



# Ohio Legislative Service Commission

## Final Analysis

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### Sub. H.B. 225

129th General Assembly  
(As Passed by the General Assembly)

**Reps.** Peterson and Landis, Grossman, Sears, Boose, Derickson, Carey, Thompson, J. Adams, Hayes, Ruhl, McClain, Balderson, Maag, Brenner, Duffey, Baker, Schuring, Blair, McKenney, R. Adams, Amstutz, Anielski, Beck, Blessing, Bupp, Buchy, Damschroder, Dovilla, Goodwin, Hackett, Hall, Henne, Hollington, Huffman, Newbold, Slaby, Sprague, Stebelton, Uecker, Batchelder

**Sens.** Daniels, Coley, Eklund, Hite, LaRose, Lehner, Niehaus, Seitz

**Effective date:** March 22, 2012

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## ACT SUMMARY

### Direct deposit payroll

- Authorizes a county auditor, the legislative authority of a municipal corporation, or a board of township trustees to adopt a direct deposit payroll policy for all their employees.
- Allows the policy to exempt from the direct deposit requirement those county, municipal, or township employees who cannot provide, by written authorization, an account number designating a financial institution for the direct deposit, or for other reasons specified in the policy.
- Provides that the written authorization is not a public record under Ohio's Public Records Law.

### Balance increase in county and township "rainy day" accounts

- Authorizes counties and townships to increase the amount of money credited to "rainy day" reserve balance accounts.

## **Purposes for which other reserved balances may be used**

- Expands the types of insurance plans and programs, and what a subdivision may pay for, out of reserve balance accounts established for self-insurance or workers' compensation payments.

## **Changes for New Community Authorities**

- Applies certain provisions of law previously applicable to New Community Authorities created between July 7, 2010 and December 31, 2011, to New Community Authorities created after March 22, 2012, but before March 23, 2015.

## **State and county investment authority**

- Permits the Treasurer of State to invest state interim funds in obligations of a political subdivision, if the obligations mature within one year of issuance.
- Permits a county to invest inactive moneys and public-library money in obligations of a political subdivision *not* located within the same county as the investing authority.
- Increases, from five to ten years, the time in which an investment of inactive moneys or the public-library money must generally mature.
- Permits an investment of up to 25% of a county's total average portfolio of investments of inactive moneys and public-library money to mature after ten years upon majority approval from the county investment advisory committee.

## **Joint county department of job and family services**

- Permits, but does not require, the boards of county commissioners of Hocking, Ross, and Vinton counties, by entering into a written agreement, to form as a pilot project a joint county department of job and family services.
- Requires the joint county department to perform the duties, provide the services, and operate the programs required under all laws that pertain to a single county department of job and family services.
- Mandates some of the terms and conditions of the agreement, but also allows other terms and conditions to be established in the agreement.
- Requires that the joint county department be managed by a board of directors composed of all of the county commissioners of the counties forming the department.

- Establishes who appoints the director, employees, and administrators of the joint county department.
- Establishes criteria to determine which county auditor serves as the fiscal officer of, and which county treasurer serves as the treasurer of, the joint county department, and which prosecuting attorney serves as the legal advisor of the board of directors of the department.
- Creates a process whereby a county that formed the joint county department may withdraw from the agreement or may be removed from the department.
- Authorizes a board of county commissioners to designate the joint county department as the workforce development agency for the county.

### **Changes affecting or relating to county auditors**

- Authorizes the county auditor, rather than the Tax Commissioner, to review and approve property tax exemption applications for certain public property.
- Prohibits boards of county commissioners from adopting quarterly spending plans to limit spending from county real estate assessment funds, which funds primarily cover a county's real property tax administration expenses and defray certain costs of county auditors.
- Prohibits county centralized services regarding purchases using moneys from the real estate assessment funds.

### **Competitive sealed proposals and bids**

- Permits a county contracting authority to give notice of a request for proposals and to receive proposals through an electronic system that is uniform, interactive, and secure.
- Requires that competitive sealed bids be submitted to a county contracting authority in the manner mentioned in the notice published by the authority, rather than in a sealed envelope.

### **Electronic filing of county tax complaints**

- Permits a county board of revision to authorize a policy for the electronic filing of tax valuation or assessment complaints and applications, subject to the approval of the Tax Commissioner.

## **Township and county employee benefits**

- Clarifies that a board of township trustees may offer deferred compensation plans or programs to all of the township's officers and employees.
- Authorizes a board of county commissioners to offer any "qualified benefit" available under a cafeteria plan, and a health and wellness benefit program, to county officers, employees, and their immediate dependents; if provided, these benefits must be issued by an insurance company or administered by a board of county commissioners or a contractor.
- Authorizes a board of township trustees to offer a health and wellness benefit program to township officers, employees, and their immediate dependents.
- Permits the county auditor or the township fiscal officer, as appropriate, to deduct from an employee's salary or wages the amount authorized to be paid by the employee for qualified and existing benefits.

## **County elected officers**

- Requires the written consent of a county elected officer for (1) the officer to be required to perform a duty under a shared-services agreement, and (2) the county to enter into a shared-services agreement for the performance of a duty of the officer.

## **Regional council of governments 9-1-1 PSAP**

- Authorizes a regional council of governments to operate a public safety answering point (PSAP) as part of a countywide 9-1-1 system under an adopted or amended final plan.
- Requires a regional council of governments operating a PSAP to pay all costs associated with the PSAP, and to allocate costs among itself and the subdivisions served by the PSAP based on the allocation formula in the final plan.

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## **CONTENT AND OPERATION**

### **Direct deposit of municipal, county, or township payrolls**

The act authorizes (1) the legislative authority of a municipal corporation, for employees of the municipal corporation, (2) a county auditor, for county employees, or (3) a board of township trustees, for township employees, to adopt a payroll policy under which all municipal, all county, or all township employees are paid their compensation by direct deposit. If such a policy is adopted, a municipal, county, or township employee, as the case may be, must provide a written authorization designating a financial institution and an account number to which payment of the employee's compensation is to be credited. The legislative authority of the municipal corporation, the county auditor, or the board of township trustees, in its direct deposit

payroll policy, may exempt from the direct deposit requirement those municipal, county, or township employees who cannot provide an account number, or for other reasons specified in the policy.<sup>1</sup>

The act provides that the written authorization designating a financial institution and an account number is not a public record under Ohio's Public Records Law.<sup>2</sup>

### **Balance increase in county and township "rainy day" accounts**

The act authorizes an increase in the amount of money that may be held in a reserve balance account established by a county or township to stabilize its budget against cyclical changes in revenues and expenditures (commonly referred to as a "rainy day account"). Under the act, a county or township may reserve the greater of (1) 5% of the revenue credited in the preceding fiscal year to the fund in which the account is established, or (2) one-sixth of the expenditures during the preceding fiscal year from the fund in which the account is established. Under prior law, the amount of reserve was limited to the amount described in (1) above.<sup>3</sup>

### **Purposes for which other reserve balances may be used**

The act amends the law governing reserve balance accounts established by the taxing authority of a political subdivision for either of the following purposes:

(1) To provide for the payment of claims under a self-insurance program for the subdivision, if the subdivision is permitted by law to establish such a program (see "**Self-insurance purposes**," below);

(2) To provide for the payment of claims under a retrospective ratings plan for workers' compensation (see "**Workers' compensation purposes**," below).

Any of the following political subdivisions are subject to the changes made by the act regarding the two reserve balance accounts described above:

- Any county, municipal corporation, or township;
- Emergency services districts: Any township police, joint police, township fire, joint fire, joint ambulance, joint emergency medical services, or fire and ambulance district;

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<sup>1</sup> R.C. 9.37(G).

<sup>2</sup> R.C. 149.43 (not in the act).

<sup>3</sup> R.C. 5705.13(A).

- School and college districts: Any city, local, exempted village, cooperative education, or joint vocational school district, or any community college, technical college, county school financing, or regional student education district;
- Detention facility districts: Any detention facility district, district organized for single- or joint-county juvenile facilities, or combined district organized as a joint-county juvenile facility or a juvenile detention facility for delinquent children;
- Other districts: Any joint-county alcohol, drug addiction, and mental health service, drainage improvement, union cemetery, joint recreation, township waste disposal, or township road district.<sup>4</sup>

### **Self-insurance purposes**

For self-insurance purposes, the act authorizes the taxing authority of a subdivision to provide for the payment of not only insurance claims under a self-insurance program, but also for the payment of deductibles under an individual or joint self-insurance program out of the reserve balance account.<sup>5</sup>

The act also eliminates a provision that prohibits a subdivision from establishing a reserve balance account to provide self-insurance for the subdivision if the subdivision participates in a risk sharing pool whereby governments pool risks and funds and share in the costs of losses.<sup>6</sup>

### **Workers' compensation purposes**

The act authorizes the taxing authority of a subdivision to provide for the payment not only of claims under a retrospective ratings plan for workers' compensation, but also for the payment of assessments and deductibles, under a self-insurance program, individual retrospective ratings plan, group rating plan, group retrospective rating plan, medical-only program, deductible plan, or large deductible plan for workers' compensation.<sup>7</sup>

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<sup>4</sup> R.C. 5705.01 (not in the act).

<sup>5</sup> R.C. 5705.13(A)(2).

<sup>6</sup> R.C. 5705.13(A).

<sup>7</sup> R.C. 5705.13(A)(3).

## **New Community Authorities (NCAs)**

Continuing law authorizes "New Community" districts to be established by developers by petition to the board of county commissioners. A board of county commissioners may approve the petition if it finds that creation of a district "will be conducive to the public health, safety, convenience, and welfare" and is intended to result in development of facilities for industrial, commercial, residential, cultural, educational, and recreational activities. (The board of county commissioners that approves a petition is the "organizational board of commissioners.")<sup>8</sup> If a petition is approved, a New Community Authority (NCA) is established to develop land in the district, provide services in the district, and to raise revenue by levying community "charges" in the district.<sup>9</sup> The Authority is governed by a board of trustees initially composed of a local government representative and representatives of the developer and (in an equal number) of residents.<sup>10</sup>

The act makes certain provisions governing NCAs apply only to NCAs created after March 22, 2012, but before March 23, 2015. Each of the specific provisions is addressed below. Please note that most of those provisions addressing NCAs created during the 2012-2015 period were (and still may be) applicable to any NCA created between July 7, 2010 and December 31, 2011.

### **"Community development charge"**

Under continuing law, any NCA has among its powers the authority to levy a community development charge upon land, on resident income, or business profit within the district to cover all or part of the cost of the acquisition, construction, operation, maintenance, and debt service charges of "land, land development, and community facilities."

The act permits NCAs created after March 22, 2012, but before March 23, 2015 to impose a community development charge based on business revenues or gross receipts, in addition to the bases specified under continuing law. Charges levied by such an NCA on the basis of income or profits may be based on all or part of such income or profits.<sup>11</sup>

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<sup>8</sup> R.C. 349.03.

<sup>9</sup> R.C. 349.06.

<sup>10</sup> R.C. 349.04.

<sup>11</sup> R.C. 349.01(L); R.C. 349.07 (not in the act).

## **Board of trustees**

Under continuing law, the board of trustees of any NCA must be composed of a representative of a local government, between three and six members representing the interests of present and future citizens, and an equal number representing the developer. Citizen members serve overlapping two-year terms and are replaced through election by the district's residents at an annual election. Citizen members must be residents of the district.

The act provides that citizen members of NCAs for which a petition is filed after March 22, 2012, but before March 23, 2015, may be selected by means other than an election if the organizational board of commissioners, by resolution, provides for such an alternative means of selection. The selection of citizen members may include elections held according to the manner provided by the board in the resolution. In addition to representing any residents, such citizen members may also represent "present and future employers" within the district.<sup>12</sup>

## **NCA authority**

Under continuing law, all NCAs are authorized to provide certain kinds of activities and services "primarily for residents of" the community.

The act provides that NCAs created after March 22, 2012, but before March 23, 2015, may provide such activities and services for visitors to the district and for employees and employers in the district.<sup>13</sup>

Continuing law grants all NCAs general authority to contract "relating to a new community development program," including with local governments "for the provision of any services or activities relating to and in furtherance of" the program, among other things.<sup>14</sup>

The act provides that NCAs created after March 22, 2012, but before March 23, 2015, also may enter agreements with political subdivisions providing for revenue sharing, for services, products, and materials, and for the administration, calculation, or collection of community charges.<sup>15</sup>

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<sup>12</sup> R.C. 349.04.

<sup>13</sup> R.C. 349.06(D).

<sup>14</sup> R.C. 349.06(I).

<sup>15</sup> R.C. 349.06(S).

## **Developer land ownership or control**

Under continuing law, a developer must own or control land inside a proposed new community district through leases of at least 75 years in order to establish any NCA. For NCAs created after July 7, 2010, and before January 1, 2012, the duration of the lease need be only 40 years. The act extends this minimum 40-year lease term to NCAs created after March 22, 2012, but before March 23, 2015.<sup>16</sup>

### **"New community"**

Under continuing law, a "new community" is a community or an addition to an existing community that includes facilities for conducting industrial, commercial, residential, cultural, educational, and recreational activities.

For NCAs created after March 22, 2012, but before March 23, 2015, the act provides that "new community" may mean "a community or development of property that is planned in relation to an existing community, not necessarily an existing new community, so that the community includes facilities for conducting community activities." "Community activities" is defined to include any of the above mentioned activities, or governmental, distribution, or research activities if combined with residential activities.<sup>17</sup>

### **"Community facilities"**

Any NCA is authorized to finance, build, acquire, and operate various kinds of "community facilities," including "public, community, village, neighborhood, or town buildings, centers, and plazas," open spaces, streets, lighting, and utilities, among various other facilities or land holdings.

The act permits NCAs created after March 22, 2012, but before March 23, 2015, also to finance, build, acquire, and operate such facilities but for apparently more expansive purposes – i.e., "for, relating to, or in furtherance of" community activities. Also, the specified kinds of facilities may include health care facilities and off-street parking facilities, which are not specifically mentioned in the definition of "community facilities" applicable to any NCA regardless of when created.<sup>18</sup>

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<sup>16</sup> R.C. 349.01(A) and (E) and 349.03(A) and (B).

<sup>17</sup> R.C. 349.01(A) and (N) and 349.03(A).

<sup>18</sup> R.C. 349.01(I).

## **"New community development program"**

Under continuing law, a "new community development program" is a program for the development of a new community characterized by "well-balanced and diversified land use patterns."

For NCAs created after March 22, 2012, but before March 23, 2015, the act permits the program to take existing communities into account when considering whether land use patterns are well-balanced and diversified. Apparently, this means that a development program undertaken need not itself exhibit "well-balanced and diversified" land use patterns so long as such patterns remain present in the wider "community" once the development occurs.<sup>19</sup>

## **"Proximate city"**

Under continuing law, the petition proposing the creation of any NCA must be approved by each "proximate city." A proximate city is defined as any of the following: the city that has the greatest population living in the county where the NCA district will be located, the city that has the greatest population living in an adjoining county if that city's territory is within five miles of the NCA district, or a city whose planning commission adopts a plan for streets, parks, or public grounds within unincorporated territory within three miles of its boundaries, and the NCA district would be located in that three-mile limit.<sup>20</sup> (Under continuing Ohio law, a "city" is a municipal corporation having a population of 5,000 or more; all other municipal corporations are classified as villages.<sup>21</sup>)

The act prescribes a new kind of "proximate city" that may apply regarding NCAs created after March 22, 2012, but before March 23, 2015. A proximate city may include either of the following: (1) a municipal corporation (i.e., a city or a village) where the proposed NCA district would be located (determined at the time the petition is filed with the organizational board of commissioners), or (2) a township if the township is a party to a joint economic development district (JEDD) agreement, more than one-half of the proposed NCA district is within the JEDD (determined at the time the petition is filed), and the township contains the greatest part of the JEDD.<sup>22</sup> It is not clear whether this new definition is to be applied in addition to, or in lieu of, the existing definition. The distinction may affect whether all proximate cities (under both

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<sup>19</sup> R.C. 349.01(B).

<sup>20</sup> R.C. 349.01(M).

<sup>21</sup> R.C. 703.01 (not in the act).

<sup>22</sup> R.C. 349.01(M) and 349.03(A).

continuing law and the act) must approve an NCA petition or just those satisfying the act's new definition.

### **Dissolution**

Under continuing law, any NCA may be dissolved only by a vote in favor of dissolution by a majority of the voters of the district. When an NCA is dissolved, its property is vested in the municipal corporation where the property is located or, if the property is not located in a municipal corporation, it is vested in the county where it is located. The NCA's unspent funds are divided among the municipal corporations and the county where the NCA is located in proportion to the taxable value of real property located in both the NCA and the municipal corporation or county.

The act allows the organizational board of commissioners of an NCA created after March 22, 2012, but before March 23, 2015, to adopt an alternative means of dissolution.

The act provides for an alternative disposition of NCA property and funds if the NCA is created after March 22, 2012, but before March 23, 2015, and the organizational board of commissioners provides for such an alternative disposition. The alternative disposition may vest the property not located in a municipal corporation in the township where the property is located (instead of the county) or to the developer or developer's designee. Funds may be apportioned to a township, as well as to a county or municipal corporation.

In order for property to be vested in a township or county, the board of township trustees or county commissioners must adopt a resolution accepting the property. Property not accepted by them is to be vested in the developer or developer's designee.<sup>23</sup>

### **Application to pending proceedings**

The act states that its changes to the NCA law apply prospectively and also apply retrospectively to pending or completed proceedings "so far as [the act's] provisions support" those proceedings. Any proceeding pending on March 22, 2012, is deemed to have been taken in conformity with the act.

The act also states that authority granted under the act's changes to the NCA law "provide additional and supplemental provisions for the subject matter that may also be the subject of other laws, and is supplemental to and not in derogation of any similar authority provided by, derived from, or implied by, the Ohio Constitution, or any other

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<sup>23</sup> R.C. 349.14.

law, including laws amended by [the act], or any charter, order, resolution, or ordinance, and no inference shall be drawn to negate the authority thereunder by reason of express provisions contained" in the act.<sup>24</sup>

### **State investment authority**

The act expands the investment authority of the state by permitting the Treasurer of State to invest interim funds of the state in certain obligations of political subdivisions. Currently, such an investment may be made only in the obligations of a board of education. The act defines "political subdivision" as a county, township, municipal corporation, or board of education of a school district.

Under the act, the Treasurer of State may enter into an agreement with a political subdivision for the purchase of obligations issued by the political subdivision, *if* the obligations mature within one year from the original date of issuance. The political subdivision must pay the Treasurer a reasonable fee as consideration for the purchase agreement. To be considered "reasonable," the fee must be set to recover only the direct costs and a reasonable estimate of the indirect costs associated with the purchasing and any reselling of the obligations, as well as the administration of the purchase or resale. The money collected by the Treasurer is to be deposited into the state treasury to the credit of the State Political Subdivision Obligations Fund. Under former law, the fund was named the "State School Board Obligations Fund." The act simply renames it and expands its purpose to create the new fund.<sup>25</sup>

### **County investment authority**

The act permits a county to invest inactive moneys and money in the county public library fund in obligations of a political subdivision that is not located in the same county as the county investing authority. Under prior law, the investing authority could invest these inactive moneys and money in the county public library fund in obligations of the state or a political subdivision, but the political subdivision was required to be located wholly or partly within the same county as the investing authority.<sup>26</sup>

The act also increases, from five to ten years, the time in which an investment of inactive moneys or the public-library money must mature (unless, as provided under continuing law, for certain securities, the investing authority enters into a written

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<sup>24</sup> Section 3.

<sup>25</sup> R.C. 135.01 and 135.143.

<sup>26</sup> R.C. 135.35(A)(4).

repurchase agreement). But the act also permits an investment of up to 25% of the county's total average portfolio of investments of inactive moneys and public-library money to mature at an even later time. For such an investment, the act requires a majority approval vote from the county investment advisory committee.<sup>27</sup>

Lastly, the act mandates that the monthly portfolio report a county investing authority must file with the county investment advisory committee and the board of county commissioners under continuing law also be filed with the Treasurer of State.<sup>28</sup> The Treasurer is to make those reports available to the public on the Treasurer's web site.<sup>29</sup>

## **Joint county department of job and family services**

### **Forming the joint county department**

The act permits, but does not require, the boards of county commissioners of Hocking, Ross, and Vinton counties, by entering into a written agreement, to form a joint county department of job and family services. The formation of this joint county department is a pilot project. The agreement must be ratified by resolution of the board of county commissioners of each county that entered into the agreement. The joint county department will perform the duties, provide the services, and operate the programs required under the law that pertains to a single county department of job and family services, and any references to counties and county departments of job and family services in the general provisions of the Ohio Department of Job and Family Services law includes this joint county department.<sup>30</sup>

Each board of county commissioners that enters into the agreement must give notice of the agreement to the Ohio Department of Job and Family Services at least 90 days before the agreement's effective date. The agreement takes effect not earlier than the first day of the calendar quarter following the 90-day notice period. The Director of Job and Family Services is required to adopt, as an internal management rule under the abbreviated rulemaking procedure, the form in which the notice must be given.<sup>31</sup>

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<sup>27</sup> R.C. 135.35(C) and (O).

<sup>28</sup> R.C. 135.35(L)(5).

<sup>29</sup> R.C. 113.43.

<sup>30</sup> R.C. 329.01, 329.40(A), and 5101.01.

<sup>31</sup> R.C. 329.40(A).

## **The agreement**

The agreement to establish the joint county department of job and family services must specify all of the following:

- The obligations of each board of county commissioners in operating the joint county department, including requiring each board to provide state, federal, and county funds to the operation of the department and the schedule for providing those funds.
- How and which facilities, equipment, and personnel will be shared.
- Procedures for the division of resources and obligations should a county or counties withdraw from the joint county department, or should the department cease to exist.
- Any contributions of participating counties establishing the joint county department and the rights of those counties in lands or personal property, or rights or interests therein, contributed to or otherwise acquired by the joint county department.<sup>32</sup>

The agreement also may set forth any or all of the following:

- Quality, timeliness, and other standards to be met by each county.
- Which family service programs and functions are to be included in the joint county department.
- Procedures for the operation of the board of directors, including procedures governing the frequency of meetings and the number of members of the board required to constitute a quorum to take action.
- Any other procedures or standards necessary for the joint county department to perform its duties and operate efficiently.<sup>33</sup>

## **Composition, duties, and powers of the board of directors of the joint county department**

The boards of county commissioners of the counties forming the joint county department constitute, collectively, the board of directors of the joint county

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<sup>32</sup> R.C. 329.40(B)(1).

<sup>33</sup> R.C. 329.40(B)(2).

department of job and family services. On the effective date of the agreement, the board of directors takes control of and manages the joint county department subject to all laws that govern the authority and responsibilities of a single board of county commissioners in the operation of a single county department of job and family services. Any references to boards of county commissioners in the general provisions of the Ohio Department of Job and Family Services law includes the board of directors of the joint county department. Costs incurred in operating the joint county department must be paid from a joint general fund created by the board of directors, except as may be otherwise provided in the agreement.<sup>34</sup>

The board of directors, by a majority vote, may amend the agreement, but no amendment may divest a participating county of any right or interest in lands or personal property without its consent.<sup>35</sup>

The board of directors of the joint county department must appoint and fix the compensation of a director of the department. The director serves at the pleasure of the board of directors. Under the direction and control of the board, the director has full charge of the department as set forth in continuing law for the director of a single county department of job and family services. The board of directors also may appoint up to three administrators to oversee services provided by the joint county department. Administrators are in the unclassified service.<sup>36</sup>

The board of directors of the joint county department may acquire, by purchase or lease, real property, equipment, and systems to improve, maintain, or operate family service programs within the territory served by the department. A board of county commissioners may acquire, within its county, real property or any estate, interest, or right therein, by appropriation or any other method, for use by the joint county department in connection with its provision of services. Appropriation proceedings must be conducted under property appropriation laws unchanged by the act (R.C. Chapter 163.).

A board of county commissioners that formed the joint county department may contribute lands or rights or interests therein, money, other personal property or rights or interests therein, or services to the joint county department. The board of county commissioners may issue bonds or bond anticipation notes of the county to pay the cost of acquiring real property and of constructing, modifying, or upgrading a facility to house employees of the joint county department. The board of directors may reimburse

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<sup>34</sup> R.C. 329.40(A)(2) and (D) and 5101.01.

<sup>35</sup> R.C. 329.40(C).

<sup>36</sup> R.C. 329.02 (not in the act); R.C. 329.41(A) and (B).

the county for the use of such a facility if it is required to do so under the agreement forming the joint county department.<sup>37</sup>

### **Joint county department's employees**

Employees of the joint county department of job and family services must be appointed by the director of the joint county department and are in the classified service. Those employees must be considered county employees for the purposes of the Department of Administrative Services civil service law<sup>38</sup> and all other provisions of state law applicable to county employees. Instead of or in addition to appointing these employees, the board of directors may agree to use the employees of one or more of the counties that formed the joint county department in the service of the joint county department and to share in their compensation in any manner that may be agreed upon.<sup>39</sup>

Notwithstanding any other state law, if an employee's separation from county service occurs in connection with a county joining or withdrawing from the joint county department, the board of county commissioners that initially appointed the employee has no obligation to pay any compensation with respect to unused vacation or sick leave accrued to the credit of the employee if the employee accepts employment with the joint county department or a withdrawing county (discussed below). At the effective time of separation from county service, the joint county department or the withdrawing county, as the case may be, must assume such unused vacation and sick leave accrued to the employee's credit.<sup>40</sup>

### **Officers of the joint county department**

The county auditor of the county with the largest population that formed the joint county department of job and family services must serve as the fiscal officer of the department, and the county treasurer of that county must serve as the treasurer of the department, unless the counties forming the joint county department agree to appoint the county auditor and county treasurer of another county that formed the department. In either case, these county officers are required to perform any applicable duties for the joint county department as each typically performs for the county of which the individual is an officer. The board of directors of the joint county department may pay to that county any amount agreed upon by the board of directors and the board of

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<sup>37</sup> R.C. 329.44.

<sup>38</sup> R.C. Chapter 124. (not in the act).

<sup>39</sup> R.C. 329.41(C).

<sup>40</sup> R.C. 329.41(D).

county commissioners of that county to reimburse the county for the costs that are properly allocable to the service of its officers as fiscal officer and treasurer of the department.<sup>41</sup>

### **Prosecuting attorney of the joint county department**

The prosecuting attorney of the county with the largest population that formed the joint county department of job and family services must serve as the legal advisor of the board of directors of the joint county department, unless the counties that formed the joint county department agree to appoint the prosecuting attorney of another county that formed the joint county department as legal advisor of the board. The board of directors may pay to the county of the prosecuting attorney who is the legal advisor of the board any amount agreed upon by the board of directors and the board of county commissioners of that county, to reimburse that county for the costs that are properly allocable to the service of its prosecuting attorney as the legal advisor of the board of directors. The prosecuting attorney must provide such services to the board of directors as are required or authorized to be provided to other county boards.<sup>42</sup>

If the board of directors of the joint county department wishes to employ other legal counsel on an annual basis to serve as the board's legal advisor in place of the prosecuting attorney, the board may do so with the agreement of the prosecuting attorney. And if the board of directors of the joint county department wishes to employ other legal counsel to represent or advise the board on a particular matter in place of the prosecuting attorney, the board may do so with the agreement of the prosecuting attorney. If the prosecuting attorney does not agree, the board of directors may apply to the court of common pleas of the county with the largest population that formed the joint county department for authority to employ other legal counsel on an annual basis or for that particular matter.<sup>43</sup>

The prosecuting attorney who is the legal advisor of the board of directors must be given notice of an application to employ other legal counsel on an annual basis to serve as the board's legal advisor, or an application to employ other legal counsel to represent or advise the board on a particular matter, in place of the prosecuting attorney, and must be afforded an opportunity to be heard. After the hearing, the court may authorize the board of directors to employ other legal counsel on an annual basis or for a particular matter only if it finds that the prosecuting attorney refuses or is unable to provide the legal services that the board requires. If the board of directors

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<sup>41</sup> R.C. 329.42.

<sup>42</sup> R.C. 329.43(A) and (B).

<sup>43</sup> R.C. 329.43(C)(1) and (2).

employs other legal counsel on an annual basis or for a particular matter, the board may not require the prosecuting attorney to provide legal advice, opinions, or other legal services during the period or to the extent that the board employs the other legal counsel.<sup>44</sup>

### **Withdrawal from and dissolution of the joint county department**

The act establishes a procedure whereby the counties that entered into an agreement to form the joint county department of job and family services may withdraw from the agreement. Under the act, a board of county commissioners may pass a resolution requesting to withdraw from the agreement. Upon adopting the resolution, the board of county commissioners must deliver a copy of the resolution to the board of directors of the joint county department. Upon receiving the resolution, the board of directors is required to deliver written notice of the requested withdrawal to the boards of county commissioners of the other county or counties that formed the joint county department. Within 30 days after receiving the notice, each of those boards of county commissioners must adopt a resolution either accepting the withdrawal or objecting to the withdrawal, and deliver a copy of the resolution to the board of directors.<sup>45</sup>

If any of the boards of county commissioners that formed the joint county department adopts a resolution objecting to the requested withdrawal, the board of directors must deliver written notice of the objection to each other board of county commissioners of the counties that formed the joint county department, including the board of county commissioners of the county proposing withdrawal, and must schedule a meeting of the board of directors to be held within 30 days to discuss the objection. After the meeting, the board of directors must determine whether the county requesting withdrawal desires to proceed with the withdrawal and, if the county does, the board of directors is required to accept the withdrawal. Not later than 30 days after the determination was made, the board of directors must deliver written notice of the withdrawal to the boards of county commissioners that formed the joint county department and to the board of county commissioners that requested withdrawal, and commence the act's withdrawal process.<sup>46</sup>

If all of the boards of county commissioners that formed the joint county department, except for the board of county commissioners requesting the withdrawal, each adopt a resolution accepting the withdrawal, the board of directors must declare

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<sup>44</sup> R.C. 329.43(C)(3).

<sup>45</sup> R.C. 329.45(A)(1).

<sup>46</sup> R.C. 329.45(A)(2).

the withdrawal to be accepted. Not later than 30 days after the declaration, the board of directors must deliver written notice of the withdrawal to all of the boards of county commissioners that formed the joint county department, including the board of county commissioners of the county requesting withdrawal, and commence the withdrawal process.<sup>47</sup>

If a county requesting to withdraw decides to remain as a party to the agreement establishing the joint county department, the board of county commissioners of that county must rescind its original resolution requesting withdrawal and must deliver a copy of the rescission to the board of directors of the joint county department within 30 days after adopting the rescission.<sup>48</sup>

If a county withdraws from the agreement, under the withdrawal process, the board of directors must ascertain, apportion, and order a division of the funds on hand, credits, and real and personal property of the joint county department, either in money or in kind, on an equitable basis between the joint county department and the withdrawing county according to the agreement forming the joint county department and consistent with any prior contributions of the withdrawing county to the department. Any debt incurred individually remains the responsibility of that county, unless otherwise specified in the agreement.<sup>49</sup>

The board of directors is required to give notice to the Ohio Department of Job and Family Services of the withdrawal of a county at least 90 days before the withdrawal becomes final. The Director of Job and Family Services must adopt, as an internal management rule, the form in which the notice must be given. The withdrawal becomes final not earlier than the first day of the calendar quarter following the 90-day notice period. On and after that day, the withdrawing county ceases to be a part of the joint county department, and its members of the board of directors cease to be members of that board.<sup>50</sup>

If the withdrawal of one or more counties would leave only one county participating in a joint county department, the board of directors must ascertain, apportion, and order a final division of the funds on hand, credits, and real and personal property of the joint county department. On and after the day on which the latest withdrawal of a county becomes final, the joint county department is dissolved.

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<sup>47</sup> R.C. 329.45(A)(3).

<sup>48</sup> R.C. 329.45(A)(5).

<sup>49</sup> R.C. 329.45(B).

<sup>50</sup> R.C. 329.45(A)(4) and (C).

When the joint county department is dissolved and any indebtedness remains unpaid, the boards of county commissioners that formed the joint county department must pay the indebtedness of the joint county department in the amounts established by the agreement at the time the indebtedness was incurred.<sup>51</sup>

### **Removal of a county forming a joint county department**

A board of county commissioners that formed the joint county department of job and family services, by adopting a resolution, may propose the removal of another county that formed the department. The board of county commissioners must send a copy of that resolution to the board of directors of the joint county department. Within ten days after receiving the copy of the resolution, the board of directors must send a copy of the resolution to each board of county commissioners that formed the joint county department, except the board of county commissioners proposing removal.

Within 30 days after sending a copy of the resolution, the board of directors must hold a hearing at which any county commissioner whose county formed the joint county department may present arguments for or against the removal. At the hearing, approval or disapproval of the removal must be determined by a two-thirds vote of the county commissioners of the counties that formed the joint county department, with the exception of the county commissioners of the county proposed for removal.<sup>52</sup>

In addition, the board of directors of the joint county department of job and family services, by adopting a resolution by a majority vote of the members of the board, may propose removal of a county that formed the joint county department. Within ten days after adopting that resolution, the board of directors must send a copy of the resolution to the board of county commissioners of each county that formed the joint county department, including the board of county commissioners of the county proposed for removal. Within 30 days after sending the copy of the resolution, the board of directors must hold a hearing at which any member of the board may present arguments for or against the removal. At this hearing, approval or disapproval of the resolution proposing removal must be determined by a two-thirds vote of the members of the board of directors, with the exception of the board members who represent the county proposed for removal.<sup>53</sup>

If removal of a county is approved, the board of directors must give written notice of the approval to the Ohio Department of Job and Family Services at least 90

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<sup>51</sup> R.C. 329.45(D).

<sup>52</sup> R.C. 329.46(A).

<sup>53</sup> R.C. 329.46(B).

days before the removal takes effect. The Director of Job and Family Services must adopt, as an internal management rule, the form in which the notice must be given. Removal of a county takes effect not earlier than the first day of the calendar quarter following the 90-day notice period.<sup>54</sup>

If, at any time, the county proposed for removal notifies the board of directors, by a majority vote of that county's board of county commissioners, that it chooses to withdraw from the joint county department, the withdrawal procedure established by the act must be put immediately into motion.<sup>55</sup>

### **Workforce development agency**

The act authorizes a board of county commissioners to designate the joint county department as the workforce development agency that must provide workforce development activities for the county.<sup>56</sup>

## **Changes affecting or relating to county auditors**

### **County auditor's responsibility for property tax exemption applications**

Beginning in tax year 2011 (January 1, 2011),<sup>57</sup> the act authorizes the county auditor to review and approve property tax exemption applications for certain public property.<sup>58</sup> Generally, under continuing law, the owner or long-term lessee of property files a property tax exemption application with the Tax Commissioner, or, for real property located in a community reinvestment area, with the Housing Officer, to request that the property be exempted from taxation and that the taxes, interest, and penalties already levied on the property be remitted (forgiven).<sup>59</sup> Under the act, if the property that is the subject of an application for tax exemption is any of the following, the application must be filed with the county auditor of the county in which the property is listed for taxation:

- A public road or highway.
- Property belonging to the United States federal government.

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<sup>54</sup> R.C. 329.46(C) and (D).

<sup>55</sup> R.C. 329.46(E).

<sup>56</sup> R.C. 330.04.

<sup>57</sup> R.C. 323.11 (not in the act).

<sup>58</sup> R.C. 5715.27(A) and Section 4.

<sup>59</sup> R.C. 5715.27; R.C. 3735.67 (not in the act).

- Additions or other improvements to an existing building or structure belonging to the state or a political subdivision, and that is exempted from taxation as property used exclusively for a public purpose.
- Property of the boards of trustees and of the housing commissions of the state universities, the Northeastern Ohio Universities College of Medicine, and of the state, to be exempted from taxation under continuing law under which the property must be held for the use and benefit of those institutions.<sup>60</sup>

For purposes of exempting an existing building or structure belonging to a political subdivision, "political subdivision" includes townships, municipalities, counties, school districts, boards of education, all state and municipal universities, park boards, and any other entity whose ownership of real property would constitute public ownership.<sup>61</sup>

The act, for the public properties listed above, requires that the county auditor follow the same procedures as the Tax Commissioner to review and grant tax exemptions, for example, by notifying property owners that a treasurer's certificate was not provided to the county auditor or disallowing the filing of a real property tax exemption application that requests tax remission for more than three tax years.<sup>62</sup> Likewise, appeals from final determinations of the county auditor concerning an application for a property tax exemption must be taken to the Board of Tax Appeals, which is the same procedure for appeals from the Tax Commissioner's final determinations.<sup>63</sup>

### **County quarterly spending plans and real estate assessment funds**

The act prohibits boards of county commissioners from adopting quarterly spending plans for county real estate assessment funds.<sup>64</sup>

Real estate assessment funds are provided in continuing law in each county's treasury and are used to defray the expenses of administering the various aspects of

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<sup>60</sup> R.C. 3345.17 (not in the act).

<sup>61</sup> R.C. 5713.081 (not in the act).

<sup>62</sup> R.C. 5713.07, 5713.08, 5713.081, and 5713.082.

<sup>63</sup> R.C. 5717.02.

<sup>64</sup> R.C. 5705.392.

real property taxation vested in counties, particularly by the county auditor.<sup>65</sup> The funds derive their revenue from a percentage of property tax collections and from the state General Revenue Fund.<sup>66</sup> The Tax Commissioner is required to adopt rules governing the expenditure of money from the funds.<sup>67</sup>

Under continuing law, county quarterly spending plans still may be adopted by a board of county commissioners for the county general fund and, under certain circumstances, for any other county fund (except the real estate assessment fund). The amount spent each quarter from a fund subject to a spending plan is limited to the amount set forth in the plan.<sup>68</sup>

### **County centralized-services purchases**

The act prohibits counties from establishing centralized services for *any* purchases made with moneys from county real estate assessment funds instead of just purchases made for *contract services* as provided in former law.<sup>69</sup>

### **Competitive sealed proposals and bids**

#### **Electronic system for competitive sealed proposals**

The act clarifies and elaborates on the authority of a county contracting authority with regard to the authority's acceptance of competitive sealed proposals. First, the act permits the contracting authority to give notice of a request for proposals and to receive proposals through an electronic system that is uniform, interactive, and secure, consistent with Ohio's uniform electronic transactions law. Similarly, the act requires the contracting authority to develop factors and criteria for the receipt of competitive sealed proposals. Continuing law still requires the authority to develop factors and criteria for the evaluation of proposals. Finally, the act specifies that nothing in continuing law governing competitive sealed proposals limits an authority's ability to award a contract through the use of an electronic system that is uniform, interactive, and secure.<sup>70</sup>

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<sup>65</sup> R.C. 325.31 (not in the act).

<sup>66</sup> R.C. 319.54(B) and (C) (not in the act).

<sup>67</sup> R.C. 5703.05(O) (not in the act).

<sup>68</sup> R.C. 5705.392.

<sup>69</sup> R.C. 305.23.

<sup>70</sup> R.C. 307.862.

## **Submission of competitive sealed bids**

The act requires that competitive sealed bids be submitted to a county contracting authority in the manner mentioned in the notice published by the authority. Former law required such bids to be submitted in a sealed envelope.<sup>71</sup>

## **Electronic filing of county tax complaints**

The act permits a county board of revision to authorize a policy for the electronic filing of a tax complaint regarding the valuation or assessment of real or public property, and an application "therefor" in lieu of filing a written application, verified by oath, as otherwise will be required under continuing law.<sup>72</sup> The act requires that the new policy be subject to the approval of the Tax Commissioner. The act also specifies that an electronic complaint need not be sworn to, but must contain an electronic verification and the following statement: "I declare under penalties of perjury that this complaint has been examined by me and to the best of my knowledge and belief is true, correct, and complete."

## **Township and county employee benefits**

### **Deferred compensation plans or programs for township officers and employees**

The act explicitly authorizes boards of township trustees to offer deferred compensation plans or programs to all of the township's officers and employees. The act requires that a deferred compensation plan or program present a reasonable number of options to the township's officers and employees for the investment of the deferred funds that will assure their desired tax treatment. Any income deferred under a plan or program must continue to be included as regular compensation for the purpose of computing the contributions to and benefits from each officer's or employee's retirement system, but is not to be included in the computation of any federal and state income taxes withheld on behalf of the officer or employee.<sup>73</sup>

### **Benefits for county officers and employees**

In addition to the benefits that may be offered under group insurance policies under continuing law, the act authorizes a board of county commissioners to contract and pay all or any part of the cost of (1) any "qualified benefit" available under a

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<sup>71</sup> R.C. 307.88(A).

<sup>72</sup> R.C. 5715.13; R.C. 5715.19 (not in the act).

<sup>73</sup> R.C. 148.061 and 148.04(F) (not in the act).

cafeteria plan, and (2) a health and wellness benefit program through which the county provides a benefit or incentive to county officers, employees, and their immediate dependents to maintain a healthy lifestyle, including programs to encourage healthy eating and nutrition, exercise and physical activity, weight control or the elimination of obesity, and cessation of smoking or alcohol use.<sup>74</sup> All insurance policies, coverage, and new benefits, if provided, must be issued by an insurance company or administered by a board of county commissioners or a contractor.<sup>75</sup>

Under continuing law, a board of county commissioners may procure and pay all or any part of the cost of group insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, or prescription drugs; sickness and accident insurance; group legal services; group life insurance; or a combination of any of the foregoing types of insurance or coverage.<sup>76</sup>

Continuing law also authorizes a board of county commissioners that offers these benefits to a county officer or employee to do so through a cafeteria plan meeting the requirements of section 125 of the Internal Revenue Code, which generally defines a "cafeteria plan" as a written plan, excluding deferred compensation plans, under which all participants are employees and the participants choose among at least one taxable benefit, such as cash, and one nontaxable "qualified benefit." Under federal law, a "qualified benefit" is any benefit, such as accident and health benefits, adoption assistance, dependent care assistance, group-term life insurance coverage, and health savings accounts, that is not includible in the gross income of an employee by reason of an express provision of the Internal Revenue Code.<sup>77</sup>

### **Benefits for township officers and employees**

In addition to the benefits that may be offered to township officers and full-time township employees and their dependents under continuing law, the act authorizes a board of township trustees to offer a health and wellness benefit program. The program may offer the same type of benefit or incentive as counties may offer under the act.<sup>78</sup>

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<sup>74</sup> R.C. 305.171.

<sup>75</sup> R.C. 305.171(A).

<sup>76</sup> R.C. 305.171(A).

<sup>77</sup> 26 U.S.C.A. § 125(f).

<sup>78</sup> R.C. 505.603(B).

Boards of township trustees already have the authority to offer qualified benefits to officers and employees through a cafeteria plan that meets the requirements of section 125 of the Internal Revenue Code.<sup>79</sup> And under continuing law, a board of township trustees may procure and pay all or any part of the cost of insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, prescription drugs, or sickness and accident insurance, or a combination of any of the foregoing types of insurance for township officers and employees. If the board procures any insurance policies, the board must provide uniform coverage for township officers and full-time township employees and their immediate dependents, and may provide coverage for part-time township employees and their immediate dependents.<sup>80</sup> In addition, the board may procure and pay all or any part of the cost of group life insurance to insure the lives of officers and full-time employees of the township.<sup>81</sup>

### **Payroll deduction for insurance, coverage, or benefits**

The act permits the county auditor, in the case of a county, and the township fiscal officer, in the case of a township, to deduct from an employee's salary or wages the amount authorized to be paid by the employee for one or more qualified benefits available under a cafeteria plan and existing benefits, if (1) the employee authorizes the county auditor or township fiscal officer, in writing, to deduct that amount from the employee's salary or wages, (2) the benefit is offered to the employee on a group basis, and (3) at least 10% of the county or township employees voluntarily elect to participate in the receipt of that benefit. The act further allows the county auditor or township fiscal officer to issue warrants for amounts deducted to pay program administrators or other insurers for the benefits.<sup>82</sup>

### **Services of county elected officers**

The act provides that no county elected officer may be required to exercise powers, perform functions, or render services under an agreement for shared services among political subdivisions without the officer's written consent. Similarly, the act requires the written consent of such an officer in order for a county to enter into a shared-services agreement for the exercise, performance, or rendering of any powers, functions, or services of the officer.

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<sup>79</sup> R.C. 505.603(A).

<sup>80</sup> R.C. 505.60 and 505.601 (not in the act).

<sup>81</sup> R.C. 505.602 (not in the act).

<sup>82</sup> R.C. 505.603(C) and 3917.04(C).

Under continuing law, a political subdivision may enter into a shared-services agreement with another political subdivision. The agreement would obligate one political subdivision to perform a legal duty of the other.<sup>83</sup>

### **Regional council of governments' authority to operate a 9-1-1 PSAP**

The act authorizes a regional council of governments to operate a public safety answering point (PSAP) as part of a countywide 9-1-1 system.<sup>84</sup> Continuing law provides that regional councils of governments are composed of two or more counties, municipal corporations, townships, special districts, school districts, or other political subdivisions that enter into an agreement with each other, or with such entities of any other state to the extent that laws of the other state permit, to form a regional council consisting of those political subdivisions.<sup>85</sup>

Continuing law defines a "public safety answering point" as a facility to which 9-1-1 system calls for a specific territory are initially routed for response, and where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.<sup>86</sup> Under the act, if a regional council of governments operates a PSAP, it must pay all of the costs associated with establishing, equipping, furnishing, operating, and maintaining that facility, and must allocate the costs among itself and the subdivisions served by the PSAP based on the allocation formula in a final plan required by continuing law that is prepared and adopted by the 9-1-1 planning committee to implement a countywide 9-1-1 system. The regional council of governments also may enter into a service agreement for providing wireless enhanced 9-1-1 under the act.<sup>87</sup>

After a countywide plan is adopted or amended, a regional council of governments included in the plan is subject to the plan's specific requirements and to continuing law regulating 9-1-1 systems (R.C. 4931.40 to 4931.70).<sup>88</sup> An amended final

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<sup>83</sup> R.C. 9.482.

<sup>84</sup> R.C. 167.03 and 4931.41.

<sup>85</sup> R.C. 167.01 (not in the act).

<sup>86</sup> R.C. 4931.40 (not in the act).

<sup>87</sup> R.C. 4931.41, 4931.43, and 4931.64(D).

<sup>88</sup> R.C. 4931.44.

plan is required to permit a regional council of governments to operate a PSAP where a plan is already in place.<sup>89</sup>

The act applies continuing law regulating 9-1-1 systems to a regional council of governments participating in the system in the same manner as that law applies to subdivisions participating in the system, as follows:

- The regional council and its officers, agents, employees, and independent contractors are not liable in damages in a civil action for injuries, death, or loss arising from adopting a final plan or operating the 9-1-1 system, except in instances of willful or wanton misconduct.<sup>90</sup>
- The Attorney General or any prosecutor may take action against the regional council to enforce compliance with the law regulating 9-1-1 systems.<sup>91</sup>
- The regional council may use, as provided in the final plan, any other authorized revenue for purposes of providing basic or enhanced 9-1-1.<sup>92</sup>
- The regional council must consider technical and operational standards established by the Ohio 9-1-1 Council before incurring certain PSAP costs, and may use disbursements from the Wireless 9-1-1 Government Assistance Fund, if any, to pay personnel costs of a PSAP providing countywide wireless enhanced 9-1-1.<sup>93</sup>
- A wireless service provider must provide a regional council operating a PSAP with the technical, service, and location information it requests for the purpose of providing wireless 9-1-1.<sup>94</sup>

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<sup>89</sup> R.C. 4931.45.

<sup>90</sup> R.C. 4931.49.

<sup>91</sup> R.C. 4931.50.

<sup>92</sup> R.C. 4931.64(E).

<sup>93</sup> R.C. 4931.65.

<sup>94</sup> R.C. 4931.66(A)(2).

- The regional council must provide information that the Ohio 9-1-1 coordinator and the Ohio 9-1-1 Council requests for carrying out their duties.<sup>95</sup>
- The regional council is prohibited from disclosing any information regarding a telephone company's customers, revenues, expenses, or network information.<sup>96</sup>

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## HISTORY

ACTION	DATE
Introduced	05-11-11
Reported, H. Local Gov't	06-22-11
Passed House (95-1)	06-23-11
Reported, S. Finance	12-08-11
Passed Senate (23-10)	12-13-11
House concurred in Senate amendments (56-34)	12-14-11

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<sup>95</sup> R.C. 4931.66(A)(1) and (3).

<sup>96</sup> R.C. 4931.66(B)(2).