowance shall be increased on the first day of January of each odd-numbered year by an amount equal to the percentage increase, if any, in the consumer price index for the immediately preceding twenty-four month period for which information is available.

(F) As used in this section:

(1) "Consumer price index" ~~has the same meaning as in section 101.27 of the Revised Code~~ means the consumer price index prepared by the United States bureau of labor statistics (U.S. city average for urban wage earners and clerical workers: all items, 1982-1984=100), or, if that index is no longer published, a generally available comparable index.

(2) "Salary" does not include any portion of the cost, premium, or charge for health, medical, hospital, dental, or surgical benefits, or any combination of those benefits, covering the chief justice of the supreme court or a justice or judge named in this section and paid on the chief justice's or the justice's or judge's behalf by a governmental entity.

Sec. 145.012. (A) "Public employee," as defined in division (A) of section 145.01 of the Revised Code, does not include any person:

(1) Who is employed by a private, temporary-help service and performs services under the direction of a public employer or is employed on a contractual basis as an independent contractor under a personal service contract with a public employer;

(2) Who is an emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency;

(3) Who is employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501;

(4) Who is an appointed member of either the motor vehicle salvage dealers board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code;

(5) Who is ~~employed~~ appointed to serve as an-a precinct election worker-official under section 3501.22 of the Revised Code and ~~paid less than six hundred dollars per calendar year~~

received compensation for that service, except for a under section 3501.28 of the Revised Code during a calendar year in which more than one primary election and one general election are held, ~~the person is paid six hundred dollars plus an amount not to exceed four hundred dollars for that service;~~

(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for the following:

(a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system;

(b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;

(c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.

(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;

(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;

(9) Who is a member of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code;

(10) Who is an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code;

(11) Who is employed by the nonprofit entity established to provide advocacy services and a client assistance program for people with disabilities under Section 319.20 of Am. Sub. H.B. 153 of the 129th general assembly and whose employment begins on or after October 1, 2012.

(B) No inmate of a correctional institution operated by the department of rehabilitation and correction, no patient in a hospital for persons with mental illnesses operated by the department of mental health and addiction services, no resident in an institution for persons with intellectual disabilities operated by the department of developmental disabilities, no resident admitted as a patient of a veterans' home operated under Chapter 5907. of the Revised Code, and no resident of a county home shall be considered as a public employee for the purpose of establishing membership or calculating service credit or benefits under this chapter. Nothing in this division shall be construed to affect any service credit attained by any person who was a public employee before becoming an inmate, patient, or resident at any institution listed in this division, or the payment of any benefit for which such a person or such a person's beneficiaries otherwise would be eligible.

Sec. 145.054. (A) No person shall knowingly fail to file a complete and accurate campaign

finance statement or independent expenditure statement in accordance with section 145.053 of the Revised Code.

(B) No person, during the course of a person seeking nomination for, or during any campaign for, election to the public employees retirement board, shall knowingly and with intent to affect the nomination or the outcome of the campaign do any of the following by means of campaign materials, an advertisement on radio or television or in a newspaper or periodical, a public speech, press release, or otherwise:

(1) With regard to a candidate, identify the candidate in a manner that implies that the candidate is a member of the board or use the term "re-elect" when the candidate is not currently a member of the board;

(2) Make a false statement concerning the formal schooling or training completed or attempted by a candidate; a degree, diploma, certificate, scholarship, grant, award, prize, or honor received, earned, or held by a candidate; or the period of time during which a candidate attended any school, college, community technical school, or institution;

(3) Make a false statement concerning the professional, occupational, or vocational licenses held by a candidate, or concerning any position the candidate held for which the candidate received a salary or wages;

(4) Make a false statement that a candidate or board member has been indicted or convicted of a theft offense, extortion, or other crime involving financial corruption or moral turpitude;

(5) Make a statement that a candidate has been indicted for any crime or has been the subject of a finding by the Ohio elections commission, the secretary of state, or the Ohio election integrity commission without disclosing the outcome of any legal proceedings resulting from the indictment or finding;

(6) Make a false statement that a candidate or board member has a record of treatment or confinement for mental disorder;

(7) Make a false statement that a candidate or board member has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;

(8) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a candidate by a person or publication;

(9) Make a false statement concerning the voting record of a candidate or board member;

(10) Post, publish, circulate, distribute, or otherwise disseminate a false statement concerning a candidate, either knowing the same to be false or with reckless disregard of whether it was false or not, if the statement is designed to promote the election, nomination, or defeat of the candidate.

Sec. 145.055. ~~The secretary of state, or any person acting on personal knowledge and subject to the penalties of perjury, may file a~~ A ~~complaint with the Ohio elections commission alleging a violation of section 145.054 of the Revised Code~~ may be filed in accordance with section 3517.16 of

~~the Revised Code. The complaint shall be made on a form prescribed and provided by the commission.~~

~~On receipt of a complaint under this section, the commission shall hold a hearing open to the public to determine whether the violation alleged in the complaint has occurred. The commission may administer oaths and issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and reports. On the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold contempt proceedings in accordance with Chapter 2705. of the Revised Code.~~

~~The commission shall provide the person accused of the violation at least seven days prior notice of the time, date, and place of the hearing. The accused may be represented by an attorney and shall have an opportunity to present evidence, call witnesses, and cross-examine witnesses.~~

~~At the hearing, the commission shall determine whether the violation alleged in the complaint has occurred. If the commission determines that a violation of division (A) of section 145.054 of the Revised Code has occurred, the commission shall either impose a fine under section 145.99 of the Revised Code or enter a finding that good cause has been shown not to impose the fine. If the commission determines that a violation of division (B) of section 145.054 of the Revised Code has occurred, the commission shall impose the fine described in section 145.99 of the Revised Code, refer the matter to the appropriate prosecutor, or enter a finding that good cause has been shown not to impose a fine or refer the matter to a prosecutor.~~

Sec. 145.09. The public employees retirement board shall elect from its membership a chairperson. The board shall appoint an executive director who shall serve as secretary to the board, an actuary, and other employees as necessary for the transaction of the business of the public employees retirement system. The compensation of all persons so appointed shall be fixed by the board. Such persons appointed by the board are not employees of the state and are not subject to Chapter 124. of the Revised Code.

~~If the board provides health care coverage to employees of the retirement system, it may permit employees of the Ohio public employees deferred compensation board to participate.~~

Effective ninety days after September 15, 2004, the board may not employ a state retirement system investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid state retirement system investment officer license issued by the division of securities in the department of commerce.

Every expense voucher of an employee, officer, or board member of the public employees retirement system shall itemize all purchases and expenditures.

The board shall perform other functions as required for the proper execution of this chapter, and may adopt rules in accordance with section 111.15 of the Revised Code for the proper administration and management of this chapter.

The board may take all appropriate action to avoid payment by the system or its members of

federal or state income taxes on contributions to the system or amounts earned on such contributions.

Notice of proposed rules shall be given to interested parties and rules adopted by the board shall be published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 106.024 of the Revised Code.

The board may sue and be sued, plead and be impleaded, contract and be contracted with. All of its business shall be transacted, all of its funds invested, all warrants for money drawn and payments made, and all of its cash and securities and other property shall be held in the name of the board, or in the name of its nominee, provided that nominees are authorized by retirement board resolution for the purpose of facilitating the ownership and transfer of investments.

If the Ohio retirement study council establishes a uniform format for any report the board is required to submit to the council, the board shall submit the report in that format.

Sec. 145.091. The public employees retirement system shall administer the PERS defined benefit plan ~~and~~, the PERS defined contribution plans, and the Ohio public employees deferred compensation program established under Chapter 148. of the Revised Code.

Sec. 145.99. (A) Whoever violates division (A) of section 145.054 of the Revised Code shall be fined not more than one hundred dollars for each day of the violation.

(B) Whoever violates division (B) of section 145.054 of the Revised Code shall be imprisoned for not more than six months or fined not more than five thousand dollars, or both.

~~(C) Fines imposed by the Ohio elections commission under this section shall be paid into the Ohio elections commission fund created under section 3513.10 of the Revised Code.~~

Sec. 148.01. (A) As used in this chapter:

(1) "Eligible employee" means any public employee, as defined in division (A) of section 145.01 of the Revised Code; any person eligible to become a member of the public employees retirement system under section 145.20 of the Revised Code; any employee, as defined in division (C) of section 742.01, division (B) of section 3309.01, or division (A) of section 5505.01 of the Revised Code; any electing employee, as defined in section 3305.01 of the Revised Code; and any member of the state teachers retirement system.

(2) "Participant account" means any of the following accounts:

(a) An account that is maintained by the ~~Ohio public employees deferred compensation retirement~~ board and that evidences moneys that have been deferred by, or on behalf of, a continuing member or participating employee and transmitted to the board by the retirement system of the continuing member or participating employee;

(b) An account that is maintained by the governing board, administrator, depository, or trustee of a deferred compensation program of a municipal corporation and that evidences moneys that have been deferred by an officer or employee of that municipal corporation and transmitted to

the governing board, administrator, depository, or trustee by the retirement system of the officer or employee or in another manner;

(c) An account that is maintained by a governing board, as defined in section 148.06 of the Revised Code, and that evidences moneys that have been deferred by an officer or employee of a government unit, as defined in that section, and transmitted to the governing board by the retirement system of the officer or employee or in another manner.

(3) "Participating employee" means any eligible employee who is having compensation deferred pursuant to either of the following:

(a) An agreement that is entered into before the compensation is earned and that is with the eligible employee's employer and the ~~Ohio public employees deferred compensation retirement~~ board;

(b) Automatic enrollment in the Ohio public employees deferred compensation program under section 148.042 of the Revised Code.

(4) "Continuing member" means any former participating employee who is not currently having compensation deferred, or the former participating employee's beneficiary, to whom payment has not been made of all deferred compensation distributions.

(B) Notwithstanding section 145.01 of the Revised Code, the definitions of that section are applicable to this chapter only to any extent necessary to fully understand the provisions of this chapter. Reference may also be had to Chapters 742., 3305., 3307., 3309., and 5505. of the Revised Code for that purpose.

Sec. 148.02. ~~The Ohio public employees deferred compensation board shall be comprised of a member of the house of representatives and a member of the senate, who shall not be of the same political party, each to be appointed to serve at the pleasure of the member's respective leadership, and the members of the public employees retirement board as constituted by section 145.04 of the Revised Code, who are~~ program is hereby created as a separate legal entity for the purpose of administering a deferred compensation system for all eligible employees. The public employees retirement board created in section 145.04 of the Revised Code shall administer the program. The board may utilize its employees and property in the administration of the ~~system on behalf of the Ohio public employees deferred compensation board, program~~ in consideration of a reasonable service charge to be applied in a nondiscriminatory manner to all amounts of compensation deferred under ~~this system~~ the program.

The ~~Ohio public employees deferred compensation board~~ may exercise the same powers granted by section 145.09 of the Revised Code necessary to perform its functions under this chapter. The attorney general shall be the legal adviser of the board. The Ohio public employees deferred compensation receiving account, which is hereby created, shall be in the custody of the treasurer of state, but shall not be part of the state treasury. The Ohio public employees deferred compensation receiving account is a legal entity that is separate from the various funds created under Chapter 145. of the Revised Code.

Sec. 148.021. Whenever the Ohio public employees deferred compensation board or the executive director of that board or a variation thereof is used, referred to, or designated in any statute, rule, contract, grant, or other document, the use, reference, or designation shall be deemed to refer to the public employees retirement board or the executive director of the public employees retirement system, as the case may be.

Sec. 148.04. (A) The ~~Ohio public employees deferred compensation retirement~~ board shall initiate, plan, expedite, and, subject to an appropriate assurance of the approval of the internal revenue service, promulgate and offer to all eligible employees, and thereafter administer on behalf of all participating employees and continuing members, and alter as required, a program for deferral of compensation, including a reasonable number of options to the employee for the investment of deferred funds, always in such form as will assure the desired tax treatment of such funds. The members of the board are the trustees of any deferred funds and shall discharge their duties with respect to the funds solely in the interest of and for the exclusive benefit of participating employees, continuing members, and their beneficiaries. With respect to such deferred funds, section 148.09 of the Revised Code shall apply to claims against participating employees or continuing members and their employers.

(B) Every employer of an eligible employee shall enroll the employee in a deferred compensation program offered by the board on the employee's application to participate, on the employee's election under section 148.041 of the Revised Code, or by automatic enrollment under section 148.042 of the Revised Code.

(C) The board shall take all actions necessary to ensure that the program qualifies as an eligible deferred compensation plan under section 457(b) of the Internal Revenue Code of 1986, 26 U.S.C. 457. The board shall, subject to any applicable provisions of the Ohio public employees deferred compensation program plan, undertake to obtain as favorable conditions of tax treatment as possible, both in the initial programs and any permitted alterations of them or additions to them, as to such matters as terms of distribution, designation of beneficiaries, withdrawal upon disability, financial hardship, or termination of public employment, and other optional provisions.

The board may establish a designated Roth account feature or any other feature in which an employee may make tax-deferred or nontax-deferred contributions to an eligible government plan in accordance with 26 U.S.C. 457, as amended.

(D) In no event shall the total of the amount of deferred compensation to be set aside under a deferred compensation program and the employee's nondeferred income for any year exceed the total annual salary or compensation under the existing salary schedule or classification plan applicable to the employee in that year.

Such a deferred compensation program shall be in addition to any retirement or any other benefit program provided by law for employees of this state. The board shall adopt rules pursuant to Chapter 119. of the Revised Code to provide any necessary standards or conditions for the administration of its programs, including any limits on the portion of a participating employee's

compensation that may be deferred in order to avoid adverse treatment of the program by the internal revenue service or the occurrence of deferral, withholding, or other deductions in excess of the compensation available for any pay period.

Both of the following apply to a deferred compensation program established under this section:

(1) Any income deferred under the program shall continue to be included as regular compensation for the purpose of computing the contributions to and benefits from the retirement system of an employee;

(2) Any sums deferred shall not be included in the computation of any federal and state income taxes withheld on behalf of an employee. Sums contributed to a Roth account feature or other feature to which nontax-deferred contributions are made shall be included in the computation of any federal and state income taxes withheld on behalf of an employee.

(E) This section does not limit the authority of any municipal corporation, county, township, park district, conservancy district, sanitary district, health district, public library, county law library, public institution of higher education, or school district to provide separate authorized plans or programs for deferring compensation of their officers and employees in addition to the program for the deferral of compensation offered by the board. Any municipal corporation, township, public institution of higher education, or school district that offers such plans or programs shall include a reasonable number of options to its officers or employees for the investment of the deferred funds, including annuities, variable annuities, regulated investment trusts, or other forms of investment approved by the municipal corporation, township, public institution of higher education, or school district, that will assure the desired tax treatment of the funds.

Sec. 148.041. (A) Unless the employee will be automatically enrolled in the Ohio public employees deferred compensation program under section 148.042 of the Revised Code, whenever an eligible employee becomes employed in a position paid by warrant of the director of budget and management, the employee's employer shall do both of the following at the time the employee completes the employee's initial employment paperwork:

(1) Provide to the employee materials provided by the ~~Ohio public employees deferred compensation-retirement~~ board under division (D) of this section regarding the benefits of long-term savings through deferred compensation;

(2) Except as otherwise provided in division (E) of this section, secure, in writing or by electronic means, the employee's election to participate or not participate in a deferred compensation program offered by the board.

(B) An election regarding participation under this section shall be made in the manner prescribed by the board.

(C) The employer shall forward each election completed under this section to the program not later than forty-five days after the date the employee's employment begins.

(D) The board shall provide informational materials and participation forms to employers

required to comply with this section.

(E) If an eligible employee transfers employment from one position paid by warrant of the director of budget and management to another position paid by warrant of the director of budget and management and, at the time of transfer, is a participating employee, the employee's new employer shall not be required to secure the employee's election to participate or not participate under division (A)(2) of this section.

Sec. 148.042. (A) As used in this section, "employing authority" means both of the following:

(1) The supreme court, house of representatives, senate, legislative service commission, secretary of state, auditor of state, treasurer of state, or attorney general with respect to employees of those entities;

(2) The director of administrative services, with respect to eligible employees employed in a position paid by warrant of the director of budget and management who are not employed by a person or entity listed in division (A)(1) of this section.

(B)(1) An employing authority may elect to automatically enroll employees described in division (C)(1) of this section in the Ohio public employees deferred compensation program. An employing authority that elects automatic enrollment shall notify the ~~Ohio~~ public employees ~~deferred compensation retirement~~ board of that election. Automatic enrollment shall commence as soon as administratively practical for the board and the employing authority.

(2) An employing authority that elects automatic enrollment may cease automatic enrollment by notifying the board. The employing authority shall specify in the notice the date on which automatic enrollment will cease, and that date must be at least ninety days after the date the employing authority sends the notice. An employee who commences employment after automatic enrollment ceases may elect to participate in the program in accordance with section 148.04 or 148.041 of the Revised Code. Cessation of automatic enrollment does not affect the enrollment of employees enrolled during an automatic enrollment period.

An employing authority that ceases automatic enrollment may subsequently elect automatic enrollment by complying with division (B)(1) of this section.

(C)(1) An eligible employee employed by an employing authority that has elected automatic enrollment shall be automatically enrolled in the program if one of the following applies to the employee:

(a) The employee initially commences employment with the employing authority on or after the date automatic enrollment begins under division (B) of this section.

(b) The employee separates from employment with an employing authority, becomes a continuing member, and, on or after the date automatic enrollment begins, commences employment with that employing authority or a different employing authority.

(c) The employee is employed in a position paid by warrant of the director of budget and management and the employee transfers employment from an employing authority that has not

elected to automatically enroll employees under this section to another position paid by warrant of the director of budget and management under an employing authority that has elected to automatically enroll employees, if the transfer occurs on or after the date automatic enrollment begins.

(2) An employee who, at the time of transferring from one employing authority to another as described in division (C)(1)(c) of this section, is a participating employee shall not be automatically enrolled in the program by the employing authority to which the employee transfers.

(D) The board shall establish the automatic deferral amounts and specify the investment options into which those deferred amounts will be invested for participating employees who are enrolled under this section. Deferral amounts shall not exceed the lesser of either ten per cent of an eligible employee's compensation or the maximum contribution that the employee is eligible to contribute under federal law.

(E) An employing authority that elects to automatically enroll employees under this section shall provide those employees with notice of the employee's rights and obligations in the manner prescribed by the board.

(F) An employing authority shall not elect to automatically enroll an eligible employee under this section, or elect to cease automatic enrollment, if that election conflicts with any collective bargaining agreement entered into between the employing authority and an exclusive representative as defined in section 4117.01 of the Revised Code.

Sec. 148.05. (A)(1) As used in this division, "personal history record" means information maintained by the ~~Ohio public employees deferred compensation retirement~~ board on an individual who is a participating employee or continuing member that includes the address, telephone number, social security number, record of contributions, records of benefits, correspondence with the Ohio public employees deferred compensation program, or other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except that the following shall be excluded, except with the written authorization of the individual concerned:

- (a) Information pertaining to an individual's participant account;
- (b) The individual's personal history record.

(B)(1) All medical reports, records, and recommendations of a participating employee or a continuing member that are in the possession of the board are privileged.

(2) All tax information of a participating employee, continuing member, or former participant or member that is in the possession of the board shall be confidential to the extent the information is confidential under Title LVII or any other provision of the Revised Code.

(C) Notwithstanding the exceptions to public inspection in division (A)(2) of this section, the board may furnish the following information:

(1) If a participating employee, continuing member, or former participant or member is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads

guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record or participant account.

(2) Pursuant to a court or administrative order issued pursuant to Chapter 3119., 3121., 3123., or 3125. of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) Pursuant to an administrative subpoena issued by a state agency, the board shall furnish the information required by the subpoena.

(4) The board shall comply with orders issued under section 3105.87 of the Revised Code.

(D) A statement that contains information obtained from the program's records that is signed by the executive director or the director's designee and to which the board's official seal is affixed, or copies of the program's records to which the signature and seal are attached, shall be received as true copies of the board's records in any court or before any officer of this state.

Sec. 148.10. (A) Notwithstanding any other provision of this chapter, any payment, other than a survivorship benefit, that is to be made to a person by a deferred compensation program pursuant to those sections or a deferred compensation program offered by a government unit, as defined in section 148.06 of the Revised Code, or by a municipal corporation is subject to any withholding order issued pursuant to section 2907.15 or division (C)(2)(b) of section 2921.41 of the Revised Code. The ~~Ohio public employees deferred compensation retirement~~ board, the governing board, as defined in section 148.06 of the Revised Code, that is associated with a government unit, and the governing board, administrator, depository, or trustee of a deferred compensation program of a municipal corporation shall comply with that withholding order in making payment.

(B) Notwithstanding any other provision of this chapter, if a deferred compensation program receives a notice pursuant to section 2907.15 or division (D) of section 2921.41 of the Revised Code that a person who has a participant account has been charged with a violation of section 2907.02, 2907.03, 2907.04, 2907.05, or 2921.41 of the Revised Code, no payment from that account shall be made prior to whichever of the following is applicable:

(1) If the person is convicted of or pleads guilty to the violation and a motion for a withholding order for purposes of restitution has not been filed under section 2907.15 or division (C)(2)(b)(i) of section 2921.41 of the Revised Code, thirty days after the day on which the person is sentenced for the violation;

(2) If the person is convicted of or pleads guilty to the violation and a motion for a withholding order for purposes of restitution has been filed under section 2907.15 or division (C)(2)(b)(i) of section 2921.41 of the Revised Code, the day on which the court decides the motion;

(3) If the charge is dismissed or the person is found not guilty or not guilty by reason of insanity of the violation, the day on which the dismissal of the charge or the verdict is entered in the journal of the court.

Sec. 149.011. As used in this chapter, except as otherwise provided:

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

(B) "State agency" includes every department, bureau, board, commission, office, or other organized body established by the constitution and laws of this state for the exercise of any function of state government, including any state-supported institution of higher education, the general assembly, any legislative agency, any court or judicial agency, or any political subdivision or agency of a political subdivision. "State agency" does not include the nonprofit corporation formed under section 187.01 of the Revised Code.

(C) "Public money" includes all money received or collected by or due a public official, whether in accordance with or under authority of any law, ordinance, resolution, or order, under color of office, or otherwise. It also includes any money collected by any individual on behalf of a public office or as a purported representative or agent of the public office.

(D) "Public official" includes all officers, employees, or duly authorized representatives or agents of a public office.

(E) "Color of office" includes any act purported or alleged to be done under any law, ordinance, resolution, order, or other pretension to official right, power, or authority.

(F) "Archive" includes any public record that is transferred to the state archives or other designated archival institutions because of the historical information contained on it.

(G) "Records" includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office. "Records" does not include personal notes or any document, device, or item, regardless of physical form or whether an assistive device or application was used, of a public official, or of the official's attorney, employee, or agent, that is used, maintained, and accessed solely by the individual who creates it or causes its creation.

Sec. 149.10. All boards, commissions, agencies, institutions, and departments in the executive branch of state government shall submit to the auditor of state a copy of each formal internally or independently produced audit report, as well as any management study or report ~~which~~ that recommends changes which that would affect the auditing system. Pursuant to section 117.43 of the Revised Code, no such report shall be produced without the approval of the auditor of state.

Sec. 149.30. The Ohio history connection, chartered by this state as a corporation not for profit to promote a knowledge of history and archaeology, especially of Ohio, and operated continuously in the public interest since 1885, may perform public functions as prescribed by law.

The general assembly may appropriate money to the Ohio history connection each biennium to carry out the public functions of the Ohio history connection as enumerated in this section. An

appropriation by the general assembly to the Ohio history connection constitutes an offer to contract with the Ohio history connection to carry out those public functions for which appropriations are made. An acceptance by the Ohio history connection of the appropriated funds constitutes an acceptance by the Ohio history connection of the offer and is considered an agreement by the Ohio history connection to perform those functions in accordance with the terms of the appropriation and the law and to expend the funds only for the purposes for which appropriated. The governor may request on behalf of the Ohio history connection, and the controlling board may release, additional funds to the Ohio history connection for survey, salvage, repair, or rehabilitation of an emergency nature for which funds have not been appropriated, and acceptance by the Ohio history connection of those funds constitutes an agreement on the part of the Ohio history connection to expend those funds only for the purpose for which released by the controlling board.

The Ohio history connection shall faithfully expend and apply all moneys received from the state to the uses and purposes directed by law and for necessary administrative expenses. If the general assembly appropriates money to the Ohio history connection for grants or subsidies to other entities for their site-related programs, the Ohio history connection, except for good cause, shall distribute the money within ninety days of accepting a grant or subsidy application for the money.

The Ohio history connection shall perform the public function of sending notice by ordinary or certified mail to the owner of any property at the time it is listed on the national register of historic places. The Ohio history connection shall accurately record all expenditures of such funds in conformity with generally accepted accounting principles.

The auditor of state shall audit all funds and fiscal records of the Ohio history connection.

The public functions to be performed by the Ohio history connection shall include all of the following:

(A) Creating, supervising, operating, protecting, maintaining, and promoting for public use a system of state memorials, titles to which may reside wholly or in part with this state or wholly or in part with the Ohio history connection as provided in and in conformity to appropriate acts and resolves of the general assembly, and leasing for renewable periods of two years or less, with the advice and consent of the attorney general and the director of administrative services, lands and buildings owned by the state which are in the care, custody, and control of the Ohio history connection, all of which shall be maintained and kept for public use at reasonable hours;

(B) Making alterations and improvements, marking, and constructing, reconstructing, protecting, or restoring structures, earthworks, and monuments in its care, and equipping such facilities with appropriate educational maintenance facilities;

(C) Serving as the archives administration for the state and its political subdivisions as provided in sections 149.31 to 149.42 of the Revised Code;

(D) Administering a state historical museum, to be the headquarters of the society and its principal museum and library, which shall be maintained and kept for public use at reasonable hours;

(E) Establishing a marking system to identify all designated historic and archaeological sites

within the state and marking or causing to be marked historic sites and communities considered by the society to be historically or archaeologically significant;

(F) Publishing books, pamphlets, periodicals, and other publications about history, archaeology, and natural science and offering one copy of each regular periodical issue to all public libraries in this state at a reasonable price, which shall not exceed one hundred ten per cent more than the total cost of publication;

(G) Engaging in research in history, archaeology, and natural science and providing historical information upon request to all state agencies;

(H) Collecting, preserving, and making available by all appropriate means and under approved safeguards all manuscript, print, or near-print library collections and all historical objects, specimens, and artifacts which pertain to the history of Ohio and its people, including the following original documents: Ohio Constitution of 1802; Ohio Constitution of 1851; proposed Ohio Constitution of 1875; design and the letters of patent and assignment of patent for the state flag; S.J.R. 13 (1873); S.J.R. 53 (1875); S.J.R. 72 (1875); S.J.R. 50 (1883); H.J.R. 73 (1883); S.J.R. 28 (1885); H.J.R. 67 (1885); S.J.R. 17 (1902); S.J.R. 28 (1902); H.J.R. 39 (1902); S.J.R. 23 (1903); H.J.R. 19 (1904); S.J.R. 16 (1905); H.J.R. 41 (1913); H.J.R. 34 (1917); petition form (2) (1918); S.J.R. 6 (1921); H.J.R. 5 (1923); H.J.R. 40 (1923); H.J.R. 8 (1929); H.J.R. 20 (1929); S.J.R. 4 (1933); petition form (2) (1933); S.J.R. 57 (1936); petition form (1936); H.J.R. 14 (1942); H.J.R. 15 (1944); H.J.R. 8 (1944); S.J.R. 6 (1947); petition form (1947); H.J.R. 24 (1947); and H.J.R. 48 (1947);

(I) Encouraging and promoting the organization and development of county and local historical societies;

(J) Providing to Ohio schools such materials as the Ohio history connection may prepare to facilitate the instruction of Ohio history at a reasonable price, which shall not exceed one hundred ten per cent more than the total cost of preparation and delivery;

(K) Providing advisory and technical assistance to local societies for the preservation and restoration of historic and archaeological sites;

(L) Devising uniform criteria for the designation of historic and archaeological sites throughout the state and advising local historical societies of the criteria and their application;

(M) Taking inventory, in cooperation with the Ohio arts council, the Ohio archaeological council, and the archaeological society of Ohio, of significant designated and undesignated state and local sites and keeping an active registry of all designated sites within the state;

(N) Contracting with the owners or persons having an interest in designated historic or archaeological sites or property adjacent or contiguous to those sites, or acquiring, by purchase, gift, or devise, easements in those sites or in property adjacent or contiguous to those sites, in order to control or restrict the use of those historic or archaeological sites or adjacent or contiguous property for the purpose of restoring or preserving the historical or archaeological significance or educational value of those sites;

(O) Constructing a monument honoring Governor James A. Rhodes, which shall stand on the northeast quadrant of the grounds surrounding the capitol building. The monument shall be constructed with private funds donated to the Ohio history connection and designated for this purpose. No public funds shall be expended to construct this monument. The department of administrative services shall cooperate with the Ohio history connection in carrying out this function and shall maintain the monument in a manner compatible with the grounds of the capitol building.

(P) Commissioning a portrait of each departing governor, which shall be displayed in the capitol building. The Ohio history connection may accept private contributions designated for this purpose and, at the discretion of its board of trustees, also may apply for the same purpose funds appropriated by the general assembly to the Ohio history connection pursuant to this section.

(Q) Being the custodian of the field notes, maps, records, documents, papers, and implements relating to or used in the survey of the public lands within the state, which were delivered to the executive of this state by the surveyor of the United States at Detroit, by order of the government of the United States, the records of field notes and other records of papers that have been added thereto, the records of deeds and other records or papers relating to the public lands originally deposited with the governor or secretary of state, and the records, maps, plats, papers, documents, and implements relating to the public lands in the Virginia military district in this state, from the United States land office at Chillicothe. These records and files shall be subject to inspection, and the Ohio history connection, on demand and tender of the proper fees, shall furnish certified copies of any of them.

(R) Furnishing to the board of education of each school district copies of deeds, leases, field notes, records, and other papers and documents that are in the Ohio history connection's possession, relating to the lands appropriated by congress for the support of schools and ministerial purposes that have been allocated for the benefit of that district, and such copies, when certified by the Ohio history connection, shall be received as competent evidence and shall have the same force and effect as the originals. The Ohio history connection shall charge fees sufficient to defray the cost of preparing copies.

(S) Submitting an annual report of its activities, programs, and operations to the governor within two months after the close of each fiscal year of the state.

The Ohio history connection, with the help of local historical societies, may compile and maintain a registry of war relics, as defined in section 155.28 of the Revised Code, that are located on public property or on the property of a cemetery association.

The Ohio history connection shall not sell, mortgage, transfer, or dispose of historical or archaeological sites to which it has title and in which the state has monetary interest except by action of the general assembly.

Money or fines paid to the Ohio history connection under section 155.99 of the Revised Code shall be expended by the Ohio history connection only for the preservation of war relics.

In consideration of the public functions performed by the Ohio history connection for the

state, employees of the Ohio history connection shall be considered public employees within the meaning of section 145.01 of the Revised Code.

Sec. 149.3010. The Ohio history connection, in addition to its other functions, may use any land owned by the Ohio history connection, any land owned by the state and in the Ohio history connection's custody and control, any land leased by the Ohio history connection, or any land that the Ohio history connection has agreed to lease to another entity or organization, for the purpose of repatriation of American Indian human remains.

The Ohio history connection shall work with and cooperate with federally recognized Indian tribal governments in the selection, management, and use of burial sites under this section. The Ohio history connection shall implement reasonable standards for the use and maintenance of the burial sites. In the event the Ohio history connection shall deaccession, otherwise dispose of, or no longer have custody and control of a burial site, the Ohio history connection shall retain access and authority to maintain the site or the Ohio history connection shall assign its right of access and maintenance to the person acquiring the site. For each burial site established on or after the effective date of this section, and for each burial site established before the effective date of this section and for which it is legally feasible, the Ohio history connection shall establish a perpetual easement, enforceable by the Ohio history connection or a person assigned by the Ohio history connection, to preserve the burial sites.

Chapters 517., 759., 1721., and 4767. of the Revised Code do not apply to burial sites under this section.

Sec. 149.311. (A) As used in this section:

(1) "Historic building" means a building, including its structural components, that is located in this state and that is either individually listed on the national register of historic places under 16 U.S.C. 470a, located in a registered historic district, and certified by the state historic preservation officer as being of historic significance to the district, or is individually listed as an historic landmark designated by a local government certified under 16 U.S.C. 470a(c).

(2) "Qualified rehabilitation expenditures" means expenditures paid or incurred during the rehabilitation period, and before and after that period as determined under 26 U.S.C. 47, by an owner or qualified lessee of an historic building to rehabilitate the building. "Qualified rehabilitation expenditures" includes architectural or engineering fees paid or incurred in connection with the rehabilitation, and expenses incurred in the preparation of nomination forms for listing on the national register of historic places. "Qualified rehabilitation expenditures" does not include any of the following:

- (a) The cost of acquiring, expanding, or enlarging an historic building;
 - (b) Expenditures attributable to work done to facilities related to the building, such as parking lots, sidewalks, and landscaping;
 - (c) New building construction costs.
- (3) "Owner" of an historic building means a person holding the fee simple interest in the

building. "Owner" does not include the state or a state agency, or any political subdivision as defined in section 9.23 of the Revised Code.

(4) "Qualified lessee" means a person subject to a lease agreement for an historic building and eligible for the federal rehabilitation tax credit under 26 U.S.C. 47. "Qualified lessee" does not include the state or a state agency or political subdivision as defined in section 9.23 of the Revised Code.

(5) "Certificate owner" means the owner or qualified lessee of an historic building to which a rehabilitation tax credit certificate was issued under this section.

(6) "Registered historic district" means an historic district listed in the national register of historic places under 16 U.S.C. 470a, an historic district designated by a local government certified under 16 U.S.C. 470a(c), or a local historic district certified under 36 C.F.R. 67.8 and 67.9.

(7) "Rehabilitation" means the process of repairing or altering an historic building or buildings, making possible an efficient use while preserving those portions and features of the building and its site and environment that are significant to its historic, architectural, and cultural values.

(8) "Rehabilitation period" means one of the following:

(a) If the rehabilitation initially was not planned to be completed in stages, a period chosen by the owner or qualified lessee not to exceed twenty-four months during which rehabilitation occurs;

(b) If the rehabilitation initially was planned to be completed in stages, a period chosen by the owner or qualified lessee not to exceed sixty months during which rehabilitation occurs. Each stage shall be reviewed as a phase of a rehabilitation as determined under 26 C.F.R. 1.48-12 or a successor to that section.

(9) "State historic preservation officer" or "officer" means the state historic preservation officer appointed by the governor under 16 U.S.C. 470a.

(10) "Catalytic project" means the rehabilitation of an historic building, the rehabilitation of which will foster economic development within two thousand five hundred feet of the historic building.

(B) The owner or qualified lessee of an historic building may apply to the director of development for a rehabilitation tax credit certificate for qualified rehabilitation expenditures paid or incurred by such owner or qualified lessee after April 4, 2007, for rehabilitation of an historic building. If the owner of an historic building enters a pass-through agreement with a qualified lessee for the purposes of the federal rehabilitation tax credit under 26 U.S.C. 47, the qualified rehabilitation expenditures paid or incurred by the owner after April 4, 2007, may be attributed to the qualified lessee.

The form and manner of filing such applications shall be prescribed by rule of the director. Each application shall state the amount of qualified rehabilitation expenditures the applicant estimates will be paid or incurred and shall indicate whether the historic building was used as a

theater before, and is intended to be used as a theater after, the rehabilitation. The director may require applicants to furnish documentation of such estimates.

The director, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules that establish all of the following:

(1) Forms and procedures by which applicants may apply for rehabilitation tax credit certificates;

(2) Criteria for reviewing, evaluating, and approving applications for certificates within the limitations under division (D) of this section, criteria for assuring that the certificates issued encompass a mixture of high and low qualified rehabilitation expenditures, and criteria for issuing certificates under division (C)(3)(b) of this section;

(3) Eligibility requirements for obtaining a certificate under this section;

(4) The form of rehabilitation tax credit certificates;

(5) Reporting requirements and monitoring procedures;

(6) Procedures and criteria for conducting cost-benefit analyses of historic buildings that are the subjects of applications filed under this section. The purpose of a cost-benefit analysis shall be to determine whether rehabilitation of the historic building will result in a net revenue gain in state and local taxes once the building is used.

(7) Any other rules necessary to implement and administer this section.

(C) The director shall review the applications with the assistance of the state historic preservation officer and determine whether all of the following criteria are met:

(1) That the building that is the subject of the application is an historic building and the applicant is the owner or qualified lessee of the building;

(2) That the rehabilitation will satisfy standards prescribed by the United States secretary of the interior under 16 U.S.C. 470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to that section;

(3) That receiving a rehabilitation tax credit certificate under this section is a major factor in:

(a) The applicant's decision to rehabilitate the historic building; or

(b) To increase the level of investment in such rehabilitation.

(4) The historic building that is the subject of the application is not, and will not upon completion of the rehabilitation project be, part of a qualified low-income housing project allocated a tax credit pursuant to section 42 of the Internal Revenue Code.

An applicant shall demonstrate to the satisfaction of the state historic preservation officer and director that the rehabilitation will satisfy the standards described in division (C)(2) of this section before the applicant begins the physical rehabilitation of the historic building.

(D)(1) If the director determines that an application meets the criteria in division (C) of this section, the director shall conduct a cost-benefit analysis for the historic building that is the subject of the application to determine whether rehabilitation of the historic building will result in a net revenue gain in state and local taxes once the building is used. The director shall consider the results

of the cost-benefit analysis in determining whether to approve the application. The director shall also consider the potential economic impact and the regional distributive balance of the credits throughout the state. The director shall not consider whether the historic building is located in or will benefit an economically distressed area, including by weighting preference based on the poverty rate in the jurisdiction or census tract in which the building is located, nor shall the director consider or give weighted preference based on vacancy or underutilization of the building. The director may approve an application only after completion of the cost-benefit analysis. *RMB*

(2) A rehabilitation tax credit certificate shall not be issued for an amount greater than the estimated amount furnished by the applicant on the application for such certificate and approved by the director. The director shall not approve more than a total of ~~one hundred twenty-seven~~ ^{one hundred} million dollars of rehabilitation tax credits for each of fiscal years 2023 and 2024, and ~~sixty million dollars of rehabilitation tax credits for each fiscal year thereafter 2026 and 2027,~~ but the director may reallocate unused tax credits from a prior fiscal year for new applicants and such reallocated credits shall not apply toward the dollar limit of this division. The director shall not approve any amount of rehabilitation tax credits after fiscal year 2027 unless specifically approved by an act of the general assembly. *RMD*

(3) For rehabilitations with a rehabilitation period not exceeding twenty-four months as provided in division (A)(8)(a) of this section, a rehabilitation tax credit certificate shall not be issued before the rehabilitation of the historic building is completed.

(4) For rehabilitations with a rehabilitation period not exceeding sixty months as provided in division (A)(8)(b) of this section, a rehabilitation tax credit certificate shall not be issued before a stage of rehabilitation is completed. After all stages of rehabilitation are completed, if the director cannot determine that the criteria in division (C) of this section are satisfied for all stages of rehabilitations, the director shall certify this finding to the tax commissioner, and any rehabilitation tax credits received by the applicant shall be repaid by the applicant and may be collected by assessment as unpaid tax by the commissioner. *RMB*

(5) The director shall require the applicant to provide a third-party cost certification by a certified public accountant of the actual costs attributed to the rehabilitation of the historic building when qualified rehabilitation expenditures exceed two hundred thousand dollars.

If an applicant whose application is approved for receipt of a rehabilitation tax credit certificate fails to provide to the director sufficient evidence of reviewable progress, including a viable financial plan, copies of final construction drawings, and evidence that the applicant has obtained all historic approvals within twelve months after the date the applicant received notification of approval, and if the applicant fails to provide evidence to the director that the applicant has secured and closed on financing for the rehabilitation within eighteen months after receiving notification of approval, the director may rescind the approval of the application. The director shall notify the applicant if the approval has been rescinded. Credits that would have been available to an applicant whose approval was rescinded shall be available for other qualified applicants. Nothing in

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disapproved.

6/30/25

Date: _____

Mike DeWine

this division prohibits an applicant whose approval has been rescinded from submitting a new application for a rehabilitation tax credit certificate.

(6) The director may approve the application of, and issue a rehabilitation tax credit certificate to, the owner of a catalytic project, provided the application otherwise meets the criteria described in divisions (C) and (D) of this section. The director may not approve more than one application for a rehabilitation tax credit certificate under division (D)(6) of this section during each state fiscal biennium. The director shall not approve an application for a rehabilitation tax credit certificate under division (D)(6) of this section during the state fiscal biennium beginning July 1, 2017, or during any state fiscal biennium thereafter. The director shall consider the following criteria in determining whether to approve an application for a certificate under division (D)(6) of this section:

(a) Whether the historic building is a catalytic project;

(b) The effect issuance of the certificate would have on the availability of credits for other applicants that qualify for a credit certificate within the credit dollar limit described in division (D)(2) of this section;

(c) The number of jobs, if any, the catalytic project will create.

(7)(a) The owner or qualified lessee of a historic building may apply for a rehabilitation tax credit certificate under both divisions (B) and (D)(6) of this section. In such a case, the director shall consider each application at the time the application is submitted.

(b) The director shall not issue more than one certificate under this section with respect to the same qualified rehabilitation expenditures.

(8) The director shall give consideration for tax credits awarded under this section to rehabilitations of historic buildings used as a theater before, and intended to be used as a theater after, the rehabilitation. In determining whether to approve an application for such a rehabilitation, the director shall consider the extent to which the rehabilitation will increase attendance at the theater and increase the theater's gross revenue.

(9) The director shall rescind the approval of any application if the building that is the subject of the application is part of a qualified low-income housing project allocated a tax credit pursuant to section 42 of the Internal Revenue Code at any time before the building's rehabilitation is complete.

(E) Issuance of a certificate represents a finding by the director of the matters described in divisions (C)(1), (2), and (3) of this section only; issuance of a certificate does not represent a verification or certification by the director of the amount of qualified rehabilitation expenditures for which a tax credit may be claimed under section 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the Revised Code. The amount of qualified rehabilitation expenditures for which a tax credit may be claimed is subject to inspection and examination by the tax commissioner or employees of the commissioner under section 5703.19 of the Revised Code and any other applicable law. Upon the issuance of a certificate, the director shall certify to the tax commissioner, in the form

and manner requested by the tax commissioner, the name of the applicant, the amount of qualified rehabilitation expenditures shown on the certificate, and any other information required by the rules adopted under this section.

(F)(1) On or before the first day of August each year, the director and tax commissioner jointly shall submit to the president of the senate and the speaker of the house of representatives a report on the tax credit program established under this section and sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code. The report shall present an overview of the program and shall include information on the number of rehabilitation tax credit certificates issued under this section during the preceding fiscal year, an update on the status of each historic building for which an application was approved under this section, the dollar amount of the tax credits granted under sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, and any other information the director and commissioner consider relevant to the topics addressed in the report.

(2) On or before December 1, 2015, the director and tax commissioner jointly shall submit to the president of the senate and the speaker of the house of representatives a comprehensive report that includes the information required by division (F)(1) of this section and a detailed analysis of the effectiveness of issuing tax credits for rehabilitating historic buildings. The report shall be prepared with the assistance of an economic research organization jointly chosen by the director and commissioner.

(G) There is hereby created in the state treasury the historic rehabilitation tax credit operating fund. The director is authorized to charge reasonable application and other fees in connection with the administration of tax credits authorized by this section and sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code. Any such fees collected shall be credited to the fund and used to pay reasonable costs incurred by the department of development in administering this section and sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code.

The Ohio historic preservation office is authorized to charge reasonable fees in connection with its review and approval of applications under this section. Any such fees collected shall be credited to the fund and used to pay administrative costs incurred by the Ohio historic preservation office pursuant to this section.

(H) Notwithstanding sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, the certificate owner of a tax credit certificate issued under division (D)(6) of this section may claim a tax credit equal to twenty-five per cent of the dollar amount indicated on the certificate for a total credit of not more than twenty-five million dollars. The credit claimed by such a certificate owner for any calendar year, tax year, or taxable year under section 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the Revised Code shall not exceed five million dollars. If the certificate owner is eligible for more than five million dollars in total credits, the certificate owner may carry forward the balance of the credit in excess of the amount claimed for that year for

not more than five ensuing calendar years, tax years, or taxable years. If the credit claimed in any calendar year, tax year, or taxable year exceeds the tax otherwise due, the excess shall be refunded to the taxpayer.

(I) Notwithstanding sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, the following apply to a tax credit approved under this section after September 13, 2022, and before July 1, 2024:

(1) The certificate holder may claim a tax credit equal to thirty-five per cent of the dollar amount indicated on the tax credit certificate if any county, township, or municipal corporation within which the project is located has a population of less than three hundred thousand according to the 2020 decennial census. The tax credit equals twenty-five per cent of the dollar amount indicated on the certificate if the project is not located within such a county, township, or municipal corporation.

(2) The total tax credit claimed under section 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the Revised Code for any one project shall not exceed ten million dollars for any calendar year, tax year, or taxable year.

(3) If the credit claimed in any calendar year, tax year, or taxable year exceeds the tax otherwise due, the excess shall be refunded to the taxpayer, subject to division (I)(2) of this section.

(J) Notwithstanding sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, the certificate owner of a tax credit certificate may claim a tax credit equal to thirty-five per cent of the dollar amount of qualified rehabilitation expenditures indicated on the certificate if the project for which the certificate was issued is located in a municipal corporation with a population of less than three hundred thousand or in the unincorporated area of a township.

(K) The director of development, in consultation with the director of budget and management, shall develop and adopt a system of tracking any information necessary to anticipate the impact of credits issued under this section on tax revenues for current and future fiscal years. Such information may include the number of applications approved, the estimated rehabilitation expenditures and rehabilitation period associated with such applications, the number and amount of tax credit certificates issued, and any other information the director of budget and management requires for the purposes of this division.

~~(K)~~(L) For purposes of this section and Chapter 122:19-1 of the Ohio Administrative Code, a tax credit certificate issued under this section is effective on the date that all historic buildings rehabilitated by the project are "placed in service," as that term is used in section 47 of the Internal Revenue Code.

Sec. 149.38. (A) Except as otherwise provided in section 307.847 of the Revised Code, there is hereby created in each county a county records commission, composed of a member of the board of county commissioners as chairperson, the prosecuting attorney, the auditor, the recorder, and the clerk of the court of common pleas. The commission shall appoint a secretary, who may or may not be a member of the commission and who shall serve at the pleasure of the commission. The

commission may employ an archivist or records manager to serve under its direction. The commission shall meet upon the call of the chairperson.

(B)(1) The functions of the county records commission shall be to provide rules for retention and disposal of records of the county, and to review applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by county offices. The commission may dispose of records pursuant to the procedure outlined in this section. The commission, at any time, may review any schedule it has previously approved and, for good cause shown, may revise that schedule, subject to division (D) of this section.

(2)(a) As used in division (B)(2) of this section, "paper case records" means written reports of child abuse or neglect, written records of investigations, or other written records required to be prepared under section 2151.421, ~~5101.13~~, 5153.166, ~~or 5153.17~~, or 5180.40 of the Revised Code.

(b) A county public children services agency may submit to the county records commission applications for one-time disposal, or schedules of records retention and disposition, of paper case records that have been entered into permanently maintained and retrievable fields in the state automated child welfare information system established under section ~~5101.13~~ 5180.40 of the Revised Code or entered into other permanently maintained and retrievable electronic files. The county records commission may dispose of the paper case records pursuant to the procedure outlined in this section.

(C)(1) When the county records commission has approved any county application for one-time disposal of obsolete records or any schedule of records retention and disposition, the commission shall send that application or schedule to the Ohio history connection for its review. The Ohio history connection shall review the application or schedule within a period of not more than sixty days after its receipt of it. During the sixty-day review period, the Ohio history connection may select for its custody from the application for one-time disposal of obsolete records any records it considers to be of continuing historical value, and shall denote upon any schedule of records retention and disposition any records for which the Ohio history connection will require a certificate of records disposal prior to their disposal.

(2) Upon completion of its review, the Ohio history connection shall forward the application for one-time disposal of obsolete records or the schedule of records retention and disposition to the auditor of state for the auditor's approval or disapproval. The auditor of state shall approve or disapprove the application or schedule within a period of not more than sixty days after receipt of it.

(3) Before public records are to be disposed of pursuant to an approved schedule of records retention and disposition, the county records commission shall inform the Ohio history connection of the disposal through the submission of a certificate of records disposal for only the records required by the schedule to be disposed of and shall give the Ohio history connection the opportunity for a period of fifteen business days to select for its custody those records, from the certificate submitted, that it considers to be of continuing historical value. Upon the expiration of the fifteen-business-day period, the county records commission also shall notify the public libraries, county historical society,

state universities, and other public or quasi-public institutions, agencies, or corporations in the county that have provided the commission with their name and address for these notification purposes, that the commission has informed the Ohio history connection of the records disposal and that the notified entities, upon written agreement with the Ohio history connection pursuant to section 149.31 of the Revised Code, may select records of continuing historical value, including records that may be distributed to any of the notified entities under section 149.31 of the Revised Code. Any notified entity that notifies the county records commission of its intent to review and select records of continuing historical value from certificates of records disposal is responsible for the cost of any notice given and for the transportation of those records.

(D) The rules of the county records commission shall include a rule that requires any receipts, checks, vouchers, or other similar records pertaining to expenditures from the delinquent tax and assessment collection fund created in section 321.261 of the Revised Code, from the real estate assessment fund created in section 325.31 of the Revised Code, or from amounts allocated for the furtherance of justice to the county sheriff under section 325.071 of the Revised Code or to the prosecuting attorney under section 325.12 of the Revised Code to be retained for at least four years.

(E) No person shall knowingly violate the rule adopted under division (D) of this section. Whoever violates that rule is guilty of a misdemeanor of the first degree.

Sec. 149.43. (A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings, to proceedings related to the imposition of community control sanctions and post-release control sanctions, or to proceedings related to determinations under section 2967.271 of the Revised Code regarding the release or maintained incarceration of an offender to whom that section applies;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of ~~job and family services-children and youth~~ or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department of job and family services or a child support enforcement agency;

(f) Records specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records, prior to the conclusion of all direct appeals or, if no appeal is filed, prior to the expiration of the time during which an appeal may be filed, or, if no trial has occurred, until the civil or criminal action or proceeding has ended without the possibility of direct appeal or each agency, office, or official responsible for the matter has made a decision not to proceed with the matter;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

(k) ~~Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of~~ under section 5120.21 of the Revised Code, except for permitted disclosure of the information listed in division (E)(1) of that section;

(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;

(m) Intellectual property records;

(n) Donor profile records;

(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;

(p) Designated public service worker residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as

a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.15 of the Revised Code or contracts under that section with a private or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(y) Records listed in section 5101.29 of the Revised Code;

(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;

(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;

(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code;

(dd) Personal information, as defined in section 149.45 of the Revised Code;

(ee) The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code, including the contents of any application for absent voter's ballots, absent voter's ballot identification envelope statement of voter, or provisional ballot affirmation completed by a program participant who has a confidential voter registration record; records or portions of records pertaining to that program that identify the number of program participants that reside within a precinct, ward, township, municipal corporation, county, or any other geographic area smaller than the state; and any real property confidentiality notice filed under section 111.431 of the Revised Code and the information described in division (C) of that section. As used in this division, "confidential address" and "program participant" have the meaning defined in section 111.41 of the Revised Code.

(ff) Orders for active military service of an individual serving or with previous service in the armed forces of the United States, including a reserve component, or the Ohio organized militia, except that, such order becomes a public record on the day that is fifteen years after the published date or effective date of the call to order;

(gg) The name, address, contact information, or other personal information of an individual who is less than eighteen years of age that is included in any record related to a traffic accident involving a school vehicle in which the individual was an occupant at the time of the accident;

(hh) Protected health information, as defined in 45 C.F.R. 160.103, that is in a claim for payment for a health care product, service, or procedure, as well as any other health claims data in another document that reveals the identity of an individual who is the subject of the data or could be used to reveal that individual's identity;

(ii) Any depiction by photograph, film, videotape, or printed or digital image under either of the following circumstances:

(i) The depiction is that of a victim of an offense the release of which would be, to a reasonable person of ordinary sensibilities, an offensive and objectionable intrusion into the victim's expectation of bodily privacy and integrity.

(ii) The depiction captures or depicts the victim of a sexually oriented offense, as defined in section 2950.01 of the Revised Code, at the actual occurrence of that offense.

(jj) Restricted portions of a body-worn camera or dashboard camera recording;

(kk) In the case of a fetal-infant mortality review board acting under sections 3707.70 to 3707.77 of the Revised Code, records, documents, reports, or other information presented to the board or a person abstracting such materials on the board's behalf, statements made by review board members during board meetings, all work products of the board, and data submitted by the board to the department of health or a national infant death review database, other than the report prepared pursuant to section 3707.77 of the Revised Code.

(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under section ~~3738.01~~5180.27 of the Revised Code, statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than the biennial reports prepared under section ~~3738.08~~5180.277 of the Revised Code;

(mm) Except as otherwise provided in division (A)(1)(oo) of this section, telephone numbers for a victim, as defined in section 2930.01 of the Revised Code or a witness to a crime that are listed on any law enforcement record or report.

(nn) A preneed funeral contract, as defined in section 4717.01 of the Revised Code, and contract terms and personally identifying information of a preneed funeral contract, that is contained in a report submitted by or for a funeral home to the board of embalmers and funeral directors under division (C) of section 4717.13, division (J) of section 4717.31, or section 4717.41 of the Revised Code.

(oo) Telephone numbers for a party to a motor vehicle accident subject to the requirements of section 5502.11 of the Revised Code that are listed on any law enforcement record or report, except that the telephone numbers described in this division are not excluded from the definition of "public record" under this division on and after the thirtieth day after the occurrence of the motor vehicle accident.

(pp) Records pertaining to individuals who complete training under section 5502.703 of the Revised Code to be permitted by a school district board of education or governing body of a

community school established under Chapter 3314. of the Revised Code, a STEM school established under Chapter 3326. of the Revised Code, or a chartered nonpublic school to convey deadly weapons or dangerous ordnance into a school safety zone;

(qq) Records, documents, reports, or other information presented to a domestic violence fatality review board established under section 307.651 of the Revised Code, statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than a report prepared pursuant to section 307.656 of the Revised Code;

(rr) Records, documents, and information the release of which is prohibited under sections 2930.04 and 2930.07 of the Revised Code;

(ss) Records of an existing qualified nonprofit corporation that creates a special improvement district under Chapter 1710. of the Revised Code that do not pertain to a purpose for which the district is created;

(tt) Educational support services data, as defined in section 3319.325 of the Revised Code;

(uu) Records of the past, current, and future work schedule of a designated public service worker. As used in division (A)(1)(uu) of this section, "work schedule" does not include the docket of cases of a court, judge, or magistrate;

(vv) A request form or confirmation letter submitted to a public office under section 149.45 of the Revised Code;

(ww) An affidavit or confirmation letter submitted under section 319.28 of the Revised Code;

(xx) License or certificate application or renewal responses and supporting documentation submitted to the state medical board regarding an applicant's, or a license or certificate holder's, inability to practice according to acceptable and prevailing standards of care by reason of a medical condition;

(yy) Images and data captured by an automated license plate recognition system that are maintained in a law enforcement database;

(zz) Attorney work product record;

(aaa) Any entry on the public calendar of an elected official that is for any date that is after the date the record is requested;

(bbb) Records pertaining to burial sites under section 149.3010 of the Revised Code.

A record that is not a public record under division (A)(1) of this section and that, under law, is permanently retained becomes a public record on the day that is seventy-five years after the day on which the record was created, or in the case of a record that is not a public record under division (A)(1)(uu) of this section that is retained, three years after the day on which the record was created, except for any record protected by the attorney-client privilege, a trial preparation record as defined in this section, a statement prohibiting the release of identifying information signed under section 3107.083 of the Revised Code, a denial of release form filed pursuant to section 3107.46 of the

Revised Code, records pertaining to burial sites under section 149.3010 of the Revised Code, or any record that is exempt from release or disclosure under section 149.433 of the Revised Code. If the record is a birth certificate and a biological parent's name redaction request form has been accepted under section 3107.391 of the Revised Code, the name of that parent shall be redacted from the birth certificate before it is released under this paragraph. If any other section of the Revised Code establishes a time period for disclosure of a record that conflicts with the time period specified in this section, the time period in the other section prevails.

(2)(2)(a) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a)(i) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b)(ii) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c)(iii) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d)(iv) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(b) As used in divisions (A)(2) and (18) of this section, "specific investigatory work product" means information assembled by law enforcement officials in connection with a probable or pending criminal or civil proceeding, with the exception of routine incident reports. "Specific investigatory work product" is not a public record prior to the conclusion of all direct appeals, or, if no appeal is filed, prior to the expiration of the time during which an appeal may be filed, or, if no trial has occurred, until the criminal or civil proceeding has ended without possibility of direct appeal or each agency, office, or official responsible for the matter has made a decision not to proceed with the matter.

(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record created by or for another party or by or for that party's representative, in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, that is not a confidential law enforcement investigatory record or attorney work product record and that contains factual information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, ~~including the independent~~

~~thought processes and personal trial preparation of an attorney.~~

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Designated public service worker" means a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, county or multicounty corrections officer, community-based correctional facility employee, designated Ohio national guard member, protective services worker, youth services employee, firefighter, EMT, medical director or member of a cooperating physician advisory board of an emergency medical service organization, state board of pharmacy employee, investigator of the bureau of criminal identification and investigation, emergency service telecommunicator, forensic mental health provider, mental health evaluation provider, regional psychiatric hospital employee, judge, magistrate, or federal law enforcement officer.

(8) "Designated public service worker residential and familial information" means any information that discloses any of the following about a designated public service worker:

(a) The address of the actual personal residence of a designated public service worker, except for the following information:

- (i) The address of the actual personal residence of a prosecuting attorney or judge; and
- (ii) The state or political subdivision in which a designated public service worker resides.

(b) Information compiled from referral to or participation in an employee assistance program;

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a designated public service worker;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a designated public service worker by the designated public service worker's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the designated public service worker's compensation, unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge

card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a designated public service worker;

(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

(9) As used in divisions (A)(7) and (15) to (17) of this section:

"Peace officer" has the meaning defined in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

"Correctional employee" means any employee of the department of rehabilitation and correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

"County or multicounty corrections officer" means any corrections officer employed by any county or multicounty correctional facility.

"Designated Ohio national guard member" means a member of the Ohio national guard who is participating in duties related to remotely piloted aircraft, including, but not limited to, pilots, sensor operators, and mission intelligence personnel, duties related to special forces operations, or duties related to cybersecurity, and is designated by the adjutant general as a designated public service worker for those purposes.

"Protective services worker" means any employee of a county agency who is responsible for child protective services, child support services, or adult protective services.

"Youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

"Firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

"EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the meanings defined in section 4765.01 of the Revised Code.

"Investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.

"Emergency service telecommunicator" means an individual employed by an emergency service provider as defined under section 128.01 of the Revised Code, whose primary responsibility is to be an operator for the receipt or processing of calls for emergency services made by telephone, radio, or other electronic means.

"Forensic mental health provider" means any employee of a community mental health

service provider or local alcohol, drug addiction, and mental health services board who, in the course of the employee's duties, has contact with persons committed to a local alcohol, drug addiction, and mental health services board by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code.

"Mental health evaluation provider" means an individual who, under Chapter 5122. of the Revised Code, examines a respondent who is alleged to be a mentally ill person subject to court order, as defined in section 5122.01 of the Revised Code, and reports to the probate court the respondent's mental condition.

"Regional psychiatric hospital employee" means any employee of the department of mental health and addiction services who, in the course of performing the employee's duties, has contact with patients committed to the department of mental health and addiction services by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code.

"Federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code.

(10) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

(11) "Community control sanction" has the meaning defined in section 2929.01 of the Revised Code.

(12) "Post-release control sanction" has the meaning defined in section 2967.01 of the Revised Code.

(13) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.

(14) "Designee," "elected official," and "future official" have the meanings defined in section 109.43 of the Revised Code.

(15) "Body-worn camera" means a visual and audio recording device worn on the person of

a correctional employee, youth services employee, or peace officer while the correctional employee, youth services employee, or peace officer is engaged in the performance of official duties.

(16) "Dashboard camera" means a visual and audio recording device mounted on a peace officer's vehicle or vessel that is used while the peace officer is engaged in the performance of the peace officer's duties.

(17) "Restricted portions of a body-worn camera or dashboard camera recording" means any visual or audio portion of a body-worn camera or dashboard camera recording that shows, communicates, or discloses any of the following:

(a) The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when the department of rehabilitation and correction, department of youth services, or the law enforcement agency knows or has reason to know the person is a child based on the department's or law enforcement agency's records or the content of the recording;

(b) The death of a person or a deceased person's body, unless the death was caused by a correctional employee, youth services employee, or peace officer or, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;

(c) The death of a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;

(d) Grievous bodily harm, unless the injury was effected by a correctional employee, youth services employee, or peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(e) An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a correctional employee, youth services employee, or peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(f) Grievous bodily harm to a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(g) An act of severe violence resulting in serious physical harm against a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(h) A person's nude body, unless, subject to division (H)(1) of this section, the person's consent has been obtained;

(i) Protected health information, the identity of a person in a health care facility who is not the subject of a correctional, youth services, or law enforcement encounter, or any other information in a health care facility that could identify a person who is not the subject of a correctional, youth services, or law enforcement encounter;

(j) Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence;

(k) Information, that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive or confidential information to the department of rehabilitation and correction, the department of youth services, or a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person;

(l) Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer;

(m) Proprietary correctional, youth services, or police contingency plans or tactics that are intended to prevent crime and maintain public order and safety;

(n) A personal conversation unrelated to work between correctional employees, youth services employees, or peace officers or between a correctional employee, youth services employee, or peace officer and an employee of a law enforcement agency;

(o) A conversation between a correctional employee, youth services employee, or peace officer and a member of the public that does not concern correctional, youth services, or law enforcement activities;

(p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer;

(q) Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer occurs in that location.

As used in division (A)(17) of this section:

"Grievous bodily harm" has the same meaning as in section 5924.120 of the Revised Code.

"Health care facility" has the same meaning as in section 1337.11 of the Revised Code.

"Protected health information" has the same meaning as in 45 C.F.R. 160.103.

"Law enforcement agency" means a government entity that employs peace officers to perform law enforcement duties.

"Personal information" means any government-issued identification number, date of birth, address, financial information, or criminal justice information from the law enforcement automated data system or similar databases.

"Sex offense" has the same meaning as in section 2907.10 of the Revised Code.

"Firefighter," "paramedic," and "first responder" have the same meanings as in section

4765.01 of the Revised Code.

(18) "Attorney work product record" means a record that is not specific investigatory work product or a trial preparation record and that is created by an attorney, or by the agent of an attorney, in reasonable anticipation of or for litigation, trial, or administrative proceedings, when acting in an official capacity on behalf of the state, a political subdivision of the state, a state agency, a public official, or a public employee, that documents the independent thought processes, mental impressions, legal theories, strategies, analysis, or reasoning of an attorney or the agent of an attorney.

(19) "Elected official" means a person who is elected or appointed to an elective office of the state or a political subdivision.

(20) "Public calendar" means a calendar or appointment book maintained by an elected official to schedule the elected official's activities in relation to the elected official's position as an elected official. "Public calendar" does not include a personal calendar or appointment book maintained solely for an elected official's personal convenience that does not serve to document the elected official's official activities or functions or the official activities or functions of the elected official's public office.

(B)(1) Upon request by any person and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to the requester at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request by any person, a public office or person responsible for public records shall make copies of the requested public record available to the requester at cost and within a reasonable period of time.

When considering whether a state or local law enforcement agency or a prosecuting attorney's office promptly prepared a video record for inspection or ~~provided~~ produced a copy of a video record ~~for production~~ within a reasonable period of time, in addition to any other factors, a court shall consider the time required for a state or local law enforcement agency or a prosecuting attorney's office to retrieve, download, review, redact, seek legal advice regarding, and produce the video record. ~~Notwithstanding—Except as specified in division (B)(11) of this section,~~ notwithstanding any other requirement set forth in Chapter 149. of the Revised Code, a state or local law enforcement agency or a prosecuting attorney's office may charge a requester the actual cost associated with preparing a video record for inspection or production, not to exceed seventy-five dollars per hour of video produced, nor seven hundred fifty dollars total. As used in this division, "actual cost," with respect to video records only, means all costs incurred by the state or local law enforcement agency or a prosecuting attorney's office in reviewing, blurring or otherwise obscuring, redacting, uploading, or producing the video records, including but not limited to the storage medium on which the record is produced, staff time, and any other relevant overhead necessary to comply with the request. A state or local law enforcement agency or a prosecuting attorney's office may include in its public records policy the requirement that a requester pay the estimated actual

cost before beginning the process of preparing a video record for inspection or production. Where a state or local law enforcement agency or a prosecuting attorney's office imposes such a requirement, its obligation to produce a video or make it available for inspection begins once the estimated actual cost is paid in full by the requester. A state or local law enforcement agency or a prosecuting attorney's office shall provide the requester with the estimated actual cost within five business days of receipt of the public records request. If the actual cost exceeds the estimated actual cost, a state or local law enforcement agency or a prosecuting attorney's office may charge a requester for the difference upon fulfilling a request for video records if the requester is notified in advance that the actual cost may be up to twenty per cent higher than the estimated actual cost. A state or local law enforcement agency or a prosecuting attorney's office shall not charge a requester a difference that exceeds twenty per cent of the estimated actual cost.

If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction. When the auditor of state receives a request to inspect or to make a copy of a record that was provided to the auditor of state for purposes of an audit, but the original public office has asserted to the auditor of state that the record is not a public record, the auditor of state may handle the requests by directing the requestor to the original public office that provided the record to the auditor of state.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

(3) If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The explanation shall not

preclude the public office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under division (C) of this section.

(4) Unless specifically required or authorized by state or federal law or in accordance with division (B) of this section, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requester's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory, that the requester may decline to reveal the requester's identity or the intended use, and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person requests a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require the requester to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the requester under this division. The public office or the person responsible for the public record shall permit the requester to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the requester makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the requester. Nothing in this section requires a public office or person responsible for the public record to allow the requester of a copy of the public record to make the copies of the public record.

(7)(a) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

(b) Any public office may adopt a policy and procedures that it will follow in transmitting,

within a reasonable period of time after receiving a request, copies of public records by United States mail or by any other means of delivery or transmission pursuant to division (B)(7) of this section. A public office that adopts a policy and procedures under division (B)(7) of this section shall comply with them in performing its duties under that division.

(c) In any policy and procedures adopted under division (B)(7) of this section:

(i) A public office may limit the number of records requested by a person that the office will physically deliver by United States mail or by another delivery service to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes;

(ii) A public office that chooses to provide some or all of its public records on a web site that is fully accessible to and searchable by members of the public at all times, other than during acts of God outside the public office's control or maintenance, and that charges no fee to search, access, download, or otherwise receive records provided on the web site, may limit to ten per month the number of records requested by a person that the office will deliver in a digital format, unless the requested records are not provided on the web site and unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes.

(iii) For purposes of division (B)(7) of this section, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person. As used in this division, "public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation were an adult" includes, but is not limited to, personnel files and payroll and attendance records of designated public service workers.

(9)(a) Upon written request made and signed by a journalist, a public office, or person responsible for public records, having custody of the records of the agency employing a specified designated public service worker shall disclose to the journalist the address of the actual personal residence of the designated public service worker and, if the designated public service worker's spouse, former spouse, or child is employed by a public office, the name and address of the

employer of the designated public service worker's spouse, former spouse, or child, and any past, current, and future work schedules of the designated public service worker. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

(b) Division (B)(9)(a) of this section also applies to journalist requests for:

(i) Customer information maintained by a municipally owned or operated public utility, other than social security numbers and any private financial information such as credit reports, payment methods, credit card numbers, and bank account information;

(ii) Information about minors involved in a school vehicle accident as provided in division (A)(1)(gg) of this section, other than personal information as defined in section 149.45 of the Revised Code;

(iii) A request form submitted to a public office under section 149.45 of the Revised Code;

(iv) An affidavit submitted under section 319.28 of the Revised Code.

(c) As used in division (B)(9) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(10) Upon a request made by a victim, victim's attorney, or victim's representative, as that term is used in section 2930.02 of the Revised Code, a public office or person responsible for public records shall transmit a copy of a depiction of the victim as described in division (A)(1)(ii) of this section to the victim, victim's attorney, or victim's representative.

(11) A state or local law enforcement agency or a prosecuting attorney's office shall not charge a fee for preparing a video record for inspection, or producing a copy of a video record, when the requester of the video record is a victim, as defined in Ohio Constitution, Article I, Section 10a, or who is a victim who suffered loss and could seek remedy through a tort action as defined by section 2307.011 of the Revised Code, who reasonably asserts that the video recording relates to the act or omission that caused the victim's harm or loss, or who is the legal counsel or insurer of the victim. A fee under this section may only be waived upon the receipt of an affidavit by the victim or the victim's legal counsel identifying that the use of the video is to investigate harm or damages that may have been captured on the video.

As used in this division, "legal counsel of the victim" means an attorney who, at the time of making the request, produces to the state or local law enforcement agency or a prosecuting attorney's office a signed retention agreement or letter of representation that establishes that the attorney is representing the victim.

(C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section or by any other failure of a

public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may serve pursuant to Rule 4 of the Ohio Rules of Civil Procedure a complaint, on a form prescribed by the clerk of the court of claims, to the public office or person responsible for public records allegedly responsible for the alleged failure. Upon receipt of the complaint of the person allegedly aggrieved, the public office or person responsible for public records has three business days to cure or otherwise address the failure alleged in the complaint. The person allegedly aggrieved shall not file a complaint with a court or commence a mandamus action under this section within the three-day period. Upon the expiration of the three-day period, the person allegedly aggrieved may, subject to the requirements of division (C) (2) of this section, do only one of the following, and not both:

(a) File a complaint with the clerk of the court of claims or the clerk of the court of common pleas under section 2743.75 of the Revised Code;

(b) Commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(3) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

(2) Upon filing a complaint or mandamus action with a court under divisions (C)(1)(a) or (b) of this section, a person allegedly aggrieved shall file with the court, in conjunction with the person's complaint or petition, a written affirmation stating that the person properly transmitted a complaint to the public office or person responsible for public records, the failure alleged in the complaint has not been cured or otherwise resolved to the person's satisfaction, and that the complaint was transmitted to the public office or person responsible for public records at least three business days before the filing of the suit. If the person fails to file an affirmation pursuant to this division, the suit shall be dismissed.

(3) If a requester transmits a written request by hand delivery, electronic submission, or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or person responsible for the requested public records, except as otherwise provided in this section, the requester shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that the public office or the person responsible for public records failed to comply with an obligation in accordance with division (B) of this section. Statutory damages are not available pursuant to this section to a person committed to the custody of the department of rehabilitation and correction or the United States bureau of prisons, or a child committed to the department of youth services as permitted in Chapter

2152. of the Revised Code.

The amount of statutory damages shall be fixed at one hundred dollars for each business day during which the public office or person responsible for the requested public records failed to comply with an obligation in accordance with division (B) of this section, beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(4) In a mandamus action filed under division (C)(1) of this section, the following apply:

(a)(i) If the court orders the public office or the person responsible for the public record to comply with division (B) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(ii) If the court makes a determination described in division (C)(4)(b)(iii) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section or if the court determines any of the following, the court may award reasonable attorney's fees to the relator, subject to division (C)(5) of this section:

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the

relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(iii) The public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order concluding whether or not the public office or person was required to comply with division (B) of this section. No discovery may be conducted on the issue of the alleged bad faith of the public office or person responsible for the public records. This division shall not be construed as creating a presumption that the public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order described in this division.

(c) The court shall not award attorney's fees to the relator if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(5) All of the following apply to any award of reasonable attorney's fees awarded under division (C)(4)(b) of this section:

(a) The fees shall be construed as remedial and not punitive.

(b) The fees awarded shall not exceed the total of the reasonable attorney's fees incurred before the public record was made available to the relator and the fees described in division (C)(5)(c) of this section.

(c) Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees.

(d) The court may reduce the amount of fees awarded if the court determines that, given the factual circumstances involved with the specific public records request, an alternative means should have been pursued to more effectively and efficiently resolve the dispute that was subject to the mandamus action filed under division (C)(1) of this section.

(6) If the court does not issue a writ of mandamus under division (C) of this section and the court determines at that time that the bringing of the mandamus action was frivolous conduct as defined in division (A) of section 2323.51 of the Revised Code, the court may award to the public office all court costs, expenses, and reasonable attorney's fees, as determined by the court.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. A future official may satisfy the requirements of this division by attending the training before taking office, provided that the future official may not send a designee in the future official's place.

(2) All public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

The public office shall distribute the public records policy adopted by the public office under this division to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

(2) As used in division (F)(1) of this section:

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual

mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or database by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) "Commercial" means profit-seeking production, buying, or selling of any good, service, or other product.

(d) "Special extraction costs" means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction. "Special extraction costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (F)(1) and (2) of this section, "surveys, marketing, solicitation, or resale for commercial purposes" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(G) A request by a defendant, counsel of a defendant, or any agent of a defendant in a criminal action that public records related to that action be made available under this section shall be considered a demand for discovery pursuant to the Criminal Rules, except to the extent that the Criminal Rules plainly indicate a contrary intent. The defendant, counsel of the defendant, or agent of the defendant making a request under this division shall serve a copy of the request on the prosecuting attorney, director of law, or other chief legal officer responsible for prosecuting the action.

(H)(1) Any portion of a body-worn camera or dashboard camera recording described in divisions (A)(17)(b) to (h) of this section may be released by consent of the subject of the recording or a representative of that person, as specified in those divisions, only if either of the following applies:

(a) The recording will not be used in connection with any probable or pending criminal proceedings;

(b) The recording has been used in connection with a criminal proceeding that was dismissed or for which a judgment has been entered pursuant to Rule 32 of the Rules of Criminal Procedure, and will not be used again in connection with any probable or pending criminal proceedings.

(2) If a public office denies a request to release a restricted portion of a body-worn camera or dashboard camera recording, as defined in division (A)(17) of this section, any person may file a mandamus action pursuant to this section or a complaint with the clerk of the court of claims pursuant to section 2743.75 of the Revised Code, requesting the court to order the release of all or portions of the recording. If the court considering the request determines that the filing articulates by clear and convincing evidence that the public interest in the recording substantially outweighs privacy interests and other interests asserted to deny release, the court shall order the public office to release the recording.

Sec. 153.01. (A) Whenever any building or structure for the use of the state or any institution supported in whole or in part by the state or in or upon the public works of the state that is administered by the Ohio facilities construction commission or by any other state officer or state agency authorized by law to administer a project, including an educational institution listed in section 3345.50 of the Revised Code, is to be erected or constructed, whenever additions, alterations, or structural or other improvements are to be made, or whenever heating, cooling, or ventilating plants or other equipment is to be installed or material supplied therefor, the estimated cost of which amounts to two hundred thousand dollars or more, or the amount determined pursuant to section 153.53 of the Revised Code or more, each officer, board, or other authority upon which devolves the duty of constructing, erecting, altering, or installing the same, referred to in sections 153.01 to 153.60 of the Revised Code as the public authority, shall cause to be made, by an architect or engineer whose contract of employment shall be prepared and approved by the attorney general, the following:

- (1) Full and accurate plans, suitable for the use of mechanics and other builders in the construction, improvement, addition, alteration, or installation;
- (2) Details to scale and full-sized, so drawn and represented as to be easily understood;
- (3) Definite and complete specifications of the work to be performed, together with directions that will enable a competent mechanic or other builder to carry them out and afford bidders all needful information;
- (4) A full and accurate estimate of each item of expense and the aggregate cost of those items of expense;
- (5) A life-cycle cost analysis;
- (6) Further data as may be required by the Ohio facilities construction commission.

In preparing these plans, details, specifications, estimates, analyses, or other data, the public authority may require the architect or engineer to use a building information model system, as long as the system is based on a nationally recognized standard for building information models. As used in this division, "building information model" means a digital representation of physical and functional characteristics of a facility, and electronic files used to design and coordinate the project, whether it is a single model or multiple models used in the aggregate.

(B)(1) Division (A) of this section shall not be required with respect to a construction

management contract entered into with a construction manager at risk as described in section 9.334 of the Revised Code or a design-build contract entered into with a design-build firm as described in section 153.693 of the Revised Code.

(2) Nothing in this chapter shall interfere with the power of the director of transportation to prepare plans for, acquire rights-of-way for, construct, or maintain roads, highways, or bridges, or to let contracts for those purposes.

Sec. 153.07. The notice provided for in section 153.06 of the Revised Code shall be published by electronic means once each week for three consecutive weeks in a newspaper of general circulation, or as provided in section 7.16 of the Revised Code, and may be published in other news media in the county where the activity for which bids are submitted is to occur ~~and in such other newspapers as ordered by the Ohio facilities construction commission, the last publication to~~. The notice shall invite interested parties to submit proposals for consideration and shall be published at least eightfourteen days preceding the day for opening the bids, and in such form and with such phraseology a manner as prescribed by the commission orders. Copies of the plans, details, estimates of cost, and specifications shall be available electronically and open to public inspection at all business hours between the day of the first publication and the day for opening the bids, at the office of the commission where the bids are received, and such other place as may be designated in such notice.

Sec. 153.08. On the day and at the place named in the notice provided for in section 153.06 of the Revised Code, the owner referred to in section 153.01 of the Revised Code shall open the bids and shall publicly, with the assistance of the architect or engineer, immediately proceed to tabulate the bids. For a bid filed electronically, the public bid opening may be broadcast by electronic means pursuant to rules established by the Ohio facilities construction commission. A bid shall be invalid and not considered unless a bid guaranty meeting the requirements of section 153.54 of the Revised Code and in the form approved by the commission is filed with such bid. For a bid that is not filed electronically, the bid and bid guaranty shall be filed in one sealed envelope. If the bid and bid guaranty are filed electronically, they must be received electronically before the deadline published pursuant to section 153.06 of the Revised Code. For all bids filed electronically, the original, unaltered bid guaranty shall be made available to the public authority after the public bid opening, which may be achieved by means of an electronic verification and security system established under rules adopted by the Ohio facilities construction commission under Chapter 119. of the Revised Code. After investigation, which shall be completed within thirty days, the contract shall be awarded by such owner to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code.

No contract shall be entered into until the industrial commission has certified that the person so awarded the contract has complied with sections 4123.01 to 4123.94 of the Revised Code, until, if the bidder so awarded the contract is a foreign corporation, the secretary of state has certified that such corporation is authorized to do business in this state, until, if the bidder so awarded the contract

is a person nonresident of this state, such person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under section 153.05 of the Revised Code or under sections 4123.01 to 4123.94 of the Revised Code, and until the contract and bond, if any, are submitted to the attorney general and the attorney general's approval certified thereon.

~~No contract shall be entered into unless the bidder possesses a valid certificate of compliance with affirmative action programs issued pursuant to section 9.47 of the Revised Code and dated no earlier than one hundred eighty days prior to the date fixed for the opening of bids for a particular project.~~

Sec. 153.09. If in the opinion of the owner referred to in section 153.01 of the Revised Code, the award of a contract to the lowest responsive and responsible bidder is not in the best interests of the state, the owner may accept another bid so opened or reject all bids, and advertise for other bids. Such advertisement shall be for such time, in such form, and ~~in by such newspaper~~ electronic media as the Ohio facilities construction commission directs. All contracts shall provide that such owner may make any change in work or materials on the conditions and in the manner provided in sections 153.10 and 153.11 of the Revised Code.

Sec. 153.12. (A) With respect to award of any contract for the construction, reconstruction, improvement, enlargement, alteration, repair, painting, or decoration of a public improvement made by the state, or any county, township, municipal corporation, school district, or other political subdivision, or any public board, commission, authority, instrumentality, or special purpose district of or in the state or a political subdivision or that is authorized by state law, the award, and execution of the contract, shall be made within sixty days after the date on which the bids are opened. The failure to award and execute the contract within sixty days invalidates the entire bid proceedings and all bids submitted, unless the time for awarding and executing the contract is extended by mutual consent of the owner or its representatives and the bidder whose bid the owner accepts and with respect to whom the owner subsequently awards and executes a contract. The public owners referred to in this section shall include, in the plans and specifications for the project for which bids are solicited, the estimate of cost. The bid for which the award is to be made shall be opened at the time and place named in the advertisement for bids, unless extended by the owner or its representative or unless, within seventy-two hours prior to the published time for the opening of bids, excluding Saturdays, Sundays, and legal holidays, any modification of the plans or specifications and estimates of cost for the project for which bids are solicited is issued and mailed or otherwise furnished to persons who have obtained plans or specifications for the project, for which the time for opening of bids shall be extended one week, with no further advertising of bids required. The contractor, upon request, is entitled to a notice to proceed with the work by the owner or its representative upon execution of the contract. No contract to which this section applies shall be entered into if the price of the contract, or, if the project involves multiple contracts where the total price of all contracts for the project, is in excess of ten per cent, in the case of a contract made by the state or a public board,

commission, authority, or instrumentality of the state, or twenty per cent, in the case of a contract made by a county, township, municipal corporation, school district, special purpose district, or other political subdivision or a public board, commission, authority, or instrumentality of the political subdivision, above the entire estimate thereof, nor shall the entire cost of the construction, reconstruction, repair, painting, decorating, improvement, alteration, addition, or installation, including changes and estimates of expenses for architects or engineers, exceed in the aggregate the amount authorized by law.

The unit or lump sum price stated in the contract shall be used in determining the amount to be paid and shall constitute full and final compensation for all the work.

Partial payment to the contractor for work performed under the lump sum price shall be based on a schedule prepared by the contractor and approved by the architect or engineer who shall apportion the lump sum price to the major components entering into or forming a part of the work under the lump sum price.

Partial payments to the contractor for labor performed under either a unit or lump sum price contract shall be made at ~~the a rate of ninety-two not less than ninety-six~~ per cent of the estimates prepared by the contractor and approved by the architect or engineer. ~~All labor performed after the job is fifty per cent completed shall be paid for at the rate of one hundred per cent of the estimates submitted by the contractor and approved by the architect or engineer. No subcontract shall be paid at a rate lower than the rate being paid to the contractor by the public authority.~~

The amounts and time of payments of any public improvements contract made by the state or any county, township, municipal corporation, school district, or other political subdivision, or any public board, commission, authority, instrumentality, or special purpose district of or in the state or a political subdivision or that is authorized by state law, except as provided in section 5525.19 of the Revised Code, shall be governed by this section and sections 153.13 and 153.14 of the Revised Code. If the time for awarding the contract is extended by mutual consent, or if the owner or its representative fails to issue a timely notice to proceed as required by this section, the owner or its representative shall issue a change order authorizing delay costs to the contractor, which does not invalidate the contract. The amount of such a change order to the owner shall be determined in accordance with the provisions of the contract for change orders or force accounts or, if no such provision is set forth in the contract, the cost to the owner shall be the contractor's actual costs including wages, labor costs other than wages, wage taxes, materials, equipment costs and rentals, insurance, and subcontracts attributable to the delay, plus a reasonable sum for overhead. In the event of a dispute between the owner and the contractor concerning such change order, procedures shall be commenced under the applicable terms of the contract, or, if the contract contains no provision for resolving the dispute, it shall be resolved pursuant to the procedures for arbitration in Chapter 2711. of the Revised Code, except as provided in division (B) of this section. Nothing in this division shall be construed as a limitation upon the authority of the director of transportation granted in Chapter 5525. of the Revised Code.

(B) If a dispute arises between the state and a contractor concerning the terms of a public improvement contract let by the state or concerning a breach of the contract, and after administrative remedies provided for in such contract and any alternative dispute resolution procedures provided in accordance with guidelines established by the executive director of the Ohio facilities construction commission are exhausted, the contractor may bring an action to the court of claims in accordance with Chapter 2743. of the Revised Code. The state or the contractor may request the chief justice of the supreme court to appoint a referee or panel of referees in accordance with division (C)(3) of section 2743.03 of the Revised Code. As used in this division, "dispute" means a disagreement between the state and the contractor concerning a public improvement contract let by the state.

Sec. 153.13. At the time named in the contract for payment to the person with whom it is made, the owner referred to in section 153.01 or 153.12 of the Revised Code shall approve a full, accurate, and detailed estimate of the various kinds of labor performed and material furnished under the contract, with the amount due for each kind of labor and material and the materials and amount due in the aggregate, which estimate shall be based upon actual measurement of such labor and materials, and shall give the amounts of the preceding estimate, and the amount of labor performed and materials furnished since the last estimate. ~~From the date the contract is fifty per cent complete, as evidenced by payments in the amount of at least fifty per cent of the contract to the person with whom the owner has contracted, except in the case of contracts the total cost of which is less than fifteen thousand dollars, all funds retained pursuant to sections 153.12 and 153.14 of the Revised Code for the faithful performance of work shall be deposited in the escrow account designated in section 153.63 of the Revised Code. After the contract is fifty per cent complete, no further funds shall be retained.~~ When the major portion of the project is substantially completed and occupied, or in use, or otherwise accepted, and there exists no other reason to withhold retainage, the retained percentages held in connection with such portion and interest thereon accrued shall, within thirty days of substantial completion of, occupation of, use of, or acceptance of the project, be released from escrow and paid to the primary contractor, withholding only that amount reasonably necessary to assure final completion of the project. ~~Funds in the escrow account not heretofore paid, with accumulated interest, shall be paid to the person with whom the owner has contracted thirty days from the date of completion or either acceptance or occupancy by the owner. Such payments shall be in accordance with division (A)(2) of section 153.63 of the Revised Code. Any retained funds withheld after substantial completion of, occupation of, use of, or acceptance of the project, and pending final completion of the project, and interest thereon accrued shall be paid to the primary contractor not later than thirty days after the date of final completion of the project.~~ Nothing in this section shall be construed as a limitation upon the authority of the director of transportation granted in Chapter 5525. of the Revised Code.

Sec. 153.14. For the construction of those projects, improvements, and public buildings over which the Ohio facilities construction commission has general supervision pursuant to section 123.21 of the Revised Code, the estimates referred to in section 153.13 of the Revised Code shall be

filed with the executive director by the owner referred to in section 153.01 or 153.12 of the Revised Code. Upon completion of a project referred to in section 153.13 of the Revised Code or any divisible part thereof, the maintenance and repair of such project or divisible part shall be assumed by the owner referred to in section 153.01 or 153.12 of the Revised Code.

In addition to all other payments on account of work performed, there shall be allowed by the owner referred to in section 153.01 or 153.12 of the Revised Code and paid to the contractor a sum at the rate of ninety-two per cent of the invoice costs, not to exceed the bid price in a unit price contract, of material delivered on the site of the work, or a railroad station, siding, or other point in the vicinity of the work, or other approved storage site, provided such materials have been inspected and found to meet the specifications. The balance of such invoiced value shall be paid when such material is incorporated into and becomes a part of such building, construction, addition, improvement, alteration, or installation. When an estimate is allowed on account of material delivered on the site of the work or in the vicinity thereof or under the possession and control of the contractor but not yet incorporated therein, such material shall become the property of the owner under the contract, but if such material is stolen, destroyed, or damaged by casualty before being used, the contractor shall be required to replace it at the contractor's own expense.

When the rate of work and amounts involved are so large that it is considered advisable by the owner or contractor, estimates and payments shall be made twice each month.

Payment on approved estimates filed with the owner or its representative shall be made within thirty days. Upon the failure of the owner or its representative to make such payments within thirty days, or upon an unauthorized withholding of retainage, there shall be allowed to the contractor, in addition to any other remedies allowed by law, interest on such moneys not paid within thirty days. Interest on the unauthorized withholding of retainage shall be in addition to any interest earned ~~in the escrow account set forth as described~~ in section 153.13 of the Revised Code. The rate of such interest shall be the average of the prime rate established at the commercial banks in the city of over one hundred thousand population that is nearest the construction project. Nothing in this section shall be construed as a limitation upon the authority of the director of transportation granted in Chapter 5525. of the Revised Code.

Sec. 153.501. (A) A public authority may accept a subcontract awarded by a construction manager at risk, a design-build firm, or a general contracting firm, or may reject any such subcontract if the public authority determines that the bidder is not responsible.

(B) A public authority may authorize a construction manager at risk or design-build firm to utilize a design-assist firm on any public improvement project without transferring any design liability to the design-assist firm.

(C) If the construction manager at risk or design-build firm intends and is permitted by the public authority to self-perform a portion of the work to be performed, the construction manager at risk or design-build firm shall submit a sealed bid to the public authority for the portion of the work prior to accepting and opening any bids for the same work, except when the public authority

requests a guaranteed maximum price proposal due at the time of selection.

Sec. 153.502. (A) Each construction manager at risk and design-build firm shall establish criteria by which it will prequalify prospective bidders on subcontracts awarded for work to be performed under the construction management or design-build contract. The criteria established by a construction manager at risk or design-build firm shall be subject to the approval of the public authority involved in the project and shall be consistent with the rules adopted by the Ohio facilities construction commission pursuant to section 153.503 of the Revised Code.

(B) For each subcontract to be awarded, the construction manager at risk or design-build firm shall identify at least three prospective bidders that are prequalified to bid on that subcontract, except that the construction manager at risk or design-build firm shall identify fewer than three if the construction manager at risk or design-build firm establishes to the satisfaction of the public authority that fewer than three prequalified bidders are available. The public authority shall verify that each prospective bidder meets the prequalification criteria and, subject to division (E) of this section, may eliminate any bidder it determines is not qualified.

(C) Once the prospective bidders are prequalified and found acceptable by the public authority, the construction manager at risk or design-build firm shall solicit proposals from each of those bidders. The solicitation and selection of a subcontractor shall be conducted under an open book pricing method. As used in this division, "open book pricing method" has the same meaning as in section 9.33 of the Revised Code, in the case of a construction manager at risk, and the same meaning as in section 153.65 of the Revised Code, in the case of a design-build firm.

(D) A construction manager at risk or design-build firm shall not be required to award a subcontract to a low bidder.

(E) Except as provided in section 307.921 of the Revised Code, no public authority shall eliminate a bidder as unqualified on the basis that the bidder has not complied with an affirmative action program or a diversity, equity, and inclusion program. This division shall not be construed to affect any set-aside programs for minority business enterprises or EDGE business enterprises, as defined in sections 122.921 and 122.922 of the Revised Code, respectively.

Sec. 153.54. (A) Except with respect to a contract described in section 9.334 or 153.693 of the Revised Code, each person bidding for a contract with the state or any political subdivision, district, institution, or other agency thereof, excluding therefrom the department of transportation, for any public improvement shall file with the bid, a bid guaranty in the form of ~~either~~ any of the following:

- (1) A bond in accordance with division (B) of this section for the full amount of the bid;
- (2) A certified check, cashier's check, or letter of credit pursuant to Chapter 1305. of the Revised Code, in accordance with division (C) of this section. Any such letter of credit is revocable only at the option of the beneficiary state, political subdivision, district, institution, or agency. The amount of the certified check, cashier's check, or letter of credit shall be equal to ten per cent of the bid;

(3) An electronic verification through an electronic verification and security system described in section 153.08 of the Revised Code, if the state or any political subdivision, district, institution, or other agency thereof accepts bids electronically pursuant to section 153.08 of the Revised Code.

(B) A bid guaranty filed pursuant to division (A)(1) of this section shall be conditioned to:

(1) Provide that, if the bid is accepted, the bidder, after the awarding or the recommendation for the award of the contract, whichever the contracting authority designates, will enter into a proper contract in accordance with the bid, plans, details, and specifications. If for any reason, other than as authorized by section 9.31 of the Revised Code or division (G) of this section, the bidder fails to enter into the contract, and the contracting authority awards the contract to the next lowest bidder, the bidder and the surety on the bidder's bond are liable to the state, political subdivision, district, institution, or agency for the difference between the bid and that of the next lowest bidder, or for a penal sum not to exceed ten per cent of the amount of the bond, whichever is less. If the state, political subdivision, district, institution, or agency does not award the contract to the next lowest bidder but resubmits the project for bidding, the bidder failing to enter into the contract and the surety on the bidder's bond, except as provided in division (G) of this section, are liable to the state, political subdivision, district, institution, or agency for a penal sum not to exceed ten per cent of the amount of the bid or the costs in connection with the resubmission of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, whichever is less.

(2) Indemnify the state, political subdivision, district, institution, or agency against all damage suffered by failure to perform the contract according to its provisions and in accordance with the plans, details, and specifications therefor and to pay all lawful claims of subcontractors, material suppliers, and laborers for labor performed or material furnished in carrying forward, performing, or completing the contract; and agree and assent that this undertaking is for the benefit of any subcontractor, material supplier, or laborer having a just claim, as well as for the state, political subdivision, district, institution, or agency.

(C)(1) A bid guaranty filed pursuant to division (A)(2) of this section shall be conditioned to provide that if the bid is accepted, the bidder, after the awarding or the recommendation for the award of the contract, whichever the contracting authority designates, will enter into a proper contract in accordance with the bid, plans, details, specifications, and bills of material. If for any reason, other than as authorized by section 9.31 of the Revised Code or division (G) of this section, the bidder fails to enter into the contract, and the contracting authority awards the contract to the next lowest bidder, the bidder is liable to the state, political subdivision, district, institution, or agency for the difference between the bidder's bid and that of the next lowest bidder, or for a penal sum not to exceed ten per cent of the amount of the bid, whichever is less. If the state, political subdivision, district, institution, or agency does not award the contract to the next lowest bidder but resubmits the project for bidding, the bidder failing to enter into the contract, except as provided in

division (G) of this section, is liable to the state, political subdivision, district, institution, or agency for a penal sum not to exceed ten per cent of the amount of the bid or the costs in connection with the resubmission, of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, whichever is less.

If the bidder enters into the contract, the bidder, at the time the contract is entered to, shall file a bond for the amount of the contract to indemnify the state, political subdivision, district, institution, or agency against all damage suffered by failure to perform the contract according to its provisions and in accordance with the plans, details, and specifications and to pay all lawful claims of subcontractors, material suppliers, and laborers for labor performed or material furnished in carrying forward, performing, or completing the contract; and agree and assent that this undertaking is for the benefit of any subcontractor, material supplier, or laborer having a just claim, as well as for the state, political subdivision, district, institution, or agency.

(2) A construction manager who enters into a contract pursuant to sections 9.33 to 9.333 of the Revised Code, if required by the public authority at the time the construction manager enters into the contract, shall file a letter of credit pursuant to Chapter 1305. of the Revised Code, bond, certified check, or cashier's check, for the value of the construction management contract to indemnify the state, political subdivision, district, institution, or agency against all damage suffered by the construction manager's failure to perform the contract according to its provisions, and shall agree and assent that this undertaking is for the benefit of the state, political subdivision, district, institution, or agency. A letter of credit provided by the construction manager is revocable only at the option of the beneficiary state, political subdivision, district, institution, or agency.

(D) Where the state, political subdivision, district, institution, or agency accepts a bid but the bidder fails or refuses to enter into a proper contract in accordance with the bid, plans, details, and specifications within ten days after the awarding of the contract, the bidder and the surety on any bond, except as provided in division (G) of this section, are liable for the amount of the difference between the bidder's bid and that of the next lowest bidder, but not in excess of the liability specified in division (B)(1) or (C) of this section. Where the state, political subdivision, district, institution, or agency then awards the bid to such next lowest bidder and such next lowest bidder also fails or refuses to enter into a proper contract in accordance with the bid, plans, details, and specifications within ten days after the awarding of the contract, the liability of such next lowest bidder, except as provided in division (G) of this section, is the amount of the difference between the bids of such next lowest bidder and the third lowest bidder, but not in excess of the liability specified in division (B)(1) or (C) of this section. Liability on account of an award to any lowest bidder beyond the third lowest bidder shall be determined in like manner.

(E) Notwithstanding division (C) of this section, where the state, political subdivision, district, institution, or agency resubmits the project for bidding, each bidder whose bid was accepted but who failed or refused to enter into a proper contract, except as provided in division (G) of this section, is liable for an equal share of a penal sum in connection with the resubmission, of printing

new contract documents, required advertising, and printing and mailing notices to prospective bidders, but no bidder's liability shall exceed the amount of the bidder's bid guaranty.

(F) All bid guaranties filed pursuant to this section shall be payable to the state, political subdivision, district, institution, or agency, be for the benefit of the state, political subdivision, district, institution, or agency or any person having a right of action thereon, and be deposited with, and held by, the board, officer, or agent contracting on behalf of the state, political subdivision, district, institution, or agency. All bonds filed pursuant to this section shall be issued by a surety company authorized to do business in this state as surety approved by the board, officer, or agent awarding the contract on behalf of the state, political subdivision, district, institution, or agency.

(G) A bidder for a contract with the state or any political subdivision, district, institution, or other agency thereof, excluding therefrom the Ohio department of transportation, for a public improvement costing less than one-half million dollars may withdraw the bid from consideration if the bidder's bid for some other contract with the state or any political subdivision, district, institution, or other agency thereof, excluding therefrom the department of transportation, for the public improvement costing less than one-half million dollars has already been accepted, if the bidder certifies in good faith that the total amount of all the bidder's current contracts is less than one-half million dollars, and if the surety certifies in good faith that the bidder is unable to perform the subsequent contract because to do so would exceed the bidder's bonding capacity. If a bid is withdrawn under authority of this division, the contracting authority may award the contract to the next lowest bidder or reject all bids and resubmit the project for bidding, and neither the bidder nor the surety on the bidder's bond are liable for the difference between the bidder's bid and that of the next lowest bidder, for a penal sum, or for the costs of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders.

(H) Bid guaranties filed pursuant to division (A) of this section shall be returned to all unsuccessful bidders immediately after the contract is executed. The bid guaranty filed pursuant to division (A)(2) of this section shall be returned to the successful bidder upon filing of the bond required in division (C) of this section.

(I) For the purposes of this section and sections 153.56, 153.57, and 153.571 of the Revised Code, "public improvement," "subcontractor," "material supplier," "laborer," and "materials" have the same meanings as in section 1311.25 of the Revised Code.

Sec. 153.59. Every contract for or on behalf of the state, or any township, county, or municipal corporation of the state, for the construction, alteration, or repair of any public building or public work in the state shall contain provisions by which the contractor agrees to both of the following:

(A) That, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor, subcontractor, or any person acting on a contractor's or subcontractor's behalf, by reason of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor

or workers who is qualified and available to perform the work to which the employment relates;

(B) That no contractor, subcontractor, or any person on a contractor's or subcontractor's behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color.

~~The department of development shall ensure that no capital moneys appropriated by the general assembly for any purpose shall be expended unless the project for which those moneys are appropriated provides for an affirmative action program for the employment and effective utilization of disadvantaged persons whose disadvantage may arise from cultural, racial, or ethnic background, or other similar cause, including, but not limited to, race, religion, sex, disability or military status as defined in section 4112.01 of the Revised Code, national origin, or ancestry.~~

In awarding contracts for capital improvement projects, the department of development shall ensure that equal consideration be given to contractors, subcontractors, or joint venturers who qualify as a minority business enterprise. As used in this section, "minority business enterprise" means a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons who are residents of this state. "Socially or economically disadvantaged persons" means persons, regardless of marital status, who are members of groups whose disadvantage may arise from discrimination on the basis of race, religion, sex, disability or military status as defined in section 4112.01 of the Revised Code, national origin, ancestry, or other similar cause.

Sec. 153.63. (A) Any money which is due from the public owner referred to in section ~~153.12-1311.28~~ of the Revised Code under a contract entered into under this chapter or entered into under other applicable sections of the Revised Code for the construction, reconstruction, improvement, enlargement, alteration, repair, painting, or decoration of a public improvement shall, on the day it is due, be paid to the contractor or deposited in an escrow account, whichever is applicable, with one or more banks or building and loan associations in the state selected by mutual agreement between the contractor and the public owner. The agreement shall contain the following provisions:

(1) The money shall be deposited in a savings account or the escrow agent shall promptly invest all of the escrowed principal in obligations selected by the escrow agent, as stipulated in the agreement.

(2) The escrow agent shall hold the escrowed principal and income until receipt of notice from the public owner and the contractor, or until receipt of an arbitration order or an order of the court of claims specifying the amount of the escrowed principal to be released and the person to whom it is to be released. Upon receipt of the notice or order, the agent shall promptly pay such amount of principal and a proportionate amount of the escrowed income to the person indicated.

(3) The escrow agent shall be compensated for its services as agreed to by the public owner and the contractor from the income from the escrow account.

The agreement may include other provisions not inconsistent with this section, including, but not limited to granting authority for the escrow agent to commingle the escrowed funds with funds held pursuant to other escrow agreements and limiting the liability of the escrow agent.

(B) When the public owner, as defined in division (B) of section 2743.01 of the Revised Code, and the contractor disagree as to the conditions under which money is to be paid under this section, the parties shall apply for a decision by arbitration under the procedures of Chapter 2711. of the Revised Code. When an application is made, neither party shall initiate, and no court shall permit the maintenance of, an action in court for decision of the same issues sought to be determined in the arbitration application. The award made by the arbitrator may include the costs of arbitration. The arbitration shall be binding on all parties.

(C) When the public owner, as defined in division (A) of section 2743.01 of the Revised Code, and the contractor disagree as to the conditions under which money is to be paid under this section the contractor shall file an action in the court of claims.

(D) If the money required to be paid or deposited under division (A) of this section is not paid or deposited, the governmental entity shall pay to the contractor an amount equal to eight per cent annual interest compounded daily.

Sec. 153.693. ~~(A)(1)~~ For every design-build contract, the public authority planning to contract for design-build services, in consultation with the criteria architect or engineer, shall evaluate the statements of qualifications submitted by design-build firms specifically regarding the project, including the design-build firm's proposed architect or engineer of record.

(2) For projects valued at less than four million dollars, the public authority may require the design-build firm to submit a statement along with a pricing proposal described in division (B)(2)(h) of this section. The public authority shall provide each design-build firm who desires to submit both a statement and a proposal a pre-proposal meeting to explore the proposals further, in which the public authority shall provide the design-build firm with a description of the project, including the scope and nature of the proposed services and potential technical approaches. After and only after the public authority ranks and selects firms under division (B)(1) of this section, the public authority shall review the pricing proposals submitted by selected firms under this division, and proceed under division (B)(3) of this section, continuing the selection process from there.

(B) Following this evaluation, the public authority shall:

(1) Select and rank not fewer than three firms which it considers to be the most qualified to provide the required design-build services, except that the public authority shall select and rank fewer than three firms when the public authority determines in writing that fewer than three qualified firms are available;

(2) Provide each selected design-build firm with all of the following:

(a) A description of the project and project delivery;

(b) The design criteria produced by the criteria architect or engineer under section 153.692 of the Revised Code;

- (c) A preliminary project schedule;
 - (d) A description of any preconstruction services;
 - (e) A description of the proposed design services;
 - (f) A description of a guaranteed maximum price, including the estimated level of design on which such guaranteed maximum price is based;
 - (g) The form of the design-build services contract;
 - (h) ~~A~~ Except for projects under division (A)(2) of this section, a request for a pricing proposal that shall be divided into a design services fee and a preconstruction and design-build services fee. The pricing proposal of each design-build firm shall include at least all of the following:
 - (i) A list of key personnel and consultants for the project;
 - (ii) Design concepts adhering to the design criteria produced by the criteria architect or engineer under section 153.692 of the Revised Code;
 - (iii) The design-build firm's statement of general conditions and estimated contingency requirements;
 - (iv) A preliminary project schedule.
- (3) Evaluate the pricing proposal submitted by each selected firm and, at its discretion, hold discussions with each firm to further investigate its pricing proposal, including the scope and nature of the firm's proposed services and potential technical approaches;
- (4) Rank the selected firms based on the public authority's evaluation of the value of each firm's pricing proposal, with such evaluation considering each firm's proposed costs and qualifications;
- (5) Enter into contract negotiations for design-build services with the design-build firm whose pricing proposal the public authority determines to be the best value under this section.
- ~~(B)(C)~~ In complying with division ~~(A)(5)(B)(5)~~ of this section, contract negotiations shall be directed toward:
- (1) Ensuring that the design-build firm and the public authority mutually understand the essential requirements involved in providing the required design-build services, the provisions for the use of contingency funds, and the terms of the contract, including terms related to the possible distribution of savings in the final costs of the project;
 - (2) Ensuring that the design-build firm shall be able to provide the necessary personnel, equipment, and facilities to perform the design-build services within the time required by the design-build construction contract;
 - (3) Agreeing upon a procedure and schedule for determining a guaranteed maximum price using an open book pricing method that shall represent the total maximum amount to be paid by the public authority to the design-build firm for the project and that shall include the costs of all work, the cost of its general conditions, the contingency, and the fee payable to the design-build firm.
- ~~(C)(D)~~ If the public authority fails to negotiate a contract with the design-build firm whose

pricing proposal the public authority determines to be the best value as determined under this section, the public authority shall inform the design-build firm in writing of the termination of negotiations. The public authority may then do the following:

(1) Negotiate a contract with a design-build firm ranked next highest under this section following the negotiation procedure described in this section;

(2) If negotiations fail with the design-build firm under division ~~(C)(1)~~(D)(1) of this section, negotiate a contract with the design-build firm ranked next highest under this section following the negotiation procedure described in this section and continue negotiating with the design-build firms selected under this section in the order of their ranking until a contract is negotiated.

~~(D)~~(E) If the public authority fails to negotiate a contract with a design-build firm whose pricing proposal the public authority determines to be the best value as determined under this section, it may select additional design-build firms to provide pricing proposals to the public authority pursuant to this section or may select an alternative delivery method for the project.

~~(E)~~(F) The public authority may provide a stipend for pricing proposals received from design-build firms.

~~(F)~~(G) Nothing in this section affects a public authority's right to accept or reject any or all proposals in whole or in part.

Sec. 155.33. (A)(1) Beginning on ~~the effective date of this amendment~~ April 7, 2023, and ending on the effective date of the rules adopted under section 155.34 of the Revised Code, a state agency shall lease, in good faith, a formation within a parcel of land that is owned or controlled by the state agency for the exploration for and development and production of oil or natural gas. The lease shall be on terms that are just and reasonable, as determined by custom and practice in the oil and gas industry, and shall include at least the terms required under divisions (A)(1)(a) to (d) division (A) of section 155.34 of the Revised Code as that division existed prior to the effective date of this amendment. The person seeking to lease the formation shall submit to the state agency the proof described in divisions (D)(5)(a) and (b) of this section before entering into the lease. On and after the effective date of the rules adopted under section 155.34 of the Revised Code, a formation within a parcel of land that is owned or controlled by a state agency may be leased for the exploration for and development and production of oil or natural gas only in accordance with divisions (A)(2) to (H) of this section and those rules.

(2) On and after the effective date of rules adopted under section 155.34 of the Revised Code, any person or state agency that is interested in leasing a formation within a parcel of land that is owned or controlled by a state agency for the exploration for and the development and production of oil or natural gas may submit to the oil and gas land management commission a nomination that shall include all of the following:

(a) The name of the person making the nomination and the person's address, telephone number, and email address;

(b) An identification of the formation and parcel of land proposed to be leased that specifies

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all of the following:

(i) The percentage of the interest owned or controlled by the state agency, and whether that interest is divided, undivided, or partial;

(ii) The source deed by book and page numbers, including the description and acreage of the parcel and an identification of the county, section, township, and range in which the parcel is located;

(iii) A plat map depicting the area in which the parcel is located.

(c) If the person making the nomination is not a state agency, a nomination fee of one hundred fifty dollars;

(d) The proposed lease bonus that applies to the nomination and any additional proposed gross landowner royalty that applies to the nomination that is in addition to the amount required under division (A)(1)(b) of section 155.34 of the Revised Code;

(e) If the person making the nomination is not a state agency, proof of both of the following:

(i) That the person has obtained the insurance and financial assurance required under section 1509.07 of the Revised Code;

(ii) That the person has registered with and obtained an identification number from the division of oil and gas resources management under section 1509.31 of the Revised Code.

(3) In order to encourage the submission of nominations and the responsible and reasonable development of the state's natural resources, only the information submitted under division (A)(2)(b) of this section may be disclosed to the public until a person is selected under division (F) of this section. Until a person is selected under division (F) of this section, all other information submitted under division (A)(2) of this section is confidential, shall not be disclosed by the commission, and is not a public record subject to inspection or copying under section 149.43 of the Revised Code.

(4) When a nomination is not submitted by a state agency, the nomination is the opening bid for purposes of division (D) of this section. However, the person submitting the nomination may supplement or amend that bid by providing additional information in accordance with that division.

(B)(1) Not less than thirty days, but not more than one hundred twenty days following the receipt of a nomination, the commission shall conduct a meeting for the purpose of determining whether to approve or disapprove the nomination for the purpose of leasing a formation within the parcel of land that is identified in the nomination.

In making its decision to approve or disapprove the nomination, the commission shall consider all of the following:

(a) The economic benefits, including the potential income from an oil or natural gas operation, that would result if the lease of a formation that is the subject of the nomination were approved;

(b) Whether the proposed oil or gas operation is compatible with the current uses of the parcel of land that is the subject of the nomination;

(c) The environmental impact that would result if the lease of a formation that is the subject

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of the nomination were approved;

(d) Any potential adverse geological impact that would result if the lease of a formation that is the subject of the nomination were approved;

(e) Any potential impact to visitors or users of a parcel of land that is the subject of the nomination;

(f) Any potential impact to the operations or equipment of a state agency that is a state university or college if the lease of a formation within a parcel of land owned or controlled by the university or college that is the subject of the nomination were executed;

(g) Any comments or objections to the nomination submitted to the commission by the state agency that owns or controls the parcel of land on which the proposed oil or natural gas operation would take place;

(h) Any comments or objections to the nomination submitted to the commission by residents of this state or other users of the parcel of land that is the subject of the nomination;

(i) Any special terms and conditions the state agency included in its comments or objections that the state agency believes are appropriate for the lease of the parcel of land because of specific conditions related to that parcel of land.

(2) The commission shall approve or disapprove a nomination not later than two calendar quarters following the receipt of the nomination. The commission shall post notice of the commission's decision on the commission's web site and send notice of the decision by email and by certified mail to the person that submitted the nomination and to the state agency that owns or controls the formation within the parcel of land that is the subject of the nomination.

(C) Each calendar quarter, the commission shall proceed to advertise for bids for a lease for a formation within a parcel of land that was the subject of a nomination approved during the previous calendar quarter. The commission shall publish the advertisement on its web site for a period of time established by the commission. The advertisement shall include all of the following:

(1) An identification of each formation and parcel of land proposed to be leased that includes all of the information specified in division (A)(2)(b) of this section;

(2) The deadline for the submission of bids;

(3) A statement that each bid must contain all of the items required under division (D) of this section;

(4) A statement that a standard lease form that is consistent with the practices of the oil and natural gas industries and adopted by rule by the commission will be used for the lease of a formation within the parcel of land;

(5) Any special terms and conditions that may apply to the lease because of specific conditions related to the parcel of land;

(6) The amount of the bid fee that is required to be submitted with a bid;

(7) Any other information that the commission considers pertinent to the advertisement for bids.

(D) A person interested in leasing a formation within a parcel of land owned or controlled by a state agency for the exploration for and development and production of oil or natural gas may submit a bid to the commission on a parcel by parcel basis that contains all of the following:

- (1) A bid fee of twenty-five dollars;
- (2) The name of the person making the bid and the person's address, telephone number, and email address;
- (3) An identification of the formation and parcel of land for which the bid is being submitted, including all of the information specified in division (A)(2)(b) of this section;
- (4) The proposed lease bonus that applies to the bid and any additional proposed gross landowner royalty that applies to the bid that is in addition to the amount required under division (A)(1)(b) of section 155.34 of the Revised Code;
- (5) Proof of both of the following:
 - (a) That the person has obtained the insurance and financial assurance required under section 1509.07 of the Revised Code;
 - (b) That the person has registered with and obtained an identification number from the division of oil and gas resources management under section 1509.31 of the Revised Code.
- (6) Any other information that the person believes is relevant to the bid.

(E) In order to encourage the submission of bids and the responsible and reasonable development of the state's natural resources, the information that is contained in a bid submitted to the commission under this section is confidential, shall not be disclosed by the commission, and is not a public record subject to inspection and copying under section 149.43 of the Revised Code until a person is selected under division (F) of this section.

The commission shall select the person who submits the highest and best bid, taking into account the financial responsibility of the prospective lessee and the ability of the prospective lessee to perform its obligations under the lease. After the commission selects a person, the commission shall notify the applicable state agency and send the person's bid to the agency. The state agency shall enter into a lease with the person selected by the commission. The state agency shall fully execute the lease not later than thirty days after the commission selects the person with the highest and best bid.

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(G)(1) Except as otherwise provided in section 155.37 of the Revised Code, all money received by a state agency from signing fees, rentals, and royalty payments for leases entered into under this section shall be paid by the state agency into the state treasury to the credit of the state land royalty fund created in section 131.50 of the Revised Code.

(2) All money received from nomination fees and bid fees shall be paid into the state treasury to the credit of the oil and gas land management commission administration fund created in section 155.35 of the Revised Code.

(H) Notwithstanding any other provision of this section to the contrary, a nature preserve as defined in section 1517.01 of the Revised Code that is owned or controlled by a state agency shall

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not be nominated or leased under this section for the purpose of exploring for and developing and producing oil and natural gas resources.

(1) Except as otherwise provided in this chapter, the commission and any state agency shall not require as part of a bid or lease either of the following:

(1) Any royalty payment in excess of the amount specified in division (A)(1)(b) of section 155.34 of the Revised Code;

(2) Any additional payment that the commission or agency is not specifically authorized or required to charge under this section.

Sec. 155.34. (A) ~~Not later than one hundred twenty days after September 30, 2021, the~~ The oil and gas land management commission shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(1) A standard lease form that shall be used by a state agency for leases entered into under this chapter, is consistent with the practices of the oil and natural gas industries, and contains all of the following:

(a) A prohibition against the use of the surface of the parcel of land for oil and gas development unless the state agency, in its sole discretion, chooses to negotiate and execute a written surface use agreement established under this section;

(b) A one-eighth gross landowner royalty;

(c) A shut-in royalty rovision;

(d) A primary term of five years;

(d)(c) An option for the lessee to extend the primary term of the lease for an additional three five years by tendering to the state agency the same bonus paid when first entering into the lease-;

(f) A provision that states: "Notwithstanding any other provision of this Lease to the contrary, Lessee is entitled to a an advanced delay rentals/bonus amounts owed under this Lease within sixty (60) calendar days after Lessee receives a copy of this Lease executed by Lessor."

(g) A provision that states: "Notwithstanding any other provision of this Lease to the contrary, in the event that a parcel subject to this Lease was acquired or improved through, or is otherwise encumbered by, a federal grant program, the Primary Term of the Lease shall be tolled until the requirements of the program, and any related grant documents, have been fully satisfied by Lessor and Lessor notifies Lessee in writing of same."

(h) A provision that states: "Notwithstanding any other provision of this Lease to the contrary, in the event that a parcel subject to this Lease was acquired or improved through, or is otherwise encumbered by, a federal grant program, Lessee may defer payment of all sums otherwise due and owing under this Lease until the requirements of the program, and any related grant documents, have been fully satisfied by Lessor and Lessor notifies Lessee in writing of same."

(i) A provision that states: "Notwithstanding any other provision of this Lease to the contrary, in the event that litigation of any kind or character is filed by a third party that may adversely impact Lessee's ability to conduct operations under the Lease, including an appeal before a

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court or the oil and gas commission, the Primary Term of the Lease shall be tolled until such time as there is a final, nonappealable order entered in such litigation."

(j) A provision that states: "Notwithstanding any other provision of this Lease to the contrary, in the event that litigation of any kind or character is filed by a third party that may adversely impact Lessee's ability to conduct operations under the Lease, including an appeal before a court or the oil and gas commission, Lessee may defer payment of all sums otherwise due and owing under this Lease until a final, nonappealable order is entered in such litigation."

(2) Any other procedures necessary to implement sections 155.30 to 155.36 of the Revised Code, subject to division (I) of section 155.33 of the Revised Code.

(B) ~~Not later than one hundred twenty days after September 30, 2021, the~~ The commission shall establish a standard surface use agreement that a state agency shall use to authorize the use of the surface of a leased parcel of land.

(C) Section 121.95 of the Revised Code does not apply to rules adopted under this section and the commission is not subject to any requirements of that section.

Sec. 163.01. As used in sections 163.01 to 163.22 of the Revised Code:

(A) "Public agency" means any governmental corporation, unit, organization, instrumentality, or officer authorized by law to appropriate property in the courts of this state.

(B) "Private agency" means any corporation, firm, partnership, voluntary association, joint-stock association, or company that is not a public agency and that is authorized by law to appropriate property in the courts of this state.

(C) "Agency" means any public agency or private agency.

(D) "Court" means the court of common pleas or the probate court of any county in which the property sought to be appropriated is located in whole or in part.

(E) "Owner" means any individual, partnership, association, or corporation having any estate, title, or interest in any real property sought to be appropriated.

(F) "Real property," "land," or "property" includes any estate, title, or interest in any real property that is authorized to be appropriated by the agency in question, unless the context otherwise requires.

(G) "Public utility" has the same meaning as in section 4905.02 of the Revised Code and also includes a public utility owned or operated by one or more municipal corporations, an electric cooperative, and an agency holding a certificate of public convenience and necessity granted by the federal energy regulatory commission.

(H)(1) "Public use" does not include any taking that is for conveyance to a private commercial enterprise, economic development, or solely for the purpose of increasing public revenue, unless the property is conveyed or leased to one of the following:

(a) A public utility, municipal power agency, or common carrier;

(b) A private entity that occupies a port authority transportation facility or an incidental area within a publicly owned and occupied project;

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(c) A private entity when the agency that takes the property establishes by a preponderance of the evidence that the property is a blighted parcel or is included in a blighted area.

(2) "Public use" does not include any taking of property for use as a trail for hiking, bicycling, horseback riding, ski touring, canoeing, or other nonmotorized forms of recreational travel. This division does not apply to either of the following:

(a) A regional transit authority acting pursuant to section 306.36 of the Revised Code to acquire right-of-way, within one hundred fifty feet of and parallel to a public road, for a transit facility;

(b) A public or private agency taking property for the construction of a sidewalk within one hundred fifty feet of, and parallel to, a public road.

(3) All of the following are presumed to be public uses: utility facilities, roads, sewers, water lines, public schools, public institutions of higher education, private institutions of higher education that are authorized to appropriate property under section 3333.08 of the Revised Code, public parks, government buildings, port authority transportation facilities, projects by an agency that is a public utility, and similar facilities and uses of land.

(I) "Electric cooperative" has the same meaning as in section 4928.01 of the Revised Code.

(J) "Good faith offer" means the written offer that an agency that is appropriating property must make to the owner of the property pursuant to division (B) of section 163.04 of the Revised Code before commencing an appropriation proceeding.

(K) "Goodwill" means the calculable benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances that result in probable retention of old, or acquisition of new, patronage.

(L) "Municipal power agency" has the same meaning as in section 3734.058 of the Revised Code.

(M) "Port authority transportation facility" means any facility developed, controlled, or operated by a port authority for the purpose of providing passenger, cargo, or freight transportation services, such as airports, maritime ports, rail facilities, transit facilities, and support facilities directly related to any airport, maritime port, rail facility, or transit facility.

Sec. 164.01. As used in this chapter:

(A) "Capital improvement" or "capital improvement project" or "project" means the acquisition, construction, reconstruction, improvement, planning, and equipping of roads and bridges, appurtenances to roads and bridges to enhance the safety of animal-drawn vehicles, pedestrians, and bicycles, waste water treatment systems, water supply systems, solid waste disposal facilities, and storm water and sanitary collection, storage, and treatment facilities, including real property, interests in real property, facilities, and equipment related or incidental to those facilities.

(B) "Local subdivision" means any county, municipal corporation, township, sanitary district, or regional water and sewer district.

(C) "Bond proceedings" means the resolutions, orders, trust agreements, indentures, and

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other agreements, credit facilities and credit enhancement facilities, and amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing, awarding, or providing for the terms and conditions applicable to or providing for the security or liquidity of obligations, and the provisions contained in those obligations.

(D) "Bond service charges" means principal, including any mandatory sinking fund or redemption requirements for retirement of obligations, interest and other accreted amounts, and any redemption premium payable on obligations. If not prohibited by the applicable bond proceedings, bond service charges include costs of credit enhancement facilities that are related to, and represent or are intended to provide a source of payment of or limitation on, other bond service charges.

(E) "Bond service fund" means the fund, and any accounts in that fund, created by section 164.10 of the Revised Code, including all moneys and investments, and earnings from investments, credited and to be credited to that fund and accounts as provided in the bond proceedings.

(F) "Cost of capital improvement projects" means the costs of acquiring, constructing, reconstructing, expanding, improving, and engineering capital improvement projects, and related financing costs.

(G) "Credit enhancement facilities" means letters of credit, lines of credit, stand-by, contingent, or firm securities purchase agreements, interest rate hedges including, without limitation, interest rate swaps, insurance or surety arrangements, reserve or guarantee funds, and guarantees, and other arrangements that provide for contingent or direct payment of bond service charges, for security or additional security in the event of nonpayment or default in respect of obligations, or for making or providing funds for making payment of bond service charges to, and at the option and on demand of, holders of obligations or at the option of the issuer under put or similar arrangements, or for otherwise supporting the credit or liquidity of obligations, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, purchase, and subrogation agreements, and other agreements and arrangements for reimbursement of the person providing the credit enhancement facility and the security for that reimbursement. As used in this division, obligations include debt obligations of local subdivisions.

(H) "Financing costs" means all costs and expenses relating to the authorization, issuance, sale, delivery, authentication, deposit, custody, clearing, registration, transfer, exchange, fractionalization, replacement, and servicing of obligations, including, without limitation, costs and expenses for or relating to, or payment obligations under, publication and printing, postage and express delivery, official statements, offering circulars, and informational statements, travel and transportation, paying agents, bond registrars, authenticating agents, remarketing agents, custodians, clearing agencies or corporations, securities depositories, financial advisory services, certifications, audits, federal or state regulatory agencies, accounting services, legal services and obtaining approving legal opinions and other legal opinions, credit ratings, original issue discount, credit facilities, and credit enhancement facilities. Financing costs may be paid from any moneys lawfully available for the purpose, including, unless otherwise provided in the bond proceedings, from the

proceeds of the obligations to which they relate and from the same sources from which bond service charges on the obligations are paid and as though bond service charges.

(I) "Issuer" means the treasurer of state, or the officer who by law performs the functions of that officer.

(J) "Obligations" means bonds, notes, or other evidences of obligation of the state, including any interest coupons pertaining thereto, issued pursuant to sections 164.09 to 164.12 of the Revised Code.

(K) "Special funds" or "funds" means, except where the context does not permit, the bond service fund, and any other funds, including reserve funds, created under the bond proceedings and stated to be special funds in those proceedings, including all moneys and investments, and earnings from investments, credited and to be credited to the particular fund. Special funds do not include the state capital improvements fund created by section 164.08 of the Revised Code or, if so provided in the bond proceedings, a rebate fund or account established for purposes of federal tax laws.

(L) "Net proceeds" means amounts received from the sale of obligations pursuant to this chapter, excluding amounts used to refund or retire outstanding obligations, and does not include amounts required to be deposited in special funds pursuant to the applicable bond proceedings, or financing costs paid from such amounts received.

(M) "Local debt support" means ~~a full or partial pledge of support for any local bond issue, the payment of all or a part of the premium for bond insurance obtained from a private insurer, the subsidization of the interest rate on a loan obtained by the a subdivision, or a source of revenue pledged in support of revenue bonds issued by a subdivision.~~

(N) "Principal amount" refers to the aggregate of the amount as stated or provided for in the bond proceedings authorizing the obligations as the amount on which interest or interest equivalent is initially calculated.

Sec. 164.05. (A) The director of the Ohio public works commission shall do all of the following:

(1) Approve requests for financial assistance from district public works integrating committees and enter into agreements with one or more local subdivisions to provide loans, grants, and local debt support for a capital improvement project if the director determines that:

(a) The project is an eligible project pursuant to this chapter;

(b) The financial assistance for the project has been properly approved and requested by the district committee of the district which includes the recipient of the loan or grant;

(c) The amount of the financial assistance, when added to all other financial assistance provided during the fiscal year for projects within the district, does not exceed that district's allocation of money from the state capital improvements fund for that fiscal year;

(d) The district committee has provided such documentation and other evidence as the director may require that the district committee has satisfied the requirements of section 164.06 or 164.14 of the Revised Code;

(e) The portion of a district's annual allocation which the director approves in the form of loans and local debt support for eligible projects is consistent with divisions (E) and (F) of this section.

(2) Authorize payments to local subdivisions or their contractors for costs incurred for capital improvement projects which have been approved pursuant to this chapter. All requests for payments shall be submitted to the director on forms and in accordance with procedures specified in rules adopted by the director pursuant to division (A)(4) of this section.

(3) Retain the services of or employ financial consultants, engineers, accountants, attorneys, and such other employees as the director determines are necessary to carry out the director's duties under this chapter and fix the compensation for their services. From among these employees, the director shall appoint a deputy with the necessary qualifications to act as the director when the director is absent or temporarily unable to carry out the duties of office.

(4) Adopt rules establishing the procedures for making applications, reviewing, approving, and rejecting projects for which assistance is authorized under this chapter, and any other rules needed to implement the provisions of this chapter. Such rules shall be adopted under Chapter 119. of the Revised Code.

(5) Provide information and other assistance to local subdivisions and district public works integrating committees in developing their requests for financial assistance for capital improvements under this chapter and encourage cooperation and coordination of requests and the development of multisubdivision projects in order to maximize the benefits that may be derived by districts from each year's allocation;

(6) Require local subdivisions, to the extent practicable, to use Ohio products, materials, services, and labor in connection with any capital improvement project financed in whole or in part under this chapter;

(7) Notify the director of budget and management of all approved projects, and supply all information necessary to track approved projects through the state accounting system;

(8) Appoint the administrator of the Ohio small government capital improvements commission;

(9) Do all other acts, enter into contracts, and execute all instruments necessary or appropriate to carry out this chapter;

(10) Develop a standardized methodology for evaluating local subdivision capital improvement needs that a district public works integrating committee shall consider when addressing a subdivision's project application;

(11) Establish a program to provide local subdivisions with technical assistance in preparing project applications. The program shall be designed to assist local subdivisions that lack the financial or technical resources to prepare project applications on their own.

(B) When the director of the Ohio public works commission decides to conditionally approve or disapprove projects, the director's decisions and the reasons for which they are made

shall be made in writing. These written decisions shall be conclusive for the purposes of the validity and enforceability of such determinations.

(C) Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of and security for financial assistance provided pursuant to the provisions of this chapter shall be such as the director determines to be appropriate. If any payments required by a loan agreement entered into pursuant to this chapter are not paid, the funds which would otherwise be apportioned to the local subdivision from the county undivided local government fund, pursuant to sections 5747.51 to 5747.53 of the Revised Code, may, at the direction of the director of the Ohio public works commission, be reduced by the amount payable. The county treasurer shall, at the direction of the director, pay the amount of such reductions to the state capital improvements revolving loan fund. The director may renegotiate a loan repayment schedule with a local subdivision whose payments from the county undivided local government fund could be reduced pursuant to this division, but such a renegotiation may occur only one time with respect to any particular loan agreement.

(D) Grants approved for the repair and replacement of existing infrastructure pursuant to this chapter shall not exceed ninety per cent of the estimated total cost of the capital improvement project. Grants approved for new or expanded infrastructure shall not exceed fifty per cent of the estimated cost of the new or expansion elements of the capital improvement project. A local subdivision share of the estimated cost of a capital improvement may consist of any of the following:

(1) The reasonable value, as determined by the director or the administrator, of labor, materials, and equipment that will be contributed by the local subdivision in performing the capital improvement project;

(2) Moneys received by the local subdivision in any form from an authority, commission, or agency of the United States for use in performing the capital improvement project;

(3) Loans made to the local subdivision under this chapter;

(4) Engineering costs incurred by the local subdivision in performing engineering activities related to the project.

A local subdivision share of the cost of a capital improvement shall not include any amounts awarded to it from the local transportation improvement program fund created in section 164.14 of the Revised Code.

(E) ~~Not more than ten per cent of a~~ A district public works integrating ~~committee's~~ committee may determine how much of its annual allocation share pursuant to section 164.08 of the Revised Code ~~may be~~ is awarded to subdivisions ~~only~~ in the form of interest-free, low-interest, market rate of interest, or blended-rate loans and in the form of local debt support.

(F) ~~Not more than ten per cent of a district public works integrating committee's annual allocation pursuant to section 164.08 of the Revised Code may be awarded to subdivisions in the form of local debt support.~~

~~(G)~~ For the period commencing July 1, 1993, and ending June 30, 1999, and for each five-year period thereafter, the total amount of financial assistance awarded under sections 164.01 to 164.08 of the Revised Code for capital improvement projects located wholly or partially within a county shall be equal to at least thirty per cent of the amount of what the county would have been allocated from the obligations authorized to be sold under this chapter during each period, if such amounts had been allocable to each county on a per capita basis.

~~(H)~~(G) The amount of the annual allocations made pursuant to divisions (B)(1) and (4) of section 164.08 of the Revised Code which can be used for new or expanded infrastructure is limited to twenty per cent.

~~(H)~~(H) No project shall be approved under this section unless the project is designed to have a useful life of at least seven years. In addition, the average useful life of all projects for which grants or loans are awarded in each district during a program year shall not be less than twenty years.

Sec. 164.06. (A) Each district public works integrating committee shall evaluate materials submitted to it by the local subdivisions located in the district concerning capital improvements for which assistance is sought from the state capital improvements fund and shall, pursuant to division (B) of this section, select the requests for financial assistance that will be formally submitted by the district to the director of the Ohio public works commission. In order to provide for the efficient use of the district's state capital improvements fund allocation each year, a district committee shall assist its subdivisions in the preparation and coordination of project plans.

(B) In selecting the requests for assistance for capital improvement projects which will be submitted to the director, and in determining the nature, amount, and terms of the assistance that will be requested, a district public works integrating committee shall give priority to capital improvement projects for the repair or replacement of existing infrastructure and which would be unlikely to be undertaken without assistance under this chapter, and shall specifically consider all of the following factors:

- (1) The infrastructure repair and replacement needs of the district;
- (2) The age and condition of the system to be repaired or replaced;
- (3) Whether the project would generate revenue in the form of user fees or assessments;
- (4) The importance of the project to the health and safety of the citizens of the district;
- (5) The cost of the project and whether it is consistent with division ~~(G)~~(F) of section 164.05 of the Revised Code and the district's allocation for grants, loans, and local debt support for that year;
- (6) The effort and ability of the benefited local subdivisions to assist in financing the project;
- (7) The availability of federal or other funds for the project;
- (8) The overall economic health of the particular local subdivision;
- (9) The adequacy of the planning for the project and the readiness of the applicant to proceed should the project be approved;

(10) Any other factors relevant to a particular project.

(C) When applying the methodology under division (A)(10) of section 164.05 of the Revised Code, a district public works integrating committee may require a subdivision to submit information on its capital infrastructure as part of an application for assistance in financing a capital improvement project under this section.

(D) In addition to reviewing and selecting the projects for which approval will be sought from the director of the Ohio public works commission for financial assistance from the state capital improvements fund, each district public works integrating committee shall appoint a subcommittee of its members that will represent the interests of villages and townships and that will review and select the capital improvement projects which will be submitted by the subcommittee to the administrator of the Ohio small government capital improvements commission for consideration of assistance from the portion of the net proceeds of obligations issued and sold by the treasurer of state which is allocated pursuant to division (B)(1) of section 164.08 of the Revised Code. In reviewing and approving the projects selected by its subcommittee, the administrator, and the Ohio small government capital improvements commission shall be guided by the provisions of division (B) of this section, and shall also take into account the fact that villages and townships may have different public infrastructure needs than larger subdivisions.

Sec. 164.08. (A) Except as provided in sections 151.01 and 151.08 or section 164.09 of the Revised Code, the net proceeds of obligations issued and sold by the treasurer of state pursuant to section 164.09 of the Revised Code before September 30, 2000, or pursuant to sections 151.01 and 151.08 of the Revised Code, for the purpose of financing or assisting in the financing of the cost of public infrastructure capital improvement projects of local subdivisions, as provided for in Section 2k, 2m, 2p, or 2s of Article VIII, Ohio Constitution, and this chapter, shall be paid into the state capital improvements fund, which is hereby created in the state treasury. Investment earnings on moneys in the fund shall be credited to the fund.

(B) Beginning July 1, 2016, each program year the amount of obligations authorized by the general assembly in accordance with sections 151.01 and 151.08 or section 164.09 of the Revised Code, excluding the proceeds of refunding or renewal obligations, shall be allocated by the director of the Ohio public works commission as follows:

(1) First, ~~ten~~ twelve per cent of the amount of obligations authorized shall be allocated to provide financial assistance to villages and to townships with populations in the unincorporated areas of the township of less than five thousand persons, for capital improvements in accordance with section 164.051 and division (D) of section 164.06 of the Revised Code. As used in division (B)(1) of this section, "capital improvements" includes resurfacing and improving roads.

(2) Following the allocation required by division (B)(1) of this section, the director may allocate two per cent of the authorized obligations to provide financial assistance to local subdivisions for capital improvement projects which in the judgment of the director of the Ohio public works commission are necessary for the immediate preservation of the health, safety, and