
LOCAL GOVERNMENT (LOC)

Public notice requirements

- Revises the requirements for a newspaper to qualify as a "newspaper of general circulation" in which public notices and advertisements are published, and applies the definition to the entire Revised Code.
- Eliminates the requirement that publication be made in a newspaper *published in* a political subdivision, in two newspapers, or in two newspapers of opposite politics.
- Eliminates the requirement that a newspaper have second-class postal privileges, and instead uses the standard of publishing notices and advertisements in a newspaper of general circulation.
- Authorizes mediation under a program operated by the court of common pleas if a newspaper's qualifications as a newspaper of general circulation are in question.
- Specifies that if a codified statute or administrative rule requires a state agency or political subdivision to publish a notice or an advertisement two or more times in a newspaper and the statute or rule authorizes the use of an alternative publication procedure, the state agency or political subdivision may satisfy the multiple publication requirement by publishing the first notice or advertisement in its entirety in a newspaper of general circulation (which may be made in a pre-printed insert), and by publishing a second, abbreviated notice or advertisement in that newspaper and on the newspaper's Internet web site, if any.
- Requires the abbreviated notice to refer to the state public notice web site established under the act, on which web site the entire notice or advertisement must be posted.
- Requires each newspaper to establish a "government rate" for publication of local government public notices and advertisements, which cannot exceed the lowest classified advertising rate and lowest insert rate paid by other advertisers.
- Requires newspapers to post the notices and advertisements free on the newspaper's Internet web site, if the newspaper has one.
- Requires all legal advertisements and notices to be printed in a newspaper of general circulation and posted on the state public notice web site.



- Allows county auditors to charge a land or home owner a flat fee for the cost of publishing the land or home on the delinquent real property or delinquent manufactured home tax lists, and to place the fee as a lien on tax delinquent parcels or manufactured homes if it is not paid.
- Authorizes publication of a succinct summary of a local government's ordinance, resolution, or rule in a newspaper of general circulation, rather than the entire ordinance, resolution, or rule.

Municipal parking facilities

- Allows the operation of municipal parking facilities (1) by municipal officials and employees, (2) by any other person or specified public agency retained by a municipal corporation, or (3) under a public parking franchise granted to any person or specified public agency for a term of not more than 30 years upon a lump sum or a periodic fee payment, or both.

Political subdivision shared services

- Authorizes, generally, political subdivisions to enter into agreements with other political subdivisions to perform services for one another.
- Requires political subdivisions that enter into such an agreement to obtain the written consent of a non-participating subdivision before the agreement is performed within that non-participating subdivision.

Regional councils of governments

- Authorizes a regional council of governments to enter into unit price contracts related to buildings or structures on behalf of member political subdivisions.

Local governments in fiscal distress

- Creates a "**fiscal caution**" designation for municipal corporations, counties, and townships (hereinafter, "local governments").
- Requires local governments in **fiscal watch** to provide a financial recovery plan that identifies the actions to be taken, includes a schedule detailing the approximate dates for beginning and completing those actions, and provides a five-year forecast reflecting the effects of those actions.
- With respect to local governments in **fiscal emergency**:



--Eliminates the requirement that, upon a fiscal emergency, a financial planning and supervision commission be established for all local governments and, instead, specifies that for villages or townships with a population of less than 1,000, the Auditor of State will serve as the financial supervisor with all the powers and responsibilities of a commission;

--Requires that a local government's financial plan include a five-year forecast reflecting the effects of the actions specified in the plan and that the plan be updated annually;

--If a local government fails to submit a financial plan, or fails to substantially comply with it, and the commission gives its certification, requires that all state funding (other than benefit assistance to individuals) be escrowed until a plan is submitted or compliance is achieved;

--In addition to its ongoing authority to limit a local government's general fund expenditures, permits a commission to limit expenditures from any other fund if deemed prudent;

--Adds that, if an officer of a local government in fiscal emergency is convicted of certain violations of ongoing law, the officer is ineligible to hold any public office in Ohio or be employed by a public entity in Ohio for seven years after the conviction;

--Provides for the dissolution of municipal corporations and townships that are in fiscal emergency and meet specified conditions.

- Clarifies that the Auditor of State is to be reimbursed for all expenses incurred with respect to a fiscal emergency, fiscal watch, or fiscal caution from an appropriation for that purpose, and that the Controlling Board may provide sufficient funds if necessary.

Cost savings and modified work weeks

- Extends, from through fiscal year 2011 to through fiscal year 2013, the authority for a county appointing authority to establish a mandatory cost savings program in which its exempt employees must participate, and expands the program to apply to townships and municipal corporations.
- Expands the definition of fiscal emergency for purposes of a county, township, or municipal corporation implementing mandatory cost savings days for its exempt employees in the event of a fiscal watch or fiscal emergency occurring in fiscal year 2014 or later.



- Allows a county, township, or municipal corporation appointing authority to establish a modified work week schedule program applicable to its exempt employees.

County centralized services

- Authorizes a board of county commissioners to require county offices to use centralized purchasing, printing, transportation, vehicle maintenance, human resources, revenue collection, and mail operation services.
- Defines and limits the human resource services that a board may centralize.
- Prohibits the board from centralizing certain purchasing, printing, and collection services.

Continuing education for county recorders

- Requires a county recorder to attend and successfully complete at least 15 hours of continuing education courses during the first year of the recorder's term of office, and at least another eight hours of continuing education courses each year of the remaining term.
- Requires a county recorder, for subsequent terms of office, to attend and successfully complete at least eight hours of continuing education courses in each year of a subsequent term of office.
- Requires the Ohio Recorders' Association to approve continuing education courses, administer the continuing education requirements, and to send a list to the Auditor of State of the courses and number of hours each county recorder has successfully completed.
- Requires that the Association issue an informational "failure to complete notice" to any county recorder who fails to successfully complete the required number of hours of continuing education courses.
- Requires the board of county commissioners to approve, from money appropriated to the county recorder, a reasonable amount requested by the county recorder to cover the recorder's costs of continuing education.

Medical care for confined persons

- Establishes the Medicaid reimbursement rate as the rate of payment for medical care provided to persons confined in multicounty, municipal-county, or multicounty-



municipal correctional centers by medical providers not employed by or under contract with a municipal corporation or township participating in the center.

Joint police districts

- Authorizes boards of township trustees and the legislative authorities of one or more contiguous municipal corporations, by adoption of a joint resolution, to create a joint police district comprising all or any part of the townships or municipal corporations as are mutually agreed upon, rather than a joint township police district.
- Creates a joint police district board to govern the joint police district.
- Grants the powers of a joint township police district board to a joint police district board, such as the power to levy a property tax to defray all or a portion of the district's expenses in providing police protection, and to issue bonds for buying police equipment.
- Authorizes a township or municipal corporation to join or to withdraw from an existing joint police district.

Township noise regulations

- Eliminates a date restriction and applies a township noise regulation to any business or industry regardless of when it came into existence.

Competitive bidding thresholds

- Increases specific competitive bidding thresholds for townships and villages.
- Increases from \$10,000 to \$25,000 the threshold amount that triggers competitive bidding for service contracts entered into by a board of park trustees for municipal park improvements.

Police constables

- Adds, as one of the methods by which a limited home rule township may meet the requirement to provide law enforcement for the township, designating one or more police constables.

Township mergers

- Authorizes one or more townships to merge into a contiguous township, creating a new township, by initiative petition of the voters of each township proposed for merger.



- Authorizes the boards of township trustees to submit a question of merger to the voters of the townships to be merged, for their approval.
- Requires merging townships to enter into a merger agreement that contains specific terms and conditions of the merger, but if no agreement is entered into or if only partial agreement is reached, requires the new township to function under default terms and conditions prescribed by the act.
- Prohibits a merger from being proposed again for at least three years if the merger was disapproved by the voters.

Joint projects

- Authorizes state institutions of higher education to participate in joint projects with a joint recreation district and other contracting subdivisions.
- Adds educational facilities as one of the projects that may be jointly acquired, constructed, operated, or maintained.

Boards of health

- Authorizes a board of county commissioners to donate or sell property, buildings, and furnishings to any board of health of a general or combined health district.

County spending plans

- Authorizes a board of county commissioners to adopt a quarterly spending plan or amended spending plan for appropriations from any county fund for any county office, department, or division under certain circumstances.
- Authorizes the board also to adopt a two-year spending plan or amended spending plan with a quarterly schedule of expenses and expenditures of appropriations for personal services and payrolls from any county fund, for any county office, department, or division under certain circumstances.
- Requires the board of county commissioners to give written notice to the county office, department, or division for which it intends to adopt a plan.

Township expenses

- Allows townships to compensate the township fiscal officer and township trustees from various township funds, in addition to the township general fund, based on the proportion of time the fiscal officer or township trustee spends providing services related to each fund.



- Requires the township fiscal officer and township trustees to certify the percentage of time spent working on matters to be paid from the township general fund and other township funds.
- Permits a board of township trustees to request that expenses incurred by a county board of elections in relation to a township tax levy ballot issue be withheld from a particular township fund credited with tax revenue in a tax settlement.

Bonds issued for real property

- Allows general obligation bonds issued by a county to finance the acquisition or construction of real property to have a maximum maturity of up to 40 years if supported by a certification as to the property's estimated useful life.

Regional Transit Authority

- Until November 5, 2013, (1) creates an alternative procedure for municipal corporations and townships to join a regional transit authority (RTA) that levies a property tax and that includes in the RTA membership, political subdivisions that are located in a county having a population of at least 400,000 by placing the issue on the ballot and (2) allows a municipal corporation or township that is a member of such an RTA to withdraw from the RTA by placing the issue on the ballot; without end, allows a municipal corporation or township that withdraws from any such RTA after placing the issue on the ballot to contract for the provision of transportation services.
- Prohibits an RTA from extending its service or facilities into another political subdivision without first notifying it and gives the political subdivision 30 days after receiving the notice to comment on the proposal.
- Requires the Ohio Public Transit Association, in consultation with the Ohio Municipal League, the County Commissioners Association of Ohio, and the Ohio Township Association, to study regional transit authority expansion outside territorial boundaries and provide a report to the General Assembly and the Governor not later than December 31, 2011.

Municipal corporation mergers

- Creates a new procedure whereby one or more municipal corporations, whether or not adjacent to one another, may merge with an adjacent municipal corporation; the unincorporated area of a township may merge with one or more municipal corporations; or one or more municipal corporations, whether or not adjacent to one another, may merge with an adjacent unincorporated area of a township.



- Requires the legislative authorities of the municipal corporations and the township proposing a merger to enter into a merger agreement that specifies the conditions of the proposed merger in identical ordinances and resolutions adopted by a simple majority vote of each legislative authority.
- Requires the legislative authorities of the municipal corporations and township, if any, proposed for merger to present the question of merger to the voters for their approval.
- Mandates that a municipal corporation merging into a township has only the rights, powers, and responsibilities afforded by law to townships, and that all other authority ceases to exist on the effective date of the merger.

County automatic data processing boards

- Permits the board of county commissioners to adopt a resolution requiring the county automatic data processing board to assume the duties of the county records commission and the county microfilming board, which resolution must specify the date on which the duties will be transferred.
- Requires, if such a resolution is adopted to expand the duties of the county automatic data processing board, the prosecuting attorney, county engineer, county coroner, sheriff, and a judge of the court of common pleas to be added to the membership of the board.
- Specifies that, after such a resolution is adopted, no county office may purchase, lease, operate, or contract for the use of any automatic data processing equipment, software, or services; microfilming equipment or services; records center or archives facilities; or any other image processing or electronic data processing or record-keeping equipment, software, or services without prior approval of the board.
- Specifies that, if such a resolution is adopted, the functions, powers, duties, and obligations of the county records commission and the county microfilming board are transferred and assigned to, devolved upon, and assumed by the county automatic data processing board, and the county automatic data processing board must be deemed to constitute the continuation of the county records commission and the county microfilming board.
- Permits the county automatic data processing board to establish an automatic data processing center, microfilming center, records center, archives, and any other centralized or decentralized facilities it considers necessary to fulfill its duties, and specifies that these centralized facilities must be used by all county offices.



- Requires the county auditor to prepare an annual estimate of the revenues and expenditures of the county automatic data processing board and submit it to the board of county commissioners, and specifies that the automatic data processing board's funds are to be disbursed by the county auditor's warrant drawn on the county treasury five days after receipt of a voucher approved by a majority of that board and by a majority of the board of county commissioners.
- Permits a county automatic data processing board to enter into a contract with the legislative authority of a political subdivision or special district, with the board of county commissioners or the automatic data processing board or microfilming board of any other county, or with any other federal or state governmental agency to provide microfilming, automatic data processing, or other image processing or electronic data processing or record-keeping services to any of them.
- Expands the authority of a county microfilming board to include other image processing equipment, software, or services.
- For a county automatic data processing board that is not expanded by resolution, expands its authority to include electronic data processing or record-keeping equipment, software, or services.

Marinas

- Eliminates the licensure and inspection of marinas.

Sewer and water districts

- Expands the scope of the contracting authority of a county sewer district when conveying water supply facilities and sewer facilities to a municipal corporation.
- Declares that whenever any portion of a regional water and sewer district is incorporated as, or annexed to, a municipal corporation, the area incorporated or annexed remains under the jurisdiction of the district for purposes of the acquisition, construction, or operation of a water resource project until the project's completion or abandonment.
- Establishes new contracting authority for regional water and sewer districts regarding the conveyance of water resource projects to municipal corporations.

Public defender salaries

- Prohibits the pay ranges for a county public defender and a joint county public defender from exceeding the pay ranges for county prosecutors.



Nontherapeutic abortions

- Prohibits the use of political subdivision funds, with limited exception, for paying the costs, premiums, or charges associated with a health care policy, contract, or plan that provides coverage, benefits, or services related to nontherapeutic abortion.
- Defines "nontherapeutic abortion" to be any abortion that is performed when the life of the mother would not be endangered if the fetus was carried to term, or the pregnancy was not the result of a reported rape or incest.
- Allows for the use of political subdivision funds to pay for the costs, premiums, or charges associated with a health care policy, contract, or plan that includes a rider or other provision offered on an individual basis that allows an individual to obtain a nontherapeutic abortion if the individual pays all of the costs associated with the rider or other provision.
- Prohibits the use of any institution, structure, equipment, or physical asset that is owned, leased, or controlled by the state or any political subdivision, with limited exception, for performing or inducing a nontherapeutic abortion.

Attorney General collection of debts

- Authorizes a political subdivision to certify past due receivables to the Attorney General for collection.

Public records

- Exempts from public records law usage information, including the names and addresses of specific residential and commercial customers of municipally owned or operated utilities.
- Applies a provision allowing journalists to request the address of certain government employees to journalistic requests for customer information maintained by a municipally owned or operated public utility, other than private financial information.
- Consolidates, into one provision of law, the records retention procedure that formerly applied recurrently to municipal corporations, school districts, educational service centers, libraries, special taxing districts, and townships.
- Revises and clarifies the procedure used by the Ohio Historical Society for selecting records of continuing historical value before the entities described above dispose of records.

- Expands the training or educational programs the Attorney General may offer to include the records retention procedure.

County microfilming boards

- Moves the date for meetings of a county microfilming board from the third Monday in January to the second Monday in January.

Sanitary districts

- Establishes procedures for the exclusion of a municipal corporation or a township from the territory of a sanitary district established solely for the reduction of biting arthropods.

Township cemeteries

- Authorizes boards of township trustees to make and enforce all needful rules and regulations for burial, interment, reinterment, or disinterment in the township cemetery.

Sheriff sales

- Specifies that notices of sheriff sales must be published once a week for at least three consecutive weeks before the day of the sale.

Disbursement of court filing fees

- Specifies that disbursements of certain fees collected by local trial courts are subject to a court report listing the use of the funds or appropriation by the board of county commissioners or, in the case of certain fees collected by municipal courts that are not county-operated, appropriation by the legislative authority of the municipal corporation.

Publication of public notices and advertisements

Sub. H.B. 101 of the 126th General Assembly created the Local Government Public Notice Task Force, consisting of 22 members, and assigned the Task Force the task of reviewing public notice requirements for local governments to decide if the notice requirements were still needed, to determine if there were other methods to fulfill those requirements, and to determine if any changes in the publication methods would enhance public availability and provide cost savings to local governments. The Task Force issued a report of its findings on May 31, 2008. The act implements a few of



the Task Force's recommendations. The act also revises some of the publication requirements for state agencies.

Qualification standards for a "newspaper of general circulation"

(R.C. 7.12(A); over 200 R.C. sections in the act; repeal of R.C. 7.14 and 701.04)

The act modifies the requirements for a newspaper to qualify as a "newspaper of general circulation" in which legal publication of notices and advertisements are made as required by law. The act revises numerous local government notice and advertisement statutes throughout the Revised Code to provide that publication must be made in a newspaper *of general circulation in* a political subdivision, rather than in a newspaper *published in* the political subdivision. The act eliminates the requirements of publication in newspapers of opposite politics, in two newspapers, or in newspapers with second-class mailing privileges and instead uses the standard of publishing notices and advertisements in a newspaper of general circulation. Except for daily law journals that existed before July 1, 2001, for purposes of the Revised Code, the act defines a "newspaper" or "newspaper of general circulation" as a publication bearing a title or name that is regularly issued at least once a week, and that:

- Is printed in the English language using standard printing methods, being not less than eight pages in the broadsheet format or 16 pages in the tabloid format.
- Contains at least 25% editorial content, including local news, political information, and local sports.
- Has been published continuously for at least three years immediately preceding legal publication by the state agency or political subdivision.
- Is circulated generally by United States mail or carrier delivery in the political subdivision responsible for legal publication, or in the state, if legal publication is made by a state agency, by proof of a United States Postal Service "Statement of Ownership, Management, and Circulation," PS Form 3526, filed with the local postmaster, or by proof of an independent audit of the publication performed within the 12 months immediately preceding legal publication.
- Has the ability to add subscribers to its distribution list.

Under prior law, to qualify as a newspaper in which notices and advertisements could be published, the newspaper had to be *published in* the political subdivision, or if no newspaper was published in the subdivision, it had to be of general circulation therein. If there were less than two newspapers published in the political subdivision, then publication had to be made in a newspaper regularly issued at stated intervals



from a known office of publication located in the political subdivision. Under prior law, except for daily law journals in which a judge served legal notices and published the court calendar and other matters pending in the court, the newspaper had to bear a title or name, be regularly issued as frequently as once a week for a definite price or consideration paid for by not less than 50% of those to whom distribution was made, had a second-class mailing privilege, be not less than four pages, be published continuously during the immediately preceding one-year period, and be circulated generally in the subdivision in which it was published. Additionally, the newspaper had to be of a type to which the general public resorted for passing events of a political, religious, commercial, and social nature, current happenings, announcements, miscellaneous reading matter, advertisements, and other notices.

The act repeals two provisions¹⁹² that allow publication of notices in a newspaper of general circulation when no newspaper is published in the place designated in a statute or when a publisher refuses to insert a notice in the publisher's newspaper. This "out" is no longer needed because the act establishes the general standard that notices and advertisements are to be published in a newspaper of general circulation in the political subdivision.

Mediation procedure if newspaper's qualifications are in question

(R.C. 7.12(B))

Any person who questions whether a publication is a newspaper of general circulation in which notices or advertisements may be published may request mediation to determine the matter. Under the act, the person who questions the newspaper's qualifications may deliver a written request for mediation to the publisher of the publication and to the court of common pleas of the county in which is located the political subdivision in which the publication is circulated, or in the Franklin County Court of Common Pleas if legal publication is required to be made by a state agency. The court of common pleas must appoint a mediator, and the parties must follow the procedures of the mediation program operated by the court.

Alternative publication procedure for notices or advertisements

(R.C. 7.10, 7.16, and various R.C. sections in the act)

In many instances, continuing law or an administrative rule requires a state agency or political subdivision to publish notices or advertisements more than twice. The act establishes an alternative publication procedure that political subdivisions, and,

¹⁹² R.C. 7.14 and 701.04.



in some cases, state agencies, may choose to follow for publication of notices and advertisements. The act provides that if a codified statute or administrative rule requires a state agency or political subdivision to publish a notice or advertisement two or more times in a newspaper of general circulation *and the statute or rule refers to the alternative publication procedure*, the *first* publication of the notice or advertisement must be made in its entirety in a newspaper of general circulation and may be made in a pre-printed insert in the newspaper. But the *second* publication otherwise required by that codified statute or administrative rule may be made in abbreviated form in a newspaper of general circulation in the state or in the political subdivision, as designated in that statute or rule, and on the newspaper's Internet web site (if the newspaper has one). The state agency or political subdivision may eliminate any further newspaper publications required by that codified statute or administrative rule, provided that the second, abbreviated notice or advertisement in the newspaper:

(1) Is published in the newspaper of general circulation in which it was first published and on that newspaper's Internet web site, if the newspaper has one;

(2) Includes a title, followed by a summary paragraph or statement that clearly describes the specific purpose of the notice or advertisement, and includes a statement that the notice or advertisement is posted in its entirety on the state public notice web site established by the Office of Information Technology.¹⁹³ The notice or advertisement also may be posted on the state agency's or political subdivision's web site.

(3) Includes the Internet addresses of the state public notice web site, and of the newspaper's and state agency's or political subdivision's web site, if the notice or advertisement is posted on those web sites, and the name, address, telephone number, and electronic mail address of the state agency, political subdivision, or other party responsible for the publication.

In choosing to use this alternative publication procedure, a notice or advertisement published on a web site must be published in its entirety in accordance with the codified statute or administrative rule that requires publication. And if a state agency or political subdivision does not operate and maintain, or ceases to operate and maintain, an Internet web site, and if the state public notice web site is not operational, the state agency or political subdivision is prohibited from publishing a notice or advertisement under this alternative procedure, but instead must comply with the original publication requirements.

The act does not revise laws that already require a less stringent publication standard whereby a local government may refer to its web site in the first newspaper

¹⁹³ See R.C. 125.182.

publication of a notice or advertisement, for example R.C. 307.37, 505.75, or 731.14, among other statutes. The act also does not eliminate the requirement that a board of elections post election notices on its web site, if any is operated and maintained by the board, for 30 days prior to an election (*see*, for example, R.C. 511.34 or 5705.196).

The act emphasizes that all legal advertisements and notices must be printed in newspapers of general circulation and also must be posted on the state public notice web site and on a newspaper's Internet web site, if the newspaper has one.

Government rate for publication and free Internet postings

(R.C. 7.10 and 7.11)

Continuing law allows newspaper publishers to charge the public officers of state and local governments for publication of advertisements, notices, and proclamations, except those relating to proposed amendments to the Ohio Constitution. The act requires newspaper publishers to establish and charge public officers of a county, municipal corporation, township, school, or other political subdivision (but not public officers of the state) a government rate for the publication of advertisements, notices, and proclamations, which must include free publication of these items on the newspaper's Internet web site, if the newspaper has one. The government rate cannot exceed the lowest classified advertising rate and lowest insert rate paid by other advertisers. The act requires election notices, court session notices, tax notices, bridge and pike notices, notices to contractors, and other notices of interest to taxpayers to be published in display form, and specifies that the government rate, rather than the commercial rate, must be charged for publishing various types of notices printed in display form. Under prior law, newspaper publishers charged the same rates they charged under annual contracts for a like amount of space to other advertisers who advertised in the newspaper's general display advertising columns.

Costs of publishing delinquent tax lists

(R.C. 319.54, 4503.06(H), and 5721.04)

Continuing law allows county auditors to apportion the costs of publishing delinquent manufactured home tax lists, delinquent personal or real property tax lists, delinquent vacant land tax lists, and display notices among the taxing districts in proportion to the amount of delinquent taxes advertised in each taxing district. The act creates another method by which county auditors may collect publication costs. Under the act, a county auditor may charge the owner of a home or land on one of those tax lists a flat fee for the cost of publishing the list and, if the fee is not paid, may place the fee upon the tax duplicate as a lien on each listed home or land, to be collected as other manufactured home or real property taxes.



Publication of delinquent tax lists

(R.C. 5719.04 and 5721.03)

The act provides that a delinquent personal property tax list, delinquent tax list, and delinquent vacant land tax list must be published in a "newspaper of general circulation," as defined in the act, and may be published on a pre-printed insert in the newspaper. Otherwise, the act does not change the number of times these lists must be published, nor does it allow publication of these lists under the alternative publication procedure.

Under the act, the cost of the second publication of any one of these lists cannot exceed three-fourths of the cost of the first publication of the list.

Notices pertaining to sales or foreclosures of delinquent land

(R.C. 323.73(A), 2329.26(A), 5721.18(B), 5721.31(C), and 5722.13)

Notices of public auctions of abandoned land or land held by a subdivision under a land reutilization program, of sales of land taken in execution of a judgment, of foreclosures, and of sales of delinquent land tax certificates must continue to be published the number of times required by continuing law and may not be published under the act's alternative publication procedure. However, the act requires that these notices be published in a "newspaper of general circulation."

Publishing summaries of local government rules, ordinances, and resolutions

(various R.C. sections in the act)

Prior law, for example R.C. 307.791, 705.16, and 731.21, among other statutes, provided that upon passage of a local government's rule, ordinance, or resolution, its complete text, or a succinct summary of it, had to be published in the newspaper or, in some cases, in two newspapers of general circulation. The act requires that a succinct summary of the rule, ordinance, or resolution be published in a newspaper of general circulation, rather than the entire rule, ordinance, or resolution.

Outsourcing or franchising of municipal parking facilities

(R.C. 737.022; Section 737.30)

The act authorizes a municipal corporation (or Director of Public Safety, if applicable) to make and issue rules and regulations concerning the regulation or prohibition of parking on public ways (including a street, road, highway, and sidewalk)



or public property. Under prior law, this authority was specific to a Director of Public Safety and applied to streets, alleys, highways, and public property.

Under the parking rules and regulations, the legislative authority of a municipal corporation may establish and maintain reasonable fees and charges for the privilege of parking in permitted locations; it also may install and operate parking meters or other devices or facilities to collect those fees and charges. The meters, devices, and facilities may be managed and operated directly by municipal officials and employees or by any other person or public agency (including by definition, any county, municipal corporation, port authority, regional transit authority, airport authority, or transportation improvement district) retained by the municipal corporation. The act does not specify any terms for retaining a person or public agency to operate the parking meters, devices, or facilities.

As an alternative, the act authorizes a municipal corporation to grant a public parking franchise to a person or defined public agency. The public parking franchise, which cannot exceed 30 years, is a property right and privilege (1) to occupy and use one or more public ways for the operation of an on-street parking system in all or part of the municipal territory or (2) to install and operate parking meters or other devices or facilities on municipal public property.

The legislative authority of the municipal corporation must approve the terms and conditions in a public parking franchise agreement and may require the person or public agency receiving the franchise to pay to the municipal corporation a lump-sum fee, a periodic fee, or both. The act specifies that public parking franchises "shall not be deemed to be a public utility or an entity otherwise subject to regulation by any state agency or commission."

As determined by the municipal legislative authority, a parking violation may be a criminal misdemeanor punishable as provided by municipal ordinance or a civil infraction for which a charge is prescribed. If the parking violation is a criminal misdemeanor, it must be enforced by authorized law enforcement officers.

Political subdivision shared services

(R.C. 9.482)

The act authorizes political subdivisions to enter into agreements with other political subdivisions under which a contracting political subdivision agrees to exercise any power, perform any function, or render any service for another contracting recipient subdivision that the contracting recipient political subdivision is otherwise legally authorized to exercise, perform, or render. The respective legislative authorities



of the contracting political subdivisions must approve the subdivisions' participation in such an agreement.

If the agreement does not determine the officer, office, department, agency, or other authority by which the powers and duties of a contracting political subdivision are to be exercised or performed, the legislative authority of the contracting political subdivision must determine and assign the powers and duties.

The contracting authority is limited in that a political subdivision must not enter into any agreement to levy any tax or to exercise, with regard to public moneys, any investment powers, perform any investment functions, or render any investment service on behalf of a contracting political subdivision. This limitation does not preclude agreements for the shared collection, administration, or enforcement of taxes. Similarly, the limitation does not preclude subdivisions from creating and operating joint economic development districts or joint economic development zones as authorized by continuing law.

An agreement does not suspend the possession by a contracting recipient political subdivision of any power or function that is exercised or performed on its behalf by another contracting political subdivision under the agreement.

The act prohibits any power from being exercised, any function from being performed, or any service from being rendered by a contracting political subdivision pursuant to an agreement within a political subdivision that is not a party to the agreement, without first obtaining the written consent of the political subdivision that is not a party to the agreement and within which the power is to be exercised, a function is to be performed, or a service is to be rendered.

The act specifies that the political subdivision tort liability law applies to political subdivisions that are parties to an agreement and to their employees when they are rendering a service outside the boundaries of their employing political subdivisions under an agreement. Under continuing law, a political subdivision is not liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by any act or omission of the political subdivision or an employee of the political subdivision in connection with a governmental or proprietary function, except in cases of negligence.

The act also allows employees acting outside the boundaries of their employing political subdivision, while providing a service under an agreement, to participate in any pension or indemnity fund established by the political subdivision to the same extent as while they are acting within the boundaries of the political subdivision, and entitles them to all the rights and benefits of the Workers' Compensation Law to the



same extent as while they are performing a service within the boundaries of the political subdivision.

Regional councils of governments

(R.C. 167.081)

The act permits a regional council of governments¹⁹⁴ to enter into a contract that establishes a unit price for, and provides upon a per unit basis, materials, labor, services, overhead, profit, and associated expenses for the repair, enlargement, improvement, or demolition of a building or structure if the contract is awarded pursuant to a competitive bidding procedure of a county, municipal corporation, or township or a special district, school district, or other political subdivision that is a council member; a statewide consortium of which the council is a member; or a multistate consortium of which the council is a member. The act specifies that purchases under such a contract are exempt from any competitive selection or bidding requirements otherwise required by law.

Additionally, the act permits a county, municipal corporation, or township and a special district, school district, or other political subdivision that is a council member to participate in such a contract. However, such a council member is not entitled to participate in such a contract if it has received bids for the same work under another contract, unless participation in the council's contract will enable the council member to obtain the same work, upon the same terms, conditions, and specifications, at a lower price.

The act specifies that a public notice requirement pertaining to the contract must be considered to have been met if the public notice is given once a week for at least two consecutive weeks in a newspaper of general circulation within a county in Ohio in which the council has members and if the notice is posted on the council's Internet web site for at least two consecutive weeks before the date specified for receiving bids.

¹⁹⁴ Chapter 167. of the Revised Code permits political subdivisions to enter into an agreement creating a regional council of government to, among other powers, promote cooperative arrangements and coordinate action among its members, contract among its members and other governmental agencies and private entities to address problems common to its members, and "perform. . . functions and duties as are performed or capable of performance by the members and necessary or desirable for dealing with problems of mutual concern." Governmental council members, the state, and the federal government may give the regional council moneys, real and personal property, and services. Any political subdivision may contract with the regional council to provide a service to or receive a service from the council, or authorize the council to perform any function or render any service on behalf of the political subdivision.



Local governments in fiscal distress

Fiscal caution

(R.C. 118.025)

The act creates a "fiscal caution" designation for municipal corporations, counties, and townships (hereinafter, "local governments"). The Auditor of State is to develop guidelines for identifying fiscal practices and budgetary conditions of these local governments that, if uncorrected, could result in a future declaration of a fiscal watch or fiscal emergency as provided in ongoing law. If the Auditor of State determines that a local government is engaging in any of those practices or that any of those conditions exist, the Auditor of State may declare the local government to be under a "fiscal caution."

Upon such a declaration, the Auditor of State must promptly notify the local government and request it to provide written proposals for discontinuing or correcting the fiscal practices or budgetary conditions that prompted the declaration and for preventing it from experiencing further fiscal difficulties that could result in a declaration of fiscal watch or fiscal emergency. The Auditor of State, or a designee, may visit and inspect any local government declared to be under a fiscal caution, provide technical assistance to the local government in implementing proposals to eliminate the designated practices or budgetary conditions, and make recommendations concerning those proposals.

If the Auditor of State finds that a local government declared to be under a fiscal caution has not made reasonable proposals or otherwise taken action to discontinue or correct the fiscal practices or budgetary conditions that prompted the declaration, and if the Auditor of State considers it necessary to prevent further fiscal decline, the Auditor of State may determine that the local government should be in a state of fiscal watch.

Fiscal watch

(R.C. 118.023)

The act requires the mayor of a municipal corporation, the board of county commissioners of a county, or the board of township trustees of a township for which a fiscal watch was declared, within 120 days after that declaration was made, to submit to the Auditor of State a financial recovery plan that identifies the actions to be taken to eliminate all of the conditions that prompted the declaration. The plan must include a schedule detailing the approximate dates for beginning and completing those actions and a five-year forecast reflecting the effects of the actions. For good cause shown, the



Auditor of State may extend the amount of time by which a financial recovery plan is required to be filed. The plan is subject to review and approval by the Auditor of State.

If a feasible financial recovery plan is not submitted within the 120-day time period or within any extension of time granted to the local government, the Auditor of State must declare that a fiscal emergency condition exists.

Fiscal emergency

Changes regarding financial planning and supervision commissions

(R.C. 118.05)

The act provides an exemption to the ongoing requirement that, upon the occurrence of a fiscal emergency in a local government, a financial planning and supervision commission is established for that local government. Under the act, a commission is *not* established with respect to any village or township with a population of less than 1,000 as of the most recent federal decennial census. Upon the occurrence of a fiscal emergency in such a village or township, the Auditor of State is to serve as the financial supervisor of the village or township with all the powers and responsibilities of a commission.

Under continuing law, the core membership of each financial planning and supervision commission consists of (1) the Treasurer of State, (2) the Director of Budget and Management, and (3) in the case of a municipal corporation, the mayor and the presiding officer of the legislative authority of the municipal corporation; in the case of a county, the president of the board of county commissioners and the county auditor; and in the case of a township, a member of the board of township trustees and the county auditor. Additional membership is determined by the size of the local government. If the local government has a population of 1,000 or more, three additional members are appointed by the Governor. The act removes the requirement that, for local governments with fewer than 1,000 people, one additional member be appointed by the Governor.

The act also removes the express authorization for a mayor serving on a commission to designate a responsible official within the mayor's office or the fiscal officer of the municipal corporation to attend commission meetings when the mayor is absent or unable to attend. If a member appointed by the Governor fails to attend three consecutive meetings, the act permits the chairperson of the commission to remove the individual. In that event, the Governor must fill the vacancy in the same manner as the original appointment.



Financial plans

(R.C. 118.06)

The act requires that the financial plan of a local government in fiscal emergency include a five-year forecast reflecting the effects of the actions to be taken, and that the plan be updated annually. If a local government fails to submit the required financial plan, or fails to substantially comply with an approved financial plan, upon certification of the financial planning and supervision commission, all state funding for that local government – other than benefit assistance to individuals – must be escrowed until a feasible plan is submitted and approved or substantial compliance with the plan is achieved, as the case may be.

Expenditures

(R.C. 118.12)

If a financial plan is not submitted as required, the act permits the commission – if the commission considers it prudent – to limit any non-general fund expenditures of the local government. This is in addition to the limitation on general fund expenditures imposed by ongoing law.

The act permits a local government, after its financial plan is approved, to make expenditures contrary to the plan *if* it receives the advance approval of its financial supervisor. The commission, however, may overrule the decision of the financial supervisor by a majority vote.

Municipal corporation or township dissolution

(R.C. 118.31)

Upon petition of the financial supervisor of a local government and approval of its commission, if any, the Attorney General must file a court action to dissolve a municipal corporation or township if **all** of the following conditions apply:

(1) The municipal corporation or township has a population of less than 5,000 as of the most recent federal decennial census.

(2) The municipal corporation or township has been under a fiscal emergency for at least four consecutive years.

(3) Implementation of the municipal corporation's or township's financial plan cannot reasonably be expected to correct and eliminate all fiscal emergency conditions within five years.



If the court finds that all of those conditions apply, it must appoint a receiver. The receiver, under court supervision, is to work with executive and legislative officers of the municipal corporation or township to wind up the affairs of the municipal corporation or township and dissolve it in accordance with the ongoing law governing village dissolution and township boundary changes.

Prohibited actions

(R.C. 118.99)

Continuing law prohibits officers and employees of a local government under fiscal emergency from taking certain actions relating to its finances and liabilities. For example, an officer and employee cannot enter into any contract or financial obligation, or transfer or borrow money from one fund of the local government to or for another fund, without the required approval of the financial planning and supervision commission. Upon conviction of an officer or employee for violating any of those prohibitions, the officer or employee must forfeit the office or employment.

The act adds that, for the seven-year period immediately following the date of conviction, an officer is ineligible to hold any public office or other position of trust, or be employed by any public entity, in Ohio.

Reimbursement of the Auditor of State

(R.C. 118.04)

The act clarifies that the Auditor of State is to be reimbursed for all expenses incurred relating to a determination or termination of a fiscal emergency, fiscal watch, or fiscal caution, including providing technical and support services, from an appropriation for that purpose. If necessary, the Controlling Board may provide sufficient funds for these purposes.

Cost savings and modified work weeks

(R.C. 124.34, 124.393, and 124.394)

The act establishes and expands cost savings and modified work week schedule programs for counties, townships, and municipal corporations. The cost savings program and modified work week program are not a modification or reduction in pay that can be appealed to the State Personnel Board of Review if an employee affected thereby is in the classified civil service.



Cost savings program

Under the act, a county, township, or municipal corporation appointing authority can establish a mandatory cost savings program applicable to its exempt employees. An "exempt employee" means a permanent full-time or permanent part-time county, township, or municipal corporation employee who is not subject to a collective bargaining agreement between a public employer and an exclusive representative.

Each exempt employee must participate in the mandatory cost savings program for not more than 80 hours, as determined by the appointing authority, in each of state fiscal years 2010 to 2013. The program can include a loss of pay or loss of holiday pay. The act permits the program to be administered differently among employees based on their classifications, appointment categories, or other relevant distinctions. A county, township, or municipal corporation appointing authority must issue guidelines concerning how the appointing authority will implement the cost savings program.

Additionally, after June 30, 2013, a county, township, or municipal corporation appointing authority can implement mandatory cost savings days that apply to its exempt employees in the event of a fiscal emergency. A "fiscal emergency" means: (1) a fiscal emergency declared by the Governor if the Governor determines that the available revenue receipts will likely be less than the appropriations for the year, (2) a local fiscal watch or fiscal emergency has been declared or determined by the Auditor of State, (3) a lack of funds, or (4) reasons of economy.

Under prior law, only a county appointing authority could establish a mandatory cost savings program applicable to its county exempt employees, and only for state fiscal years 2010 and 2011. Thereafter, a county appointing authority could implement mandatory cost savings days in the event of a fiscal emergency. Under prior law, a fiscal emergency did not include a local fiscal watch or emergency declared by the Auditor of State.

Modified work week schedule program

The act authorizes a county, township, or municipal corporation appointing authority to establish a modified work week schedule program applicable to its exempt employees (as defined above). Each county, township, or municipal corporation exempt employee must participate in any established modified work week schedule program in each of state fiscal years 2012 and 2013.

A modified work week schedule program can provide for a reduction from the usual number of hours worked during a week by exempt employees immediately before the establishment of the program. The act allows the reduction in hours to



include any number of hours so long as the reduction is not more than 50% of the usual hours worked by exempt employees immediately before the establishment of the program. The program can be administered differently among exempt employees based on classifications, appointment categories, or other relevant distinctions.

The act specifies that after June 30, 2013, a county, township, or municipal corporation appointing authority can implement a modified work week schedule program that applies to its exempt employees in the event of a fiscal emergency (as defined above).

Although the act appears to confer authority on municipal corporations regarding cost savings days and work week modifications, it is likely municipal corporations already have authority to establish similar programs under their home rule powers of local self-government.¹⁹⁵

County centralized services

(R.C. 305.23)

The act authorizes a board of county commissioners to adopt a resolution establishing centralized purchasing, printing, transportation, vehicle maintenance, human resources, revenue collection, and mail operation services for a county office. The act defines "county office" as the offices of the county commissioners, county auditor, county treasurer, county engineer, county recorder, county prosecuting attorney, county sheriff, county coroner, county park district, veterans service commission, clerk of the juvenile court, clerks of court for all divisions of the courts of common pleas, including the clerk of the court of common pleas, clerk of a county-operated municipal court, and clerk of a county court, and any agency, department, or division under the authority of, or receiving funding in whole or in part from, any of those county offices.

The act defines and limits the types of human resources services that a board of county commissioners may centralize. "Human resources" is defined as any and all functions relating to human resource management, including civil service, employee benefits administration, collective bargaining, labor relations, risk management, workers' compensation, unemployment compensation, and any human resource management function required by state or federal law, but "human resources" does not authorize a board of county commissioners to adopt a resolution establishing a centralized human resource service that requires any county office to conform to any

¹⁹⁵ Ohio Constitution, Article XVIII, Sec. 3; see *Northern Ohio Patrolmen's Benevolent Ass'n v. Parma* (1980), 61 Ohio St.2d 375.



classification and compensation plan, position descriptions, or organizational structure; to determine the rate of compensation of any employee appointed by the appointing authority of a county office or the salary ranges for positions of a county office within the aggregate limits set in the board's appropriation resolution; to determine the number of or the terms of employment of any employee appointed by the appointing authority of a county office within the aggregate limits set in the board's appropriation resolution; or to exercise powers relating to the hiring, qualifications, evaluation, suspension, demotion, disciplinary action, layoff, furloughing, establishment of a modified work-week schedule, or the termination of any employee appointed by the appointing authority of any county office.

Before adopting a resolution establishing a centralized service, the board of county commissioners, in a written notice, must inform any other county office that will be impacted by the resolution of the board's desire to establish a centralized service or services. The written notice must include a statement that provides the rationale and the estimated savings anticipated for centralizing a service or services.

In addition, the board may request any other county office to serve as the agent and responsible party for administering a centralized service or services. That county office may enter into an agreement with the board of county commissioners to administer the centralized service or services under the terms and conditions included in the agreement. However, nothing in the centralized service provision authorizes the board of county commissioners to require a county office to serve as the agent and responsible party for administering a centralized service or services at the board's request.

The resolution establishing a centralized service or services must specify all of the following:

(1) The name of the county office that will be the agent and responsible party for administering a centralized service or services, and if the agent and responsible party is not the board of county commissioners, the designation of the county office that has entered into an agreement with the board to be the agent and responsible party;

(2) Which county offices are required to use the centralized services;

(3) If not all of the centralized services, which centralized service each county office must use;

(4) A list of rates and charges the county office must pay for the centralized services; and



(5) The date upon which each county office specified in the resolution must begin using the centralized services.

Not later than ten days after the resolution is adopted, the clerk of the board of county commissioners must send a copy of the resolution to each county office that is specified in the resolution.

The act prohibits the board of county commissioners from centralizing services regarding: (1) purchases made for contract services with moneys from the special fund designated as "general fund moneys to supplement the equipment needs of the county recorder," from the real estate assessment fund, or from the funds that are paid out of the county general fund for the furtherance of justice, (2) purchases of financial software used by the county auditor, (3) the printing of county property tax bills, (4) the collection of any taxes, assessments, and fees the county treasurer is required by law to collect, or (5) purchases of software used by the county recorder.

The act provides that nothing in the centralized service provision authorizes the board of county commissioners to have control or authority over funds that are received directly by a county office under another codified statute, or to control, or have authority regarding, the expenditure or use of these funds.

Continuing education requirements for county recorders

(R.C. 317.06)

The act requires a county recorder who is newly elected to a full term of office to attend and successfully complete at least 15 hours of continuing education courses during the first year of the recorder's term of office, and to complete at least another eight hours of continuing education courses each year of the remaining term. If elected to a subsequent term of office, the act requires the county recorder to attend and successfully complete at least eight hours of continuing education courses in each year of that subsequent term of office. In 86 counties, county recorders are elected for a term of four years.¹⁹⁶ Summit and Cuyahoga counties, which have charters, do not have county recorders but instead have officers that function like county recorders. It appears that under both charters, those officers would have to comply with the act's continuing education requirements.¹⁹⁷

¹⁹⁶ R.C. 317.01, not in the act.

¹⁹⁷ Section 5.02, Charter of Cuyahoga County; Section 4.01(2), Charter of Summit County, Ohio.



Approval of continuing education courses

To be counted toward the continuing education hours, a course must be approved by the Ohio Recorders' Association. (According to its web site, the Ohio Recorders' Association is composed of a president, vice president, treasurer, and secretary, all of whom are county recorders.)¹⁹⁸ Any county recorder who teaches an approved course is entitled to credit for the course in the same manner as if the county recorder had attended the course. Under the act, the Association must record and, upon request, verify the completion of the required course work for each county recorder and issue a statement to each county recorder of the number of continuing education hours the county recorder has successfully completed. Each year, the Association must send to the Auditor of State a list of the continuing education courses and the number of hours each county recorder has successfully completed. The Association also must provide a copy of this list to any other individual who requests it.

"Failure to complete" notices

The act requires the Association to issue a "failure to complete notice" to any county recorder who is required to complete continuing education courses but fails to successfully complete:

- ◆ At least 15 hours of continuing education courses during the first year of the county recorder's first term of office, or a total of at least 39 hours of those courses by the end of that term, including the 15 hours completed in the first year of the first term;
- ◆ At least eight hours of continuing education courses each year of any subsequent term of office or a total of at least 32 hours of courses by the end of that subsequent term.

The notice is for informational purposes only and does not affect any individual's ability to hold the office of county recorder.

Costs of continuing education

Under the act, each board of county commissioners must approve, from money appropriated to the county recorder, a reasonable amount requested by the county recorder to cover the costs the county recorder must incur to meet the continuing education requirements, including registration fees, lodging and meal expenses, and travel expenses.

¹⁹⁸ The web site is www.ohiorecorders.com.



Medical care reimbursement rate for confined persons

(R.C. 341.192)

The act establishes the Medicaid reimbursement rate as the amount to be paid to a medical provider who is not employed by or under contract with a municipal corporation or township for providing medical services to persons confined in multicounty, municipal-county, or multicounty-municipal correctional centers. Under continuing law, a county, the Department of Youth Services, or the Department of Rehabilitation and Correction pays medical providers that are not employed by or under contract with them the Medicaid reimbursement rate to provide medical care to persons confined in a county jail or state correctional institution.

Joint police districts

(R.C. 505.482, 505.483, 505.484, 505.51, and 505.551; R.C. 109.64, 109.71, 109.801, 133.01, 311.29, 311.31, 504.16, 505.105, 505.106, 505.107, 505.108, 505.109, 505.172, 505.267, 505.43, 505.48, 505.481, 505.483, 505.484, 505.49, 505.491, 505.492, 505.493, 505.494, 505.495, 505.50, 505.511, 505.52, 505.53, 505.54, 505.541, 505.61, 505.67, 509.15, 511.235, 511.236, 737.04, 737.041, 737.40, 955.012, 1533.83, 1545.131, 1545.132, 1547.30, 1547.301, 1547.302, 1547.303, 1547.304, 1907.53, 2151.3515, 2305.232, 2901.01, 2917.40, 2929.71, 2935.01, 2935.03, 2981.11, 2981.13, 3719.141, 3737.73, 3743.06, 3743.19, 3743.52, 3743.53, 3743.54, 3743.64, 3767.32, 3937.41, 4117.01, 4513.39, 4513.60, 4513.61, 4513.62, 4513.63, 4513.64, 4513.66, 4549.17, 4931.40, 5502.52, 5502.522, 5502.61, 5502.68, and 5705.01)

Composition and governance of the district

The act authorizes the boards of township trustees of one or more contiguous townships and the legislative authorities of one or more contiguous municipal corporations, whether or not within the same county, to create, by adopting a joint resolution, a joint police district comprising all or any part of the townships or municipal corporations as are mutually agreed upon. Under former law, boards of township trustees of two or more contiguous townships could form themselves into a joint township police district. The act's new joint police district replaces that entity, but retains the ability of boards of township trustees of two or more contiguous townships to jointly provide police functions, only through a joint police district, instead of through a joint township police district. The act does not affect the authority of a township to create a township police district under continuing law.

The joint police district is formed within 30 days after the favorable vote by the last board of township trustees or the members of the legislative authority of the last municipal corporation joining the district. The governing body of the joint police district is a joint police district board composed of either all of the township trustees of



each township and all of the members of the legislative authority of each municipal corporation in the district, as agreed to in the joint resolution, or of an odd number of members as is agreed to in the joint resolution, as long as the members are representatives from each board of township trustees of each township and from the legislative authority of each municipal corporation in the joint police district. The joint police district board organizes in the same manner as is currently required for a joint township police district board, by electing a president, secretary, and treasurer.

The act requires the treasurer of the joint police district board, before entering upon the duties of the office, to execute a bond payable to the state, in the amount and with surety to be approved by the joint police district board, conditioned for the faithful performance of all the official duties required of the treasurer. The bond must be deposited with the president of the board, and a copy of the bond, certified by the president, must be filed with the county auditor.¹⁹⁹

Members of the joint police district police force

The act requires the joint police district board, by a majority vote, to appoint a chief of police for the district, to determine the number of patrol officers and other personnel required by the district, and to establish salary schedules and other conditions of employment for the joint police district.²⁰⁰ This is consistent with how a joint township police district functioned. The members of the joint police district police force are required to take peace officer training, are the law enforcement officers of the joint police district, and have the same arrest authority and powers as municipal or township police officers.²⁰¹

Duties of the joint police district board

The joint police district board has the same powers as a joint township police district board has under ongoing law, including, among other various powers, the power to do the following:

- (1) Issue bonds and notes to buy police equipment;²⁰²
- (2) Levy a property tax on taxable property in the joint police district to defray all or a portion of the district's expenses in providing police protection;²⁰³

¹⁹⁹ R.C. 505.484.

²⁰⁰ R.C. 505.49.

²⁰¹ R.C. 109.71 and 505.172.

²⁰² R.C. 133.01, 505.52, and 505.53.



(3) Purchase or otherwise acquire police apparatus, equipment, including a public communications system, or materials that the joint police district requires, and build, purchase, lease, or lease with an option to purchase any building, buildings, or building site or sites necessary for the police operations of the district;²⁰⁴

(4) Establish a parking enforcement unit;²⁰⁵

(5) Purchase insurance policies to indemnify the chief of police, patrol officers, and other employees of a joint police district against liability arising from the performance of their duties;²⁰⁶ and

(6) Provide police protection to other political subdivisions as provided by law.

Joining or withdrawing from the joint police district

The act authorizes a township or municipal corporation, or parts thereof, to join an existing joint police district by adopting a resolution or ordinance, as appropriate, by the entity requesting participation in the district, and upon approval of the existing joint police district board.²⁰⁷

A township or municipal corporation may withdraw from a joint police district by adopting a resolution or an ordinance, respectively, ordering withdrawal. On or after January 1 of the year following the withdrawal resolution or ordinance, the township or municipal corporation withdrawing ceases to be a part of the district, and the power of the district to levy a property tax in the withdrawing township or municipal corporation terminates. However, the district must continue to levy and collect taxes for the payment of indebtedness in the territory of the district as it was comprised at the time the indebtedness was incurred.

The act requires that when a township or municipal corporation withdraws from a joint police district, the county auditor must ascertain, apportion, and order a division of the funds on hand and of taxes in the process of collection, except for taxes levied for the payment of indebtedness, credits, and real and personal property, on the basis of the valuation of the respective tax duplicates of the withdrawing township or municipal corporation and the remaining territory of the joint police district.

²⁰³ R.C. 505.51 and 5705.01.

²⁰⁴ R.C. 505.50.

²⁰⁵ R.C. 505.541.

²⁰⁶ R.C. 505.61.

²⁰⁷ R.C. 505.482.



When there is only one township or municipal corporation remaining in the joint police district, the district ceases to exist, and the funds, credits, and property remaining after apportionments to the withdrawing townships or municipal corporations are assumed by the one remaining township or municipal corporation. When the district ceases to exist and an indebtedness remains unpaid, the board of county commissioners must continue to levy and collect taxes for payment of the indebtedness within the territory of the joint police district as it was comprised at the time the indebtedness was incurred.²⁰⁸

Township noise regulations

(R.C. 505.172)

Under former law, a regulation or order to control noise that was adopted by a board of township trustees applied to any business or industry existing and operating on October 20, 1999, and applied to any new operation or expansion of that business or industry that resulted in substantially increased noise levels from those generated by that business or industry on that date. The act eliminates this date restriction and the operation and expansion applicability, and applies a township noise regulation or order to any business or industry, regardless of when it came into existence.

The act makes it permissive, rather than mandatory, for a board of township trustees to seek an injunction against a person who violates a regulation or order controlling noise.

Township and village competitive bidding thresholds

(R.C. 511.01, 511.12, 515.01, 515.07, 521.05, 731.14, and 5549.21)

The act increases from \$25,000 to \$50,000 a township's competitive bidding thresholds for all of the following: (1) constructing a memorial building, monument, statue, or memorial, (2) providing artificial lights for any road, highway, public place, building, or territory under its supervision or control when the board of township trustees determines that public safety or welfare requires lighting, (3) lighting improvements for streets and public ways, (4) repairing or maintaining private sewage collection tiles, and (5) purchasing or leasing machinery and tools used on roads and culverts. Prior law required that if the total estimated cost of doing (1) to (5) above exceeded \$25,000, the contract had to be let by competitive bidding.

²⁰⁸ R.C. 505.551.



The act increases from \$10,000 to \$50,000 the threshold for submitting a question to the electors of the township regarding building, improving, enlarging, or removing a town hall.

The act increases from \$25,000 to \$50,000 the competitive bidding threshold for expenditures of a village, other than the compensation of persons employed in the village, or except where the equipment, services, materials, or supplies are to be purchased under a contract with a regional planning commission or the Department of Administrative Services, or when the equipment, services, materials, or supplies are available, or are required by law to be purchased, from a qualified nonprofit agency. Former law required contracts made by the legislative authority of a village to be competitively bid when an expenditure exceeded \$25,000.

Competitive bidding threshold for board of park trustees

(R.C. 755.29)

The act increases to \$25,000 the threshold amount that triggers competitive bidding for service contracts entered into by a board of park trustees for municipal park improvements. Former law required that a board of park trustees, before entering into any contract for the performance of any work, the cost of which exceeded \$10,000, to competitively bid the work.

Generally, a board of park trustees is charged with managing, controlling, and administering property or funds donated to a municipal corporation for park purposes in accordance with continuing law,²⁰⁹ and may enter into contracts for the improvement of the park grounds and the erection of bridges and structures therein.

Police constables – limited home rule township

(R.C. 504.16)

The act adds, as one of the methods by which a limited home rule township may meet the requirement to provide law enforcement for the township, designating one or more police constables. Under continuing law, each township that adopts a limited home rule government, to fulfill this requirement, also may establish a police district, establish a joint police district, or contract to obtain police protection services.

²⁰⁹ R.C. 755.19 and 755.20, not in the act.



Merger of townships to form a new township

Overview

(R.C. 523.01 to 523.07)

The act creates a procedure whereby one or more townships may merge with a contiguous township to create a new township, in the manner provided by the act. Merger may be accomplished by initiative petition of the voters of the townships to be merged. The boards of township trustees also may submit the question of merger to the voters of the townships proposed to be merged. The resulting new township has all of, and only, the rights, powers, and responsibilities afforded by law to townships.

Continuing law already authorizes a township to merge with a municipal corporation.²¹⁰ If merger conditions are approved by the voters, the merger takes effect with no additional action, and the boundaries of previously unincorporated township territory that is merged with the municipal corporation automatically conforms to the boundaries of the municipal corporation.²¹¹ The act's new merger procedure does not affect such a merger.

Merger proposed by initiative petition of townships' electors

(R.C. 523.02)

A resolution for a merger of townships may be proposed by initiative petition by the electors of each township being proposed for merger, and adopted by election by these electors under the same circumstances, in the same manner, and subject to the same penalties as provided in ongoing law for presenting initiative petitions to municipal corporations,²¹² except that all of the following apply:

(1) Each board of township trustees must perform the duties imposed on the legislative authority of the municipal corporation.

(2) Initiative petitions must be filed with the township fiscal officer of each township proposed for merger, who must perform the duties imposed under that existing law upon the city auditor or village clerk.

²¹⁰ R.C. 709.43 to 709.48.

²¹¹ See Ohio Att'y Gen. Op. No. 2005-024.

²¹² See R.C. 731.28 to 731.40 and 731.99.



(3) Initiative petitions must contain the signatures of not less than 10% of the total number of electors in a township proposed for merger who voted for the office of Governor at the most recent general election in the township for that office.

(4) Each signer of an initiative petition must be an elector of the township in which the election on the proposed resolution is to be held.

The merger of the townships takes effect 120 days after certification by the board or boards of elections that the merger has been approved by the electors of each township proposed for merger.

Question of merger may be submitted to the voters

(R.C. 523.03)

The boards of township trustees may decide to submit a merger question to the voters of the townships. Under the act, the boards of township trustees of two or more townships, by adopting resolutions by a majority vote of the board of township trustees of each township, may cause the appropriate board of elections for each township to submit to the electors of each township the question of merger of the townships. The question must be voted upon at the next general election occurring not less than 90 days after the certification of the resolutions to the appropriate board of elections. The board of elections must submit the question in language substantially as set forth in the act, naming the townships to merge, asking whether they should be merged, and stating the name of the resulting new township.

The merger takes effect 120 days after certification by the board or boards of elections that the merger has been approved by the electors of each township proposed for merger.

Merger agreement

(R.C. 523.04)

Within 120 days after approval of the merger by the voters (either by initiative petition or when the boards of township trustees submit the merger question to the voters), each board of township trustees of the townships merged, by adopting a joint resolution approved by a majority of the members of each board, must enter into a merger agreement that contains the specific terms and conditions of the merger. At a minimum, the merger agreement must set forth all of the following:

- The names of the former townships that were merged;
- The name of the new township;



- The place in which the principal office of the new township will be located or the manner in which it may be selected;
- The territorial boundaries of the new township;
- The date on which the merger took effect;
- The governmental operations and organization of the new township, including a plan for electing officers at the next general election that is held not later than 90 days after the merger agreement is finalized;
- A procedure for the efficient and timely transition of specific services, functions, and responsibilities from each township and its respective offices to the new township;
- Terms for the disposition of the assets and property of each township, if necessary;
- The liquidation of existing indebtedness for each township, if necessary;
- A plan for the common administration and enforcement of resolutions of the townships merged, to be enforced uniformly within the new township;
- A provision that specifies whether there will be any zoning changes as a result of the merger, if applicable;
- A plan to conform the boundaries of an existing special purpose district with the new township, to dissolve the special purpose district, or to absorb the special purpose district into the new township. The act defines "special purpose district" as any geographic or political jurisdiction that was created under law by a township merged.

A copy of the joint resolution and the merger agreement must be filed with the township fiscal officer of the new township. The merger agreement takes effect on the day on which the filing is made.

If no merger agreement, or if only a partial merger agreement, is entered into within the 120-day time period prescribed, the new township must comply with and operate under a merger agreement that contains the default terms and conditions required by the act.

Default terms and conditions of merger agreement

(R.C. 523.06)

If a merger agreement is entered into by the boards of township trustees of the townships merged, the default terms and conditions of a merger agreement do not have to be followed. If a merger agreement is not entered into, the merger agreement must contain all of the terms and conditions specified below. If a partial merger agreement is entered into, the default terms and conditions apply only to the extent any term or condition that is required by the act to be addressed in the merger agreement is not addressed in the merger agreement. The default terms and conditions of the merger agreement are as follows:

◆ All members of each board of township trustees must serve as board members of the new township. At the first general election held for township officers occurring not less than 90 days after a merger is approved, the electors of the new township must elect three township trustees with staggered terms of office. The first terms following the election must be modified to an even number of years not to exceed four to allow subsequent elections for the office to be held in the same year as other township officers.

◆ The township fiscal officer of the largest township, by population, is the township fiscal officer for the new township. At the first general election for township officers occurring not less than 90 days after the merger, the electors must elect a township fiscal officer, whose first term of office must be modified to an even number of years not to exceed four to allow subsequent elections for that office to be held in the same year as other township fiscal officers.

◆ Voted property tax levies remain in effect for the parcels of real property to which they applied prior to the merger, and the merger does not affect the proceeds of a tax levy pledged for the retirement of any debt obligation. Upon expiration of a property tax levy, the levy may only be replaced or renewed by vote of the electors in the manner provided by law, to apply to real property within the boundaries of the new township. If the millage levied inside the ten-mill limitation of each township merged is different, the board of township trustees of the new township must immediately equalize the millage for the entire new township.

◆ For purposes of the retirement of all debt obligations of each township merged, the township fiscal officer must continue to track parcels of real property and the tax revenue generated on those parcels by the tax districts that were in place prior to the merger, and must provide that information on an annual basis to the board of township trustees of the new township. Debt obligations that existed at the time of the



merger are to be retired from the revenue generated from the parcels of real property that made up the township that incurred the debt before the merger.

◆ With respect to any agreement entered into under the Public Employees' Collective Bargaining Law²¹³ (the "law") that covers any of the employees of the townships merged, the State Employment Relations Board, within 120 days after the date the merger is approved, must designate the appropriate bargaining units for the employees of the new township in accordance with the law.²¹⁴ Notwithstanding the recognition procedures prescribed in the law,²¹⁵ the Board must conduct a representation election with respect to each bargaining unit designated in accordance with the law. If an exclusive representative is selected through this election, the exclusive representative must negotiate and enter into an agreement with the new township under the law. Until the parties reach an agreement, any agreement in effect on the date of the merger applies to the employees that were in the bargaining unit that is covered by the agreement. An agreement in existence on the date of the merger is terminated on the effective date of an agreement negotiated with the new township. If an exclusive representative is not selected, any agreement in effect on the date of the merger applies to the employees that were in the bargaining unit that is covered by the agreement and expires on its terms. Each agreement entered into under the law on or after September 29, 2011, applying to a new township must contain a provision regarding the designation of an exclusive representative and bargaining units for the new township. In addition to the laws listed in the law²¹⁶ that prevail over conflicting agreements between employee organizations and public employers, this provision of the merger agreement prevails over any conflicting provisions of agreements between employee organizations and public employers that are entered into on or after September 29, 2011, pursuant to the law.

◆ If the boundaries of the new township are not coextensive with a special purpose district, the new township remains in the existing special purpose district as a successor to the original township, unless the special purpose district is dissolved. (The act defines "special purpose district" as any geographic or political subdivision that was created under law by a township merged.) The board of township trustees of the new township may place a question on the ballot at the next general election held after the merger to conform the boundaries, dissolve the special purpose district, or absorb the

²¹³ R.C. Chapter 117.

²¹⁴ R.C. 4117.06.

²¹⁵ R.C. 4117.05 and 4117.07.

²¹⁶ R.C. 4117.10(A).

special purpose district into the new township on the terms specified in the resolution that places the question on the ballot for approval of the electors of the new township.

◆ Zoning codes that existed at the time of the merger must remain in effect after the merger, and the townships that existed before the merger must be treated as administrative districts within the new township for the purposes of zoning.

New township succeeds to certain interests

(R.C. 523.05)

A new township created by merger under the act succeeds to the following interests of each township merged:

(1) All money, taxes, and special assessments, whether in the township treasury or in the process of collection;

(2) All property and interests in property, whether real or personal;

(3) All rights and interests in contracts, or in securities, bonds, notes, or other instruments;

(4) All accounts receivable and rights of action;

(5) All other matters not included in this list that are not addressed in the merger agreement.

A new township created by merger is legally obligated for all outstanding franchises, contracts, debts, and other legally binding obligations of each township merged into the new township. A new township is legally responsible for maintaining, defending, or otherwise resolving any and all legal claims or actions of each township merged into the new township.

Waiting period to again propose a merger

(R.C. 523.07)

If a merger is disapproved by a majority of those voting on it in the townships proposed to be merged, an identical merger cannot be considered for at least three years after the date of the disapproval.



Joint projects by contracting subdivisions

(R.C. 755.16)

The act authorizes a "contracting subdivision," jointly with one or more other contracting subdivisions, in any combination, to acquire property for, and to construct, operate, and maintain, educational facilities. Continuing law authorizes a municipal corporation, township, township park district, county, or school district, jointly with one or more other municipal corporations, townships, township park districts, counties, school districts, or educational service centers, in any combination, and a joint recreation district, to acquire property for, and to construct, operate, and maintain, any parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, indoor recreation centers, or community centers. The act defines "contracting subdivision" to include all of the subdivisions specified in the previous sentence that may enter into joint contracts under continuing law, and adds state institutions of higher education to the list of subdivisions that may be contracting subdivisions.

The act also adds educational facilities as one of the projects that may be jointly acquired, constructed, operated, or maintained, and authorizes a state institution of higher education to provide, by the erection of a state institution of higher education building or premises, or by the enlargement or improvement of such a building or premises, for the inclusion of parks, recreational facilities, educational facilities, and community centers to be jointly acquired, constructed, operated, and maintained. Prior law only allowed school districts or educational service centers to provide, by the erection of any school or educational service center building or premises, or by the enlargement or improvement of such a building or premises, for the inclusion of parks, recreational facilities, and community centers, but not educational facilities, to be jointly acquired, constructed, operated, and maintained.

The act adds to this law a definition of "school district," which means any of the school districts or joint vocational school districts referred to in an existing law (city school districts, local school districts, exempted village school districts, cooperative education school districts, and joint vocational school districts). The act also adds a definition of "state institution of higher education," which is any state university or college, community college, state community college, university branch, or technical college.



Boards of health

(R.C. 3709.341)

Donating or selling property, buildings, and furnishings to a board of health

The act authorizes a board of county commissioners to donate or sell property, buildings, and furnishings to any board of health of a general or combined health district. Upon acceptance by the board of health, the board of county commissioners may convey the property, buildings, and furnishings to the board of health to be used as its quarters. The instrument conveying the property, buildings, and furnishings must include a reverter clause that, in the event the board of health subsequently sells the property, buildings, and furnishings, reverts them to the board of county commissioners if they initially were donated by the board of county commissioners, or specifies how the proceeds of the board of health's subsequent sale of the property, buildings, and furnishings are to be distributed, if they initially were sold by the board of county commissioners.

County quarterly spending plans

(R.C. 5705.392)

The act authorizes a board of county commissioners, by resolution, to adopt a spending plan or an amended spending plan setting forth separately a quarterly schedule of expenses and expenditures of appropriations from *any* county fund, for the second half of a fiscal year and any subsequent fiscal year, for any county office, department, or division that has spent or encumbered more than six-tenths of the amount appropriated for personal services and payrolls during the first half of any fiscal year.

The act also authorizes a board of county commissioners, during any fiscal year, by resolution, to adopt a spending plan or an amended spending plan setting forth separately a quarterly schedule of expenses and expenditures of appropriations from any county fund, for any county office, department, or division that, during the previous fiscal year, spent 110% or more of the total amount appropriated for personal services and payrolls by the board in its annual appropriation measure. This spending plan or amended spending plan must remain in effect two fiscal years, or until the county officer of the office for which the plan was adopted is no longer in office, including terms of office to which the county officer is re-elected, whichever is later.

At least 30 days before a resolution for either type of proposed or amended spending plan authorized by the act is adopted, the board of county commissioners must provide written notice to each county office, department, or division for which it



intends to adopt a spending plan or amended spending plan. The notice must be sent by regular first class mail or provided by personal service, and must include a copy of the proposed spending plan or proposed amended spending plan. The county office, department, or division may meet with the board at any regular session of the board to comment on the notice, or to express concerns or ask questions about the proposed spending plan or proposed amended spending plan.

Under continuing law, a board of county commissioners may adopt as part of its annual appropriation resolution a spending plan (or in the case of an amended appropriation resolution, an amended spending plan) setting forth a quarterly schedule of expenses and expenditures of all appropriations for the fiscal year from the *county general fund*. The spending plan must set forth separately a quarterly schedule of expenses and expenditures for each office, department, and division, and, within each, the amount appropriated for personal services. Each office, department, and division is limited in its expenses and expenditures of moneys appropriated from the general fund during any quarter by the schedule established in the spending plan. The schedule is a limitation during the quarter on entering into contracts and giving orders involving the expenditure of money during the quarter for purposes of obtaining the requisite certificate of available funds under continuing law.

Township fiscal officer compensation

(R.C. 505.24 and 507.09)

Under continuing law, township fiscal officers receive compensation according to a statutory schedule based on the population of the fiscal officer's township. The compensation is paid on a salary basis, in equal monthly installments. The Auditor of State recommends that each township pay this compensation from the township's general fund.²¹⁷

The act specifically authorizes a township to pay its fiscal officer from the township general fund or from other township funds based on the proportion of time that the fiscal officer spends providing services related to each fund. The fiscal officer must document the amount of time spent providing services related to each fund by certification specifying the percentage of time spent working on matters to be paid from the township general fund or other township funds in such proportions as the kinds of services performed.

²¹⁷ The recommendation is included in the Ohio Township Handbook published by the Auditor of State. http://www.auditor.state.oh.us/services/lgs/publications/LocalGovernmentManualsHandbooks/ohio_township_handbook.pdf



A similar method is available in continuing law for the compensation of township trustees. Trustees are paid on either a salary or per-diem basis. If a trustee is paid on a per-diem basis, a board may allow for payment of that trustee from the township general fund and other township funds in such proportions as the kinds of services performed may require. The trustee must notify the township fiscal officer of the number of days spent serving the township and the kinds of services rendered on those days. And, under the act, if a trustee is paid on a salary basis, the trustee must certify the percentage of time spent working on matters to be paid from the township general fund and other township funds in such proportions as the kinds of services performed.

Township tax levy election expenses

(R.C. 3501.17)

Under continuing law, a county board of elections incurs the costs of conducting elections in a county and subsequently allocates those expenses among each political subdivision that participated in an election. After a board of elections charges a political subdivision with an election expense, the county auditor must withhold the amount of that expense from the subdivision's next tax settlement. (In a tax settlement, the county auditor distributes the property tax revenue that the auditor collected from taxes levied by each subdivision.) Prior law did not specify whether the auditor may withhold amounts from a particular fund of a subdivision, such as the subdivision's general fund or a special tax levy or bond fund.

The act specifies that, when a county board of elections incurs expenses related to a township tax levy ballot issue, the board of township trustees may request that those expenses be withheld from a particular township fund. The request must be in the form of a resolution that specifies the ballot issue, the date of the election on the levy issue, and the township fund from which board of elections expenses should be withheld. The particular township fund must be one that will be credited with tax revenue at a tax settlement.

Maturity of securities issued for real property

(R.C. 133.20)

The act provides that general obligation bonds issued by a county to finance the acquisition or construction of real property may have a maximum maturity of up to 40 years if supported by a certification as to the property's estimated useful life. The county fiscal officer must certify that the estimated useful life of the property for which the bonds would issue will exceed 30 years, unless the maximum maturity of the bonds is 30 years or fewer, in which case no certification is required.



Under prior law, the maximum maturity for securities issued by counties was limited to 30 years, and no certification was required.

Regional Transit Authority

Membership

(R.C. 306.322, 306.55, and 306.551)

Until November 5, 2013, the act creates a new procedure allowing a municipal corporation or township to join a regional transit authority (RTA), but only if the RTA is one that (1) levies a property tax and (2) includes in its membership political subdivisions that are located in a county having a population of at least 400,000 according to the most recent federal census. The new procedure is in addition to and an alternative to procedures established in continuing law. Under the act, an eligible municipal corporation or township may adopt a resolution or ordinance proposing to join such an RTA for a limited period of three years or without a time limit. The subdivision proposing to join the RTA must submit its resolution or ordinance to the subdivisions that comprise the RTA.

If within 30 days of receiving the resolution or ordinance a majority of the political subdivisions comprising the RTA approve the inclusion of the additional subdivision, the issue of joining the RTA may be submitted to the voters in the subdivision proposing to join the RTA. If a majority of the electors approve the ballot issue, the addition is effective six months from the date the result is certified. The RTA immediately must amend the resolution or ordinance creating the RTA to include the additional political subdivision. The RTA may extend any existing tax levy to the taxable property in the new territory. If the subdivision was added to the RTA for only three years, no further action is needed to remove the territory added and reduce the RTA to its previous size. The RTA, as reduced, is entitled to levy and collect any previously authorized and unexpired property taxes, as if the enlargement had not occurred.

Until November 5, 2013, any municipal corporation or township that has created or joined an RTA that (1) levies a property tax and (2) includes in its membership political subdivisions that are located in a county having a population of at least 400,000 according to the most recent federal census, may withdraw from the RTA by adopting a resolution to place the issue on the ballot. If a majority of the electors of the subdivision proposing to withdraw from the RTA vote to approve doing so, the withdrawal is effective six months from the date of the certification of its passage, and the power of the RTA to levy a tax on taxable property in the withdrawing subdivision terminates.



Additionally, any municipal corporation or township that withdraws from an RTA under the procedures established by the act may enter into a contract with an RTA or other provider of transit services to provide transportation service for handicapped, disabled, or elderly persons and for any other service the legislative authority of the subdivision determines to be appropriate.

Extension of RTA services

(R.C. 306.35; Section 755.30)

The act prohibits an RTA from extending its service or facilities into another political subdivision without first notifying it and gives the political subdivision 30 days after receiving the notice to comment on the proposal. The act does not address any consequences resulting from comments by the political subdivision.

The act requires the Ohio Public Transit Association, in consultation with the Ohio Municipal League, the County Commissioners Association of Ohio, and the Ohio Township Association, to study RTA expansion outside territorial boundaries and provide a report to the General Assembly and the Governor not later than December 31, 2011 that lists best practices in dealing with various matters regarding the extension of service outside the territorial boundaries of an RTA.

Merger procedures for municipal corporations or municipal corporations and a township

Who may merge

(R.C. 709.43 and 709.44)

The act authorizes the merger under a new, abbreviated merger procedure of one or more municipal corporations, whether or not adjacent to one another, and an adjacent municipal corporation; of the unincorporated area of a township and one or more municipal corporations; or of one or more municipal corporations, whether or not adjacent to one another, and an adjacent unincorporated area of a township. Under continuing law, the territory of one or more municipal corporations, whether or not adjacent to one another, may merge with an adjacent municipal corporation, and the unincorporated area of a township may merge with one or more municipal corporations under a procedure whereby a petition proposing a merger is filed with the board of elections and the electors choose a commission to draw up a statement of conditions for merger.²¹⁸ This "commission process" for merging is not affected by the act, other than that the act now authorizes one or more municipal corporations, whether

²¹⁸ R.C. 709.45, not in the act.



or not adjacent to one another, and an adjacent unincorporated area of a township also to use the existing commission process to propose a merger, as well as the new, abbreviated merger procedure.

The new merger procedure

(R.C. 709.451)

In lieu of filing a petition for merger under the commission process, if the legislative authorities of each political subdivision that may be merged under the act agree to a merger and adopt, by a two-thirds vote of each legislative authority, an ordinance or resolution proposing a merger, no election of a commission to draw up a statement of conditions for merger of the political subdivisions is held. Instead, the legislative authorities of those political subdivisions have 120 days to enter into a merger agreement that specifies the conditions of the proposed merger, in identical ordinances or a resolution adopted by a simple majority vote of each legislative authority. At a minimum, the proposed merger agreement must include all of the following:

- (1) The names of the municipal corporations and township, if any, proposing the merger;
- (2) The territorial boundaries of the resulting municipal corporation or township;
- (3) The date that the proposed merger will take effect;
- (4) A procedure for the efficient and timely transition to the resulting municipal corporation or township of specified services, functions, and responsibilities from each municipal corporation or township and its respective departments and agencies;
- (5) A transition plan and schedule.

Question of merger submitted to electors

(R.C. 709.452)

The legislative authority of each municipal corporation or township proposed for merger that adopts a merger agreement under the act's new merger procedure must submit the question of merger to the electors of the municipal corporations and township proposed for merger. The legislative authorities must certify the ordinances or resolution that adopted the merger agreement to the board or boards of elections (if the territory proposed for merger is located in more than one county) directing the submission of the question of merger to the electors of the municipal corporations and



township proposed for merger at a special election to be held on the day of the next primary or general election in the county or counties that occurs not less than 90 days after the ordinances or resolution are certified to the board or boards of elections. The question is to be put on the ballot and voted upon, separately, in each municipal corporation or township proposed for merger.

The ordinances or resolution specifying the merger conditions agreed to by the municipal corporations and township proposed for merger must be posted on the web sites of those municipal corporations and township, and must be published in a newspaper of general circulation in the municipal corporations and township once a week for two consecutive weeks prior to the election.

If the merger is approved by a majority of those voting on it in each municipal corporation or township proposed to be merged, the merger and the merger agreement take immediate effect.

Powers of the merged entity; conflict with charter

(R.C. 709.451(B) and 709.452(D))

On the effective date of the merger, a municipal corporation merging into a township only has the rights, powers, and responsibilities afforded by law to townships, and all other authority ceases to exist.

If an existing charter of a municipal corporation proposed for merger conflicts with the act's new, abbreviated merger processes and procedures (whereby the question of merger is submitted to the electors), the processes and procedures for merger addressed in the municipal corporation's charter apply.

County automatic data processing boards

(R.C. 307.847)

Replacement of county records commission and county microfilming board

In lieu of having a county records commission and a county microfilming board, the act permits a board of county commissioners, by resolution, to require the county automatic data processing board to coordinate the management of information resources of the county, the records and information management operations of all county offices, and the various records and information technologies acquired and operated by county offices. The resolution requiring the board to assume these duties must specify the date on which the county records commission and the county microfilming board no longer exist.



For those counties that do not, by resolution, require the county automatic data processing board to assume additional duties, the act expands the board's authority to include electronic data processing or record-keeping equipment, software, or services.²¹⁹

Continuing law authorizes a board of county commissioners to establish a county microfilming board to coordinate the use of all microfilming equipment in use throughout the county offices. And, continuing law establishes a county records commission in each county 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.²²⁰ The act permits these functions to be merged into the county automatic data processing board, which may be established under continuing law to coordinate the use of all automatic data processing equipment in use throughout the county offices.

For those counties that do not merge its functions under the authority in the act, the act expands the authority of a county microfilming board to include other image processing equipment, software, or services.²²¹

Membership of the board

If the duties of the county automatic data processing board are so expanded, the prosecuting attorney, county engineer, county coroner, sheriff, and a judge of the court of common pleas selected by a majority vote of all judges of the court must be added to the membership of the board. Any of these additional members may designate a representative to serve on that member's behalf.

These new members would be added to the members of the automatic data processing board, as specified in continuing law. Those members include the county treasurer or the county treasurer's representative, the county recorder or the county recorder's representative, the clerk of the court of common pleas or the clerk's representative, a member or representative of the board of county commissioners chosen by the board, two members or representatives of the board of elections chosen by the board of elections (one of whom shall be a member of the political party receiving the greatest number of votes at the most recent general election for the office of Governor and one of whom shall be a member of the political party receiving the second greatest number of votes at such an election), if the board of elections desires to participate, and the county auditor or the county auditor's representative, who serves as

²¹⁹ R.C. 307.84, 307.842, 307.843, and 307.846.

²²⁰ R.C. 149.38.

²²¹ R.C. 307.80, 307.802, 307.803, and 307.806.



secretary of the board. Additionally, continuing law permits the members of the county automatic data processing board to add to the board any additional members whose officers use the facilities of the board, by majority vote of the board.

New duties of the county automatic data processing board

After a resolution is adopted under the act's provisions, no county office²²² is permitted to purchase, lease, operate, or contract for the use of any of the following, without prior approval of the board:

- Automatic data processing equipment, software, or services;
- Microfilming equipment or services;²²³
- Records center or archives facilities; or
- Any other image processing or electronic data processing or record-keeping equipment, software, or services.

The board is permitted to adopt rules as it considers necessary for its operation, but no rule may derogate the authority or responsibility of any county elected official. The board's rules may include any regulations or standards the board wishes to impose.

Transfer of duties

In the resolution expanding the duties of the county automatic data processing board, the board of county commissioners is required to designate the date on which all equipment, records, files, effects, and other personal property; contractual obligations; and assets and liabilities of the county records commission and the county microfilming board are to be transferred to the county automatic data processing board.

For purposes of succession to the functions, powers, duties, and obligations of the county records commission and the county microfilming board transferred to the county automatic data processing board, the county automatic data processing board is deemed to constitute the continuation of the county records commission and the county microfilming board, as applicable. Any business, proceeding, or other matter

²²² A "county office" is any officer, department, board, commission, agency, court, or other office of the county and the court of common pleas.

²²³ This provision does not apply to a county hospital when the county hospital uses microfilming to record and store for future access physical and psychiatric examinations or treatment records of its patients. However, the county hospital is required to participate, at the request of the county automatic data processing board, in purchasing film and equipment and in entering into contracts for services for microfilming.

undertaken or commenced by the county records commission or the county microfilming board pertaining to or connected with the functions, powers, duties, and obligations transferred or assigned and pending on the date of the transfer of duties to the county automatic data processing board must be conducted, prosecuted or defended, and completed by the county automatic data processing board in the same manner and with the same effect as if conducted by the county records commission or the county microfilming board. In all such actions and proceedings, the county automatic data processing board is to be substituted as a party.

All rules, acts, determinations, approvals, and decisions of the county records commission or the county microfilming board pertaining to the functions transferred and assigned to the county automatic data processing board that are in force at the time of the transfer or assignment are required to continue in force as rules, acts, determinations, approvals, and decisions of the county automatic data processing board until they are duly modified or repealed by the board.

Wherever the functions, powers, duties, and obligations of the county records commission or the county microfilming board are referred to or designated in any law, contract, or other document, the reference or designation must be deemed to refer to the county automatic data processing board, as appropriate. No existing right or remedy of any character is lost, impaired, or affected by reason of the transfer of duties to the county automatic data processing board, except insofar as those rights and remedies are administered by the county automatic data processing board.

Centralized and decentralized facilities

The act permits the county automatic data processing board to establish an automatic data processing center, microfilming center, records center, archives, and any other centralized or decentralized facilities it considers necessary to fulfill its duties. Any such centralized facilities must be used by all county offices. The establishment of either centralized or decentralized facilities is contingent on the appropriation of funds by the board of county commissioners. And the county auditor will be the chief administrator of either centralized or decentralized facilities.

Revenues and expenditures

The act requires the county auditor to prepare an annual estimate of the revenues and expenditures of the county automatic data processing board for the ensuing fiscal year and submit it to the board of county commissioners. The estimate must be sufficient to take care of all the needs of the county automatic data processing board, including, but not limited to, salaries, rental, and purchase of equipment.



The board's funds must be disbursed by the county auditor's warrant drawn on the county treasury five days after receipt of a voucher approved by a majority of that board and by a majority of the board of county commissioners.

On the first Monday in April of each year, the county auditor must file with the county automatic data processing board and the board of county commissioners a report of the operations of each center and a statement of each center's receipts and expenditures during the preceding calendar year.

Contracts for the provision of services to other entities

With the approval of the board of county commissioners, the act permits the county automatic data processing board to enter into a contract with the legislative authority of any municipal corporation, township, port authority, water or sewer district, school district, library district, county law library association, health district, park district, soil and water conservation district, conservancy district, other taxing district, or regional council, or with the board of county commissioners or the automatic data processing board or microfilming board of any other county, or with any other federal or state governmental agency, to provide microfilming, automatic data processing, or other image processing or electronic data processing or record-keeping services to any of them. The board is required to establish a schedule of charges upon which the cost of providing such services is to be based. All moneys collected by the board for services rendered pursuant to these contracts must be deposited in the county general fund, although these moneys may be segregated into a special fund in the county treasury until the end of the calendar year. County offices also may be charged for such services and the appropriations of those offices so charged and the appropriation of the county automatic data processing board so credited.

Licensing and inspection of marinas

(R.C. 3709.09, 3733.21 (repealed), 3733.22 (repealed), 3733.23 (repealed), 3733.24 (repealed), 3733.25 (repealed), 3733.26 (repealed), 3733.27 (repealed), 3733.28 (repealed), 3733.29 (repealed), 3733.30 (repealed), and 3733.99; R.C. 1547.01, 3701.83, and 3709.092 (for cross-references); Section 737.15)

The act repeals the statutes governing the licensure and inspection of marinas, including the requirement that the Public Health Council adopt rules for that purpose. Under former law, the Public Health Council had to adopt those rules in order to ensure that the marinas provided adequate sanitary facilities and that marinas were operated in a sanitary manner. Former law prohibited a person from constructing or altering a marina unless the Director of Health had approved the plans as providing adequate sanitary facilities. In addition, a person could not operate a marina without a license



issued by the board of health of the health district in which the marina was located. However, the Director of Health could become the licensor in a health district if the Director determined that the board of health was not complying with the Marinas Law and rules adopted under it. A license could be denied, suspended, or revoked.

A board of health had to determine any fee for the license in accordance with the Health Districts Law. The fee had to include any additional amount determined by rule of the Public Health Council, which was credited to the General Operations Fund. The portion of any fee retained by the health district had to be paid into a special fund of the health district. That money was used by the Director and the board for the administration of the Marinas Law and rules adopted under it.

A board annually had to inspect each marina, keep a record of the inspection, and require each marina to comply with the Marinas Law and rules adopted under it. A board also had to certify to the Director that a marina had been licensed and was in satisfactory compliance with that Law and the rules. Finally, former law provided for enforcement of that Law and the rules.

County sewer district and regional water and sewer district contracts

(R.C. 6103.04, 6117.05, and 6119.061)

The act expands the scope of the contracting authority of a board of county commissioners regarding a county sewer district. It does so by authorizing a board of county commissioners to convey, by mutual agreement, to a municipal corporation any part of water supply or sanitary facilities of the sewer district that are connected to facilities of the municipal corporation. In addition, a board may convey to a municipal corporation water supply or sanitary facilities acquired or constructed by a county for the service of property located in the district that are also located in the municipal corporation or within an area that is incorporated as, or annexed to, the municipal corporation.

Continuing law provides that any completed water supply or sanitary facilities acquired or constructed by a county for the use of any county sewer district, or any part of those facilities, that are located within a municipal corporation or within any area that is incorporated as, or annexed to, a municipal corporation, or any part of the facilities that provide water or sewer services to a municipal corporation or such an area, may be conveyed, by mutual agreement between the board and the municipal corporation, to the municipal corporation on terms and for consideration as may be negotiated.



The act also establishes new requirements applicable to regional water and sewer districts. Similar requirements exist regarding county sewer districts in continuing law and are established by the act.

Under the act, whenever any portion of a regional water and sewer district is incorporated as, or annexed to, a municipal corporation, the area so incorporated or annexed must remain under the jurisdiction of the district for purposes of the acquisition, construction, or operation of a water resource project until the project has been acquired or completed or is abandoned by the district. The board of trustees of the district, unless and until a conveyance is made to a municipal corporation (see below), must continue to have jurisdiction in the area so incorporated or annexed with respect to the management, maintenance, and operation of all water resource projects so acquired or completed or previously acquired or completed, including the right to establish rules and rates and charges for the use of, and connections to, the projects. The incorporation or annexation of any part of a district cannot affect the legality or enforceability of any public obligations issued or incurred by the district to provide for the payment of the cost of acquisition, construction, maintenance, or operation of any water resource project or the validity of any assessments levied or to be levied on properties within the area to provide for the payment of the cost of acquisition, construction, maintenance, or operation of the project.

The act authorizes the board of trustees of a regional water and sewer district to convey, by mutual agreement, to a municipal corporation any completed water resource project acquired or constructed for the use of, or service of property located in, the regional water and sewer district or any part of that project to which any of the following applies:

- (1) The project is located within the municipal corporation or within any area that is incorporated as, or annexed to, the municipal corporation.
- (2) The project serves the municipal corporation or any area that is located within or that is incorporated as, or annexed to, the municipal corporation.
- (3) The project is connected to water supply or sanitary, drainage, prevention, or replacement facilities of the municipal corporation.

The conveyance must be completed with terms and for consideration that may be negotiated. Upon and after the conveyance, the municipal corporation must manage, maintain, and operate the water resource project in accordance with the agreement. The board of trustees may retain the right to the joint use of all or part of any project so conveyed for the benefit of the district. Neither the validity of any assessment levied or to be levied, nor the legality or enforceability of any public



obligations issued or incurred, to provide for the payment of the cost of the acquisition, construction, maintenance, or operation of the project or any part of the project is affected by the conveyance.

County public defender salaries

(R.C. 120.40; Section 812.10)

Prior and continuing law prohibit the pay ranges established by a board of county commissioners for a county public defender and staff and the pay ranges established by a joint board of county commissioners for the joint county public defender and staff from exceeding the pay ranges assigned under Ohio law for comparable positions of the Ohio Public Defender and staff. The act retains this provision for the staff of a county public defender and a joint county public defender but prohibits the pay ranges established for a county public defender and a joint county public defender from exceeding the pay ranges assigned for county prosecutors. This new prohibition takes effect on January 1, 2012.

Political subdivision funds and nontherapeutic abortions

(R.C. 124.85 (renumbered as R.C. 9.04))

The act prohibits the use of political subdivision funds, other than those of municipal corporations and certain counties that have adopted a charter under Article X, Section 3 of the Ohio Constitution and are exercising local self-government powers, from being expended, directly or indirectly, to pay for any health care policy, contract, or plan that provides coverage, benefits, or services related to nontherapeutic abortion. "Nontherapeutic abortion" is defined to be any abortion that is performed or induced when the life of the mother would not be endangered if the fetus were carried to term, or when the pregnancy was not the result of a rape or incest reported to law enforcement.

The act does not prohibit the use of political subdivision funds from being used to pay for a health care policy, contract, or plan that includes a rider or other provision offered on an individual basis that allows an individual who accepts the offer of the rider or other provision to obtain a nontherapeutic abortion if the individual pays for all of the associated costs.



Use of public facilities for nontherapeutic abortions

(R.C. 5101.57)

The act prohibits the use of any public facility for performing or inducing a nontherapeutic abortion. "Nontherapeutic abortion" means any abortion that is performed when the life of the mother would not be endangered if the fetus was carried to term or when the pregnancy was not the result of a rape or incest reported to law enforcement. "Public facility" means any institution, structure, equipment, or physical asset that is owned, leased, or controlled by the state or any political subdivision of the state. Included in the definition of "public facility" is any state university, state medical college, health district, joint hospital, or public hospital agency. Municipal corporations, and counties that have adopted a charter under Article X, Section 3 of the Ohio Constitution and are exercising local self-government powers, are exempt from the prohibition.

Attorney General collection of political subdivision debts

(R.C. 131.02)

The act authorizes a political subdivision to certify a receivable to the Attorney General for collection when the receivable becomes 45 days past due if the Attorney General authorizes such certification. Under prior law, only receivables of the state could be certified to the Attorney General for collection.

Records of municipally owned or operated utilities

(R.C. 149.43)

The act exempts from public records law usage information, including the names and addresses of specific residential and commercial customers of municipally owned or operated utilities. The act also states that continuing public records law permitting journalists to request the address of certain government employees applies to journalistic requests for customer information maintained by a municipally owned or operated public utility. The act prohibits journalists from requesting private financial information of customers, such as credit reports, and Social Security numbers.

Under continuing public records law, a "journalist" is a person working for any news medium (such as a newspaper, 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.



Consolidation of records retention procedure

(R.C. 149.38, 149.381, 149.39, 149.41, 149.411, 149.412, 149.42, 1901.41, and 3313.29)

The act consolidates into one provision of law the records retention procedure that formerly applied recurrently to municipal corporations, school districts, educational service centers, libraries, special taxing districts, and townships. Under this procedure, records may be disposed of pursuant to an approved schedule of records retention and disposition approved by the appropriate records commission. When the records commission has approved any application for one time disposal of obsolete records or any schedule of records retention and disposition, the commission must send that application or schedule to the Ohio Historical Society for its review. Within a period of 60 days, the Society must complete its review and send the application to the Auditor of State to approve or disapprove within another 60-day period.

Under continuing law clarified by the act, before records are disposed of pursuant to an approved schedule of records retention and disposition, the county records commission must inform the Ohio Historical Society 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 must give the society 15 business days to select for its custody those records, from the certificate submitted, that it considers to be of continuing historical value. Thereafter, public libraries and other specified entities must be notified and given an opportunity to select records of continuing historical value. The act provides that notified entities are responsible for the cost of notification and transportation of the records.

The act's consolidated procedure incorporates the clarified procedure described above and also provides that during the 60-day review period, the Ohio Historical Society 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 must denote upon any schedule of records retention and disposition any records for which it will require a certificate of records disposal before their disposal.

The act states that the Ohio Historical Society may not review or select for its custody any record (1) the release of which is prohibited by the public records law pertaining to library patron information, (2) containing personally identifiable information, other than directory information, concerning public school children without the written consent of the parent or guardian of a minor pupil or without the written consent of a pupil who is 18 or over, or (3) the release of which would disqualify an educational institution from receiving federal funds under the Family Educational Rights and Privacy Act of 1974.



Attorney General's training programs

(R.C. 109.43(F))

The act expands the training or educational programs the Attorney General may offer about Ohio's "Sunshine Laws" under continuing law to include the records retention procedure set forth in the act.

County microfilming boards

(R.C. 307.801)

The act changes the date for meetings of a county microfilming board from the third Monday in January to the second Monday in January.

Exclusion of municipal corporation or township from sanitary district established for reduction of biting arthropods

(R.C. 6115.321)

Enactment of ordinance or adoption of resolution

The act authorizes the legislative authority of a municipal corporation or the board of township trustees of a township all or part of whose territory is included within the territory of a sanitary district that is established solely for the reduction of biting arthropods to enact an ordinance or adopt a resolution, as applicable, approving the submission to the court of common pleas that established the district a petition to exclude from the district the applicable territory of the municipal corporation or the township that is included in the district. If a legislative authority or a board enacts such an ordinance or adopts such a resolution, it may submit to the appropriate court of common pleas such a petition. The petition must include an explanation of the reasons for the petition.

Duties of clerk of court

The act requires the clerk of the court to do all of the following if a court of common pleas receives such a petition from the legislative authority of a municipal corporation or a board of township trustees:

- (1) Notify the legislative authority of each municipal corporation and the board of township trustees of each township all or part of whose territory is included within the territorial boundaries of the district of the receipt of the petition;
- (2) Include a copy of the petition; and



(3) Include a statement informing the legislative authority or the board of township trustees, as applicable, that it may submit to the clerk within 30 days of receipt of the notice written objections concerning the petition in the form of an ordinance enacted by the legislative authority or a resolution adopted by the board, as applicable.

Duties of court

Not sooner than 30 days after the clerk of the court of common pleas notifies legislative authorities of municipal corporations and boards of township trustees, one of the following applies:

(1) The court must enter a decree excluding from the district the territory of the municipal corporation or the township, as applicable, that is the subject of the petition and create a plan (see below) if the court receives written objections concerning the petition of exclusion from fewer than 60% of the municipal legislative authorities and boards of township trustees that were so notified.

(2) The court after a hearing on the petition may enter a decree excluding from the district the territory of the municipal corporation or the township, as applicable, that is the subject of the petition and create a plan if the court receives written objections concerning the petition of exclusion from 60% or more of the municipal legislative authorities and boards of township trustees that were so notified.

Plan for exclusion from district; notification

The act requires the court to do both of the following if it enters a decree excluding from a sanitary district the territory of a municipal corporation or a township:

(1) Establish a plan for the exclusion from the district of the territory that ensures the payment of expenses and indebtedness of the district, and, if necessary because the exclusion effectively dissolves the district, determine the value of the assets of the district and provide for their equitable distribution among the municipal corporations and townships all or part of whose territory is included within the district; and

(2) Send a copy of the court's decree and of the plan to the legislative authority of each municipal corporation and the board of township trustees of each township all or part of whose territory is included within the territory of the district and to the county auditor and treasurer of each applicable county.



Township cemeteries

(R.C. 517.06)

The act authorizes boards of township trustees to make and enforce all needful rules and regulations for burial, interment, reinterment, or disinterment in the township cemetery. Continuing law authorizes the township trustees to make and enforce all needful rules and regulations for the division of the cemetery into lots, for the allotment of lots to families or individuals, and for the care, supervision, and improvement of the lots.

Sheriff sales

(R.C. 2329.26)

The act requires notices of sheriff sales to be published once a week for at least three consecutive weeks before the day of the sale, rather than, as under prior law, at least three weeks before the day of the sale. Under continuing law, lands and tenements taken in execution may not be sold until the officer taking the lands and tenements gives public notice of the date, time, and place of the sale.

Disbursement of court filing fees to be appropriated or reported

(R.C. 1901.261, 1901.262, 1907.261, 1907.262, 2151.541, 2301.031, and 2303.201)

The act makes certain funds collected by local trial courts subject to appropriation by the local legislative authority or to an annual report by the court made available to the public listing the use of all such funds.

When a municipal court, a county court, a juvenile court, a court of common pleas domestic relations division, or a court of common pleas makes a determination that additional fees are required to computerize the court, to make available computerized legal research services, or to do both, the fees collected, or, if there is a surplus in the fees collected, the surplus, cannot be disbursed without either (1) an appropriation by the board of county commissioners in addition to the court order or declaration of surplus required by continuing law or (2) a court order, subject to the court making the report described above. However, in the case of a municipal court that is not county-operated, the fees collected or surplus cannot be disbursed without an appropriation by the legislative authority of the municipal corporation in which the court sits or a court order subject to the court making the report.

Similarly, when a municipal court or county court establishes a fee to defray the cost of establishing dispute resolution procedures, the fees collected, or, if there is a



surplus in the fees collected, the surplus, cannot be disbursed without either (1) an appropriation by the board of county commissioners in addition to the court order required by continuing law or (2) a court order, subject to the court making the report described above. However, in the case of a municipal court that is not county-operated, the fees collected or surplus cannot be disbursed without an appropriation by the legislative authority of the municipal corporation in which the court sits.

Finally, when a court of common pleas determines that, for the efficient operation of the court, additional fees need to be collected for special projects of the court, the fees collected cannot be disbursed without an appropriation by the board of county commissioners in addition to the court order required by continuing law. And if the additional fees for a special project are terminated, they cannot be transferred to a similar project without an appropriation by the board of county commissioners in addition to the court order required by continuing law.

