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## LOCAL GOVERNMENT

### Open Meetings

- Allows a public body subject to the Open Meetings Law to hold an executive (i.e., closed) session to consider the terms of an application for economic development assistance to be provided or administered by a local government.

### Municipal watershed management

- Would have prohibited a municipal corporation that has established and implemented a watershed management program with regard to reservoirs from including in the program any prohibition against maintenance of property that constitutes a buffer around such a reservoir by the owner of contiguous property (VETOED).
- Would have prohibited a municipal corporation from including in its watershed management program, with regard to its reservoirs for drinking water, a prohibition against mowing grass, weeds, or other vegetation by an owner of property that is contiguous to reservoir buffer property (VETOED).
- Would have provided that no peace officer or other official could issue a citation to any individual who entered municipal reservoir property for the sole purpose of mowing in an effort to beautify the property (VETOED).

### County recorder funding for technology needs

- Changes the name of the special fund used by the county recorder for equipment needs to the "county recorder's technology fund."
- Revises the proposal procedure by which, and the purposes for which, a county recorder may request funding from the board of county commissioners for imaging and other technological equipment needs.
- Changes from mandatory to permissive the board's authority to approve funding requests for reserving funds for future imaging and technology needs.
- Increases from \$7 to \$8 the total maximum dollar amount of specific filing fees that the county recorder may request for funding technology needs.
- Reduces the amount of fees the county recorder receives for technology needs for recording and indexing the first two pages of certain instruments if the technology fund has been established; of the \$28 fee charged for recording and indexing the first two pages of the instrument, \$14 must be deposited into the technology fund and



\$14 must be deposited into the county general fund, rather than depositing the entire \$28 fee in the technology fund as required by prior law.

- Requires that if no technology fund has been established, the \$28 fee charged for recording and indexing the first two pages of certain instruments must be deposited into the county general fund.
- Extends to January 1, 2019, the term of a funding proposal in effect on September 29, 2013 (the act's 90-day effective date), regardless of the number of years specified in the approved proposal.
- Establishes a four-year window during which a county recorder may request each year that an amount not to exceed \$3 be placed into the technology fund, and requires the board of county commissioners to approve the amount requested, if the amount, when added to any amount previously approved under a proposal in effect on September 29, 2013, does not exceed the \$8 cap.
- Limits the use of the county recorder's technology fund when paying expenses for personnel, to those personnel directly related to imaging and other technological equipment.
- Allows the board of county commissioners, as it deems necessary, to transfer moneys from the county recorder's technology fund if the county is under a fiscal caution, fiscal watch, or fiscal emergency.
- Requires that the cost a county recorder must incur for training programs and continuing education be paid from the county recorder's technology fund if one has been established.

### **Regarding registered land**

- Authorizes county recorders who maintain registered land records by nonpaper means to use an electronic facsimile of the recorder's signature and seal on a certificate of title or on a duplicate of it.
- Requires a county recorder to record the court order canceling a certificate of title and surrendering a registration certificate in the recorder's unregistered land official records, rather than recording all previously filed deeds and mortgages conveying the registered land for which the registration certificate is being surrendered.

### **County hospital trustees**

- Requires county hospital trustees to be representative of the areas served by the hospital.



- Removes a criterion that prohibits more than one half of the members of a board of county hospital trustees from being independents or from being members of any one political party.
- Authorizes the board of county commissioners to provide a stipend for service on the board of county hospital trustees.
- Requires a board of county hospital trustees to hold meetings at least quarterly, rather than once a month.
- Authorizes boards of county hospital trustees to adopt annual leasing policies provided through a joint purchasing arrangement sponsored by a nonprofit organization, for certain services, supplies, and equipment.
- Exempts from competitive bidding, with a unanimous vote of the board of county hospital trustees, emergency purchases that are under \$100,000 or when there is actual physical damage to structures or equipment.
- Requires a board of county hospital trustees, whenever a contract of purchase, lease, or construction is exempt from competitive bidding, to solicit at least three informal estimates when the estimated cost is \$50,000 or more, but less than \$100,000.
- Permits the board of county hospital trustees to delegate its management and control of the county hospital to the hospital administrator through a written delegation.
- Requires the board of county hospital trustees to provide for management and control of the county hospital, in addition to providing for government of, and admission to, the hospital.

### **Lake Facilities Authorities**

- Authorizes one or more boards of county commissioners to create a Lake Facilities Authority (LFA), a body politic and corporate, for the purpose of remediating watersheds impacted by elevated levels of microcystin.
- Creates an LFA board of directors consisting of the county commissioners of each county with territory in the "impacted lake district" – i.e., the territory of all townships and municipal corporations with territory in the impacted watershed.
- Requires the creation of an advisory council for each LFA consisting of an appointee of each political subdivision with territory in the impacted lake district, to consult with the board of directors.



- Authorizes a board of county commissioners to levy a sales tax to provide revenue to an LFA.
- Authorizes an LFA to levy a property tax with voter approval for current expenses, debt charges, permanent improvements, and parks and recreation, not to exceed one mill.
- Authorizes an LFA to levy a lodging tax with voter approval, the rate of which may not cause the aggregate rate of lodging taxes in the impacted lake district to exceed 5%.
- Authorizes an LFA to issue general obligation securities for the remediation of an impacted watershed and related permanent improvements, not to exceed one-tenth per cent of the total value of property in the impacted lake district.
- Authorizes an LFA to issue revenue bonds and anticipation bonds and notes.
- Prohibits the creation of any new special district that would overlap with an LFA district (e.g., a conservancy district) if the new district would have powers or duties that are the same as the LFA's.
- Prohibits any taxing authority from levying a property tax in the territory of an LFA if the purpose of the tax is substantially similar to the purpose of a tax that the LFA is authorized to levy.
- Authorizes the Director of Natural Resources to transfer real property to an LFA to promote wetland mitigation banking, wildlife, or sporting activities, and authorizes the Division of Wildlife to enter into agreements with an LFA to establish wetland or natural areas to benefit wildlife or sporting activities.
- Requires competitive bidding for LFA construction projects in excess of \$25,000 except under certain circumstances.
- Permits, but does not require, an LFA to apply prevailing wage requirements to public improvements it undertakes or contracts for.

### **Disposition of body at local government expense**

- Permits a political subdivision to provide a metal grave marker, instead of a stone or concrete marker, when the political subdivision buries a body or cremated remains that are unclaimed or that an indigent person has claimed.



- Defines an indigent person as a person whose income does not exceed 150% of the federal poverty line, for purposes of the continuing requirement that a political subdivision pay to bury or cremate a body that an indigent person has claimed.

### **Recovery of township-owned cemetery**

- Permits the company, association, or religious society that most recently owned and operated a cemetery now owned by a board of township trustees to petition a probate court to restore ownership of the cemetery to the petitioner.
- Requires the court, if the petitioner meets all applicable requirements, to transfer to the petitioner ownership of the cemetery and all necessary records and documents.
- Requires that the petitioner have the financial resources necessary to operate and maintain the cemetery, that the petitioner be in compliance with all applicable laws and rules concerning cemeteries, and that the petitioner owe no delinquent taxes.

### **Community reinvestment areas**

- Specifies the types of amendments that, if made to a community reinvestment area (CRA) ordinance or resolution adopted before July 22, 1994, causes the CRA to lose its grandfathered status exempt from various limitations and requirements that apply to CRAs created after that date.

### **New community authorities**

- Requires the organizational board of commissioners of a new community district that is located entirely within the boundaries of a municipal corporation to be the legislative authority of that municipal corporation.
- Permits the organizational board of commissioners of any new community authority (NCA) to adopt an alternative method of selecting or electing successor members of a board of trustees.
- Limits the authority of a board of trustees of an NCA organized before March 22, 2012, which adopts an alternative method of subsequent selection for the board of trustees, to collect community development charges and issue bonds or notes to the amount permitted for a board of trustees whose members are not resident-elected.

### **Tax levy for fairs and other purposes**

- Allows a board of county commissioners to place on a ballot a tax levy in excess of ten mills for the purpose of operating expenses of an agricultural fair that is operated by a county or independent agricultural society.



- Allows a board of county commissioners to place on a ballot a tax levy in excess of ten mills for any combination of agricultural fairs, soil and water conservation district program funding, and the OSU Extension Fund.

### **Township use of joint economic development zone income tax revenue**

- Authorizes municipal corporations and townships that enter into a joint economic development zone contract to use income tax revenue collected under the contract for the general purposes of a township that is subject to the contract.

### **Allocation of lodging tax revenues by convention facilities authorities**

- Authorizes the convention facilities authority in Muskingum County to allocate a portion of lodging tax revenue (not exceeding 15% of the total revenue from the tax in the preceding year) to county and municipal tourism facilities and programs and to county fair purposes.
- Requires that lodging tax revenue distributed by a county to a convention and visitors' bureau in existence on September 29, 2013, be used solely for tourism sales, marketing and promotion, and their associated costs.
- Limits the amount of county lodging tax revenue that a convention and visitors' bureau may retain for administrative purposes.

### **Use of oil and gas money for local park maintenance and acquisition**

- Requires royalties and other moneys from the sale or lease of mineral rights regarding parks within township or metropolitan park districts or land within municipal parks to be deposited into special funds and used for park maintenance and acquisition of new park lands.

### **Township use of tax increment financing revenue**

- Authorizes townships that have, at any time, adopted a resolution exempting real property from taxation using a TIF (tax increment financing) to borrow unencumbered money in the TIF fund to pay for current public safety expenses.

### **Township use of motor fuel tax revenue**

- Allows a township to use its distribution of motor fuel tax revenue to service bonds issued to pay for the purchase of road machinery and equipment, the planning, construction, and maintenance of buildings that house such equipment, and other highway improvement projects.



## Other provisions

- Permits a superintendent serving multiple county DD boards to appoint a designee to participate on a county's family and children first council.
- Requires the public children services agency (PCSA) of Butler County to establish and maintain a regional training center for training PCSA caseworkers and supervisors and related functions; eliminates the Hamilton County PCSA's duty to establish and maintain such a center; and specifies that the center established by the Butler County PCSA replaces the center previously established by the Hamilton County PCSA.
- Adds to the definition of "county expenses" that may be paid to a county office by use of a financial transaction device, payment of money confiscated during the commitment of an individual to a county jail, of bail, of money for a prisoner's inmate account, and of money for goods and services for an individual incarcerated by a county sheriff.
- Specifies, when the Treasurer of State is holding an obligation purchased from a county, township, or municipal corporation, that the county auditor, upon demand of the Treasurer, must withhold from settlement payments or advance payments of money to which the county, township, or municipal corporation is entitled, an amount sufficient to pay debt service charges on the obligation.
- Authorizes a nonchartered city to sell real estate no longer needed for city purposes to a board of county commissioners without complying with state law that otherwise requires advertising and competitive bidding.
- Clarifies the number of members that are eligible to be elected when the legislative authority of a nonchartered village adopts nonstaggered terms of office for its membership.
- Allows a board of county commissioners, a county auditor, and a county treasurer each to enter into a contract with a county land reutilization corporation to provide employees to provide services to the corporation, who remain employees of the county for the duration of the service.
- Requires that the township member of the board of directors of a county land reutilization corporation be chosen by a majority of the boards of township trustees of townships having a population of at least 10,000 in the unincorporated area of the township.



## **Open Meetings exception for economic development applications**

(R.C. 121.22(G))

Under continuing law, the Open Meetings Law permits members of a public body to hold an executive (i.e., closed) session for the sole purpose of considering one of seven permissible matters, such as the employment, dismissal, or discipline of public employees or matters that are required to be kept confidential under federal law. The act adds an eighth purpose for which a public body may hold an executive session, namely to consider certain confidential information related to an application for economic development assistance to be provided or administered by a local government. Such applications may include, for example, applications related to tax increment financing (TIF) incentives or incentives related to an enterprise zone, community reinvestment area, or joint economic development district.

The act's exception applies only to the consideration of confidential information directly related to such applications – specifically, an applicant's marketing plans, business strategy, production techniques, trade secrets, or personal financial statements – or to negotiations with other political subdivisions regarding such applications. A unanimous quorum of the public body must vote, by roll call, that holding the executive session is necessary to protect the applicant's interests or the possible investment or expenditure of public funds in connections with the economic development project. By contrast, the approval of only a majority of a quorum of a public body is required to hold executive sessions on other matters under continuing law.

## **Municipal watershed management program (VETOED)**

(R.C. 743.50(A))

The Governor vetoed a provision that would have prohibited a municipal corporation that has established and implemented a watershed management program with regard to reservoirs for drinking water from including in the program any prohibition against maintenance of property that constitutes a buffer around a body of water that is part of the reservoir by an owner of property that is contiguous to the buffer.

## **Prohibition against trespassing charges (VETOED)**

(R.C. 743.50(B) and (C))

The Governor vetoed a provision that would have prohibited a municipal corporation that has established and implemented a watershed management program with regard to reservoirs for drinking water from including in the program any



prohibition against mowing grass, weeds, or other vegetation on municipal property that constitutes a buffer around a body of water that is part of the reservoir by owners of property contiguous to the buffer. No peace officer or other official with authority to cite trespassers on the municipal property would have been able to issue a civil or criminal citation to any individual who entered municipal property buffering a reservoir for the sole purpose of mowing grass, weeds, or other vegetation in an effort to beautify the municipal property that is contiguous to property owned by the individual.

## **County recorder funding for technology needs**

(R.C. 305.23(C), 317.06(B), 317.32(A), and 317.321)

### **Prior law funding of equipment needs**

Prior law authorized the county recorder to submit to the board of county commissioners a proposal for funds for the acquisition or maintenance of micrographic or other equipment or for contract services, or a proposal to reserve funds for the office's future equipment needs. The proposal could have requested that an amount not to exceed \$7 of the following fees be placed in the county treasury in a special fund designated as "general fund moneys to supplement the equipment needs of the county recorder": (1) the fees collected for filing or recording certain instruments, if the photocopy or any similar process is employed,<sup>230</sup> (2) the fee for filing a financing statement to perfect a security interest or an agricultural lien,<sup>231</sup> and (3) various fees for recording an assortment of instruments regarding registered land.<sup>232</sup> Former law also required that a \$28 fee for recording and indexing the first two pages of a transfer, conveyance, or assignment of tangible or intangible personal property, or rights or interests therein, and an \$8 fee for each subsequent page of that instrument if the photocopy or any similar process is employed, be deposited into the county treasury to the credit of the special fund designated as "general fund moneys to supplement the equipment needs of the county recorder."

A proposal could have been for a term not to exceed five years. The board of county commissioners could have approved, rejected, or modified a proposal for the acquisition or maintenance of micrographic or other equipment or for contract services,

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<sup>230</sup> A base fee of \$14 and a Housing Trust Fund fee of \$14 continue to be charged for the first two pages, and a base fee of \$4 and a Housing Trust Fund fee of \$4 continue to be charged for each subsequent page.

<sup>231</sup> A fee of \$20 continues to be charged for responding to a request for information about a financing statement naming a particular debtor, or a \$5 fee if the request is less particular.

<sup>232</sup> The fees continue to be range from \$5 to \$30.



but was required to approve a proposal to reserve funds for the office's future equipment needs. Any funding approved by the board was placed in the county treasury and designated as general fund moneys to supplement the equipment needs of the county recorder.

### **Funding of technology needs under the act**

The act changes the name of the special fund designated as "general fund moneys to supplement the equipment needs of the county recorder," to the "county recorder's technology fund."

Under the act, a county recorder may submit to the board of county commissioners a proposal for funding any of the following:

(1) The acquisition and maintenance of imaging and other technological equipment, and contract services therefor;

(2) To reserve funds for the office's future technology needs if the county recorder has no immediate plans for the acquisition of imaging and other technological equipment or contract services, or to use the county recorder's technology fund as a dedicated revenue source to repay debt to purchase any imaging and other technological equipment before the accumulation of adequate resources to purchase the equipment with cash;

(3) For other expenses associated with the acquisition and maintenance of imaging and other technological equipment and contract services.

The act limits the use of the technology fund for the purpose described in (3), above, when used for associated expenses for personnel, by strictly confining the use of the fund to personnel directly related to imaging and other technological equipment. Any compensation increases for those personnel cannot exceed the average of the annual aggregate percentage increase or decrease in the compensation fixed by the board of county commissioners for their employees and the county's officers. Use of the fund for compensation bonuses, or for recognizing outstanding employee performance, is prohibited.

### **Proposals for funding**

The act revises the information that must be in a funding proposal. A proposal for the purposes of (1), above, must include a description or summary of the imaging and other technological equipment that the county recorder proposes to acquire and maintain, and the nature of contract services that the county recorder proposes to use. A proposal for the purposes of (2), above, must explain the general future technology



needs of the office for imaging and other technological equipment, or for revenue to repay debt. A proposal for the purposes of (3), above, must identify the other expenses associated with the acquisition and maintenance of imaging and other technological equipment and contract services that the recorder proposes to pay with moneys in the technology fund.

The act changes from mandatory to permissive the board of county commissioners' authority to approve funding proposals for reserving funds for future imaging and technology needs. Under prior law, the board had to approve a proposal to reserve funds for the county recorder's future equipment needs.

### **Amount of fees requested**

The act increases from an amount not to exceed \$7 to an amount not to exceed \$8 the amount of the fees described above that the county recorder may request be placed in the county treasury to the credit of the county recorder's technology fund. The act decreases the amount of fees collected for recording and indexing the first two pages of an instrument that transfers, conveys, or assigns tangible or intangible personal property that is deposited in the technology fund. If the county recorder's technology fund has been established, of the \$28 fee charged for recording and indexing the first two pages of the instrument, \$14 must be deposited into the county treasury to the credit of the technology fund and \$14 must be deposited into the county general fund, instead of the entire \$28 going into the fund for the county recorder's technology needs, as required by prior law. If no technology fund has been established, the act requires that the entire \$28 fee be deposited into the county general fund.

### **Operation of the proposals**

The act also revises how the funding proposals operate, as follows:

(1) A proposal that has been approved by the board of county commissioners before, and that is in effect on September 29, 2013, continues in effect until January 1, 2019, regardless of the number of years of funding specified in the approved proposal. (Under prior law, a proposal was valid for up to five years, as designated in the approved proposal.)

(2) A proposal submitted between October 1, 2013, and October 1, 2017, may request that an amount that does not exceed \$3 be credited to the county recorder's technology fund, in addition to the amount approved by the board of county commissioners in a proposal approved before, and in effect on, September 29, 2013. If the total of the amount approved in the previous proposal and the amount approved in a proposal submitted during that four-year window does not exceed the \$8 cap, the board must approve the proposal and notify the county recorder of its approval. A



proposal may be submitted each year during that four-year window for funding in the following fiscal year.

(3) If the total amount of fees provided for in (1) above, (2) above, and in any proposal submitted after September 29, 2013, is less than \$8, a proposal requesting additional fees may be submitted to the board of county commissioners under the regular proposal procedure whereby the board approves, rejects, or modifies the proposal for a number of years not to exceed five, as long as the total amount of the fees that are to be credited to the county recorder's technology fund under all active proposals does not exceed \$8.

When the board of county commissioners approves a proposal, the county recorder's technology fund is established in the county treasury, and, beginning on the following first day of January, the fees approved must be deposited in that fund.

### **Use of the fund for other purposes**

If a county is under a fiscal caution, fiscal watch, or fiscal emergency declared by the Auditor of State, the board of county commissioners, notwithstanding tax levy laws that dictate how county funds are to be transferred, may transfer from the county recorder's technology fund any moneys the board deems necessary.

The act also requires that if a county has established a county recorder's technology fund, the costs the county recorder must incur for training programs and continuing education must be paid from the technology fund, including registration fees, lodging and meal expenses, and travel expenses. Under prior law, the board of county commissioners approved a reasonable amount requested by the county recorder for these costs, from money appropriated to the county recorder.

### **Recording registered land**

(R.C. 5309.68 and 5309.86)

The act allows county recorders who maintain registered land records by nonpaper means to reproduce, by electronic facsimile, the signature and seal of the county recorder or the recorder's authorized deputy or clerk on a certificate of title or on a duplicate of a certificate of title. County recorders are allowed under continuing law to maintain registered land records by use of photographic, magnetic, electronic, or certain other processes, means, or displays. The act provides that any prior memorial, notation, or cancellation of such a memorial or notation on a certificate of title or duplicate of a certificate of title must note only the name of the prior recorder and need not be signed by the county recorder or the recorder's authorized deputy or clerk.



Continuing law allows a person owning real estate, the title of which is registered, to request withdrawal of the real estate from registration by presenting to the county recorder an affidavit of intention to withdraw. The county recorder records the affidavit and, upon the order of the court, cancels the certificate of record. The act requires a county recorder to record the court order in the recorder's unregistered land official records, rather than recording all previously filed deeds and mortgages that conveyed the registered land for which the registration certificate is being surrendered.

## **County hospital trustees**

(R.C. 339.02, 339.05, 339.06, and 339.07)

The act expressly requires county hospital trustees to be representative of the areas served by the hospital.

The act also removes criteria that prohibit more than one half of the members of a board of county hospital trustees from being independents or from being members of any one political party.

The act authorizes, but does not require, the board of county commissioners to provide a stipend for service on the board of county hospital trustees. Under prior law, county hospital trustees served without compensation. Continuing law, not amended by the act, allows the trustees to be paid for the necessary and reasonable expenses incurred in the performance of their duties.

The act requires a board of county hospital trustees to hold meetings at least quarterly. Prior law required meetings to be held at least once a month.

A board of county hospital trustees is authorized annually to adopt bidding procedures and purchasing policies for services provided through a joint purchasing arrangement sponsored by a nonprofit organization, and for supplies and equipment that are routinely used in operation of the hospital and that cost above the amount at which purchases must be competitively bid. The act expands and restructures this provision by authorizing the annual adoption of purchasing or leasing policies provided through the joint purchasing arrangement sponsored by a nonprofit organization, for services, supplies, and equipment, that are routinely used in the operation of the hospital and that cost above the amount at which purchases must be competitively bid. If the board of county hospital trustees adopts these procedures and policies, and if the board of county commissioners approves them, the board of county hospital trustees may follow those procedures and policies rather than the competitive bidding procedures that otherwise would apply.



Under the act, a board of county hospital trustees is exempt from competitive bidding if the board, by a unanimous vote, determines that a real and present emergency exists and the estimated cost is less than \$100,000 or there is actual physical damage to structures or equipment. The board must enter the determination of emergency and the reasons for it in the minutes of its proceedings. (For purposes of this provision, a vote is unanimous if all members of the board of county hospital trustees are present, or when not all members are present, so long as the number of members present constitutes a quorum (one half plus one).)

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding because the estimated cost is less than \$100,000, but is \$50,000 or more, the board must solicit informal estimates before the contract is awarded from not fewer than three persons who could perform the contract. The board must maintain a record of the informal estimates, including the name of each person from whom an informal estimate was solicited, for the longer of at least one year after the contract is awarded or an amount of time required by the federal government.

The act authorizes the board of county hospital trustees to delegate its management and control of the county hospital to the hospital administrator through a written delegation. The act also specifies that the board must establish rules for the hospital's management and control, in addition to rules for the hospital's government and for the admission of persons.

## **Lake Facilities Authority**

(R.C. 353.01 to 353.16, 5705.55, and 5739.026 with conforming changes in R.C. 133.01, 135.80, 309.09, 5705.01, and 5705.19)

### **Authorization and creation**

(R.C. 353.01 and 353.02)

The act authorizes one or more boards of county commissioners of one or more counties that contain property in an "impacted watershed" to create by resolution a Lake Facilities Authority (LFA or Joint LFA) to rehabilitate, improve, or promote the watershed. The resolution must contain a finding that the watershed is an "impacted watershed." An impacted watershed is one that contains territory in a state park that has averaged at least 400,000 visitors per year for the four calendar years immediately preceding the year in which the resolution is adopted and contains a natural or man-made lake of at least one-half square mile that, within the last two years, has experienced levels of microcystin toxins in excess of 80 parts per billion, as measured by the Ohio Environmental Protection Agency (EPA).



Within 60 days after the creation of an LFA, the county engineer of each county with territory in the impacted watershed is required to prepare a survey denoting the impacted watershed's boundaries in the county. (The territory of a watershed is determined by the U.S. Geological Survey.) The cost of the survey may be paid by the LFA if requested by all county engineers conducting the survey. Each participating county may advance funds to the LFA for that purpose.

Once an LFA is created, no special district with powers or duties similar to the LFA's may be created if the district would include territory in the "impacted lake district," which is defined to mean the territory of all townships and municipal corporations with any territory in the impacted watershed.

### **Governance and regulation**

(R.C. 353.02 and 353.04)

An LFA is governed by a board of directors consisting of the county commissioners of each county with territory in the impacted lake district. Its fiscal officer and legal advisor are the county auditor and county prosecutor, respectively, of the county with the greatest amount of territory in the impacted watershed. The county prosecutor of the county with the greatest amount of territory in the impacted watershed is the legal advisor of the LFA and is required to prosecute and defend all suits and actions the LFA directs or to which the LFA is a party. The county auditor of the county with the greatest amount of territory in the impacted watershed is the fiscal officer of the LFA.

The LFA board is subject to open meetings and public records laws. The board may hold closed meetings and protect confidential information under the same circumstances as authorized for a community improvement corporation under R.C. 1724.11 (generally, financial or proprietary information submitted by a business in relation to the relocation or expansion of the business is confidential). Laws regarding sovereign immunity for public employees apply to the LFA.

The board is required to consult with an advisory council, consisting of one appointee from each political subdivision with territory in the impacted lake district. The board must provide notice of the LFA's existence and the process for the appointment of an advisory council to each such political subdivision within 60 days after the LFA's creation.

Each year, the board is required to prepare an annual report of its activities and make it available to the public.



## General powers

(R.C. 353.01 and 353.03)

In addition to the authority to incur and pay the costs of activities that remediate, rehabilitate, enhance, foster, aid, improve, provide, or promote an impacted watershed, the act grants the following general powers to an LFA. The LFA may:

- Acquire, improve, or sell real and personal property;
- Request that the Department of Natural Resources (DNR), Department of Agriculture, or EPA adopt and enforce reasonable rules governing impacted watersheds;
- Employ managers, administrative officers, agents, engineers, architects, attorneys, contractors, sub-contractors, and employees, and require bonds to be given by any such persons and by officers of the authority for the faithful performance of their duties;
- Sue and be sued;
- Make and enter into contracts and agreements and execute instruments (see below);
- Accept aid or contributions;
- Apply for and accept grants, loans, or commitments of guarantee or insurance, including any guarantees of its bonds and notes;
- Procure insurance;
- Maintain funds or reserves as it considers necessary for the efficient performance of its duties;
- Enforce any covenants running with the land, of which the LFA is the beneficiary;
- Issue general obligation bonds or notes for the remediation of an impacted watershed if approved by the electors residing in the impacted lake district, not to exceed one mill per dollar of taxable value (0.1%) of all property within the impacted lake district;
- Issue revenue bonds beyond the limit of bonded indebtedness provided by law (see below);



- Advise and provide input to political subdivisions within the impacted lake district with respect to zoning and land use planning within the impacted lake district;
- Enter into agreements for the management, ownership, possession, or control of lands to be used for wetland mitigation banking;
- Adopt rules to carry out any of the above powers.

### **Construction contracts; prevailing wage**

(R.C. 353.03(F))

With respect to contracts for the construction of buildings, structures, or other improvements exceeding \$25,000, the LFA is required to use a competitive bidding process and to select the lowest responsive and responsible bidder, who must be determined in accordance with a general law governing the factors to be applied in determining responsive and responsible bids (R.C. 9.312). In certain circumstances, the board may decline to use the competitive bidding process:

- There exists a real and present emergency that threatens damage to property or injury to persons of the LFA or other persons.
- A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.
- The contract is for any energy conservation measure.
- With respect to material to be incorporated into the improvement, only a single source or supplier exists.
- A single bid is received.

With respect to any construction contract, the LFA may choose to subject the project to prevailing wage requirements.

### **LFA revenue sources**

In addition to authorizing the issuance of general obligation bonds (see above), the act authorizes an LFA to generate revenue by means of a sales tax, property tax, lodging tax, revenue bonds, and anticipation bonds and notes.



**Sales tax**

(R.C. 5739.026)

A county is authorized to levy any unused sales tax authority or re-designate the purpose of a sales and use tax it currently levies to provide funds to an LFA.

**Property tax**

(R.C. 353.05 and 5705.55)

The LFA board of directors, by vote of two-thirds of all its members, may propose the levy of a property tax in the impacted lake district. The tax must be approved by impacted lake district electors. The tax may be levied for current expenses, permanent improvements, debt charges, or park and recreation purposes. The tax rate may not exceed one mill per dollar of taxable value (0.10%). The levy's duration may not exceed five years unless the tax is levied for debt purposes, in which case it must be levied for the duration of the bond indebtedness. The resolution proposing the tax must be certified by the LFA to the county board of elections at least 90 days before the election. Ongoing law regarding the submission of a property tax to voters applies to the LFA tax.

If an LFA levies a property tax for a tax year, no other taxing authority may levy a tax on property in the impacted lake district in the same year if the purpose of the levy is substantially the same as the purpose for which the LFA was created.

**LFA lodging tax**

(R.C. 353.06)

The resolution creating the LFA may authorize it to levy a lodging tax in the impacted lake district with voter approval. The tax would apply to all transactions by which lodging in a hotel is furnished to transient guests. The tax may be levied to pay the cost of permanent improvements, to pay debt charges on LFA tax anticipation bonds, or for LFA current expenses. The rate of the tax, when added to the aggregate rate of all other lodging taxes applicable in the impacted lake district, may not cause the total aggregate rate to exceed 5%.

**Anticipation bonds and notes**

(R.C. 353.08)

The act authorizes an LFA that levies a property tax or lodging tax to anticipate the proceeds of the tax by issuing anticipation bonds. In anticipation of the bond proceeds, the LFA also may issue anticipation notes. The notes are required to mature



not later than 20 years after their issuance, and the bonds are required to mature not later than 40 years after issuance. Bond proceeds are to be pledged to the payment of the notes, and proceeds from the tax are to be pledged to the payment of the bonds. The act states that the anticipation bonds and notes satisfy the Ohio Constitution's "sinking fund" requirement that prohibits debt issuance unless a tax is levied sufficient to meet ongoing debt charges.

### **LFA revenue bonds**

(R.C. 353.09 to 353.16)

The act authorizes an LFA to issue revenue bonds in such amounts as the LFA considers necessary. The bonds are to be paid out of the revenues of the LFA that are pledged for such payment. The LFA may retire revenue bonds with revenue refunding bonds. Revenue bonds issued in the form of a note must mature within five years after issuance, and bonds must mature not later than 45 years from the date of issuance. The bonds may be sold at a public auction or through a private sale. The bonds and notes do not constitute a debt, or a pledge of the full faith and credit, of the state or any political subdivision.

### **Wetland mitigation banking**

(R.C. 353.07)

The act authorizes the Director of Natural Resources to transfer real property owned by the state to an LFA for the purpose of promoting wetland banking, wildlife, or sporting activities. Also, the Division of Wildlife within the Department of Natural Resources may enter into an agreement with an LFA to establish wetland or natural areas to benefit wildlife or sporting activities.

### **Disposition of body at local government expense**

(R.C. 9.15)

Under the act, when a political subdivision buries a body or cremated remains that are unclaimed or that an indigent person has claimed, that subdivision may provide a metal grave marker, instead of a stone or concrete marker as required under continuing law.

Further, for the purposes of the law that requires a political subdivision to pay to bury or cremate a body that an indigent person has claimed, the act defines an indigent person as a person whose income does not exceed 150% of the federal poverty line. The statute previously did not define "indigent."



Continuing law requires that when a body is unclaimed or is claimed by an indigent person, the township or municipality in which the deceased had a legal residence at the time of death must pay to bury or cremate the body and provide a grave marker. However, the county in which the body was found must cover those costs if the deceased had no legal residence in the state, had an unknown residence, was an inmate of a correctional institution in the county, or was a patient or resident of a benevolent institution in the county.

## **Recovery of township-owned cemetery**

(R.C. 517.271)

Under the act, after a board of township trustees takes ownership of a cemetery, the company, association, or religious society that most recently owned and operated the cemetery may petition the county probate court to restore ownership of the cemetery to the petitioner. In order to grant the petitioner's request, the court must determine that:

- (1) The petitioner has the financial resources necessary to operate and maintain the cemetery;
- (2) The petitioner is in compliance with all applicable laws and administrative rules concerning the owners and operators of cemeteries, including registration with the Division of Real Estate in the Department of Commerce; and
- (3) The petitioner owes no delinquent taxes.

If the court finds that the petitioner has met all those conditions, the court must transfer the ownership of the cemetery to the petitioner and must order the board of township trustees to give the petitioner all necessary records and documents concerning the cemetery, including records of the board's sale of any lots.

Prior law prohibited a board of township trustees from conveying a cemetery to another entity without first discontinuing the cemetery and removing the remains and grave markers.

Continuing law requires a board of township trustees to accept ownership of and maintain any cemetery that is located outside a municipality and that is not currently under the ownership or care of a private entity. As a result, when a private entity loses its title to a cemetery because of legal proceedings or other circumstances, the board may become responsible for the cemetery.



## Rules application for grandfathered community reinvestment areas

(R.C. 3735.661; Section 757.60)

Under continuing law, a community reinvestment area (CRA) is a geographic area designated by a municipal corporation or county in which real property improvements are exempted from taxation. The act retroactively specifies the types of amendments that, if made to a CRA ordinance or resolution adopted before July 22, 1994, cause the CRA to have to comply with statutory limitations and requirements that took effect on that date as enacted by S.B. 19 of the 120th General Assembly.

S.B. 19 changed the requirements for a CRA ordinance or resolution adopted on or after July 22, 1994, including, for example, adding additional procedural requirements, authorizing the grant of less than 100% exemptions, and giving more power to school boards to object to the terms of tax exemptions. S.B. 19 applied to grandfathered CRA ordinances and resolutions, but only after the grandfathered CRA ordinance or resolution had been amended beyond two amendments. S.B. 19 did not specify the substance of amendments that would or would not be considered an amendment that would cause the CRA to become subject to S.B. 19's requirements beyond providing that any amendment that extended the term of the grandfathered CRA could not extend the term in excess of five years.<sup>233</sup>

The act specifies that only amendments that do or did any of the following serve to trigger a requirement that a grandfathered CRA ordinance or resolution comply with S.B. 19:

- (1) Expands the size of a CRA;
- (2) Increases the exempt percentage of assessed value of CRA property (but see below);
- (3) Increases the term of a tax exemption;
- (4) Extends the duration of a CRA; or
- (5) Changes eligibility requirements for receiving tax exemptions.

Conversely, only amendments that do or did any of the following would not trigger a requirement that a grandfathered CRA ordinance or resolution comply with S.B. 19's additional requirements:

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<sup>233</sup> See Section 3 of Am. Sub. S.B. 19 of the 120th General Assembly.



- (1) Decreases the size of a CRA;
- (2) Decreases the exempt percentage of assessed value of CRA property (but see below);
- (3) Decreases the term of a tax exemption;
- (4) Shortens the time after which an exemption may be terminated;
- (5) Recognizes or confirms the continued existence of a CRA or tax exemption;
- (6) Clarifies defects or ambiguities; or
- (7) Makes procedural or administrative changes.

The act states that the purpose of specifying the foregoing is to clarify the intent of the General Assembly at the time of the enactment of S.B. 19. The act applies retroactively to amendments to a grandfathered CRA ordinance or resolution adopted before or after September 29, 2013 (the act's 90-day effective date).

### **Exempt percentage of assessed value**

The act additionally specifies that it does not authorize a municipal corporation or county to decrease or increase the percentage of assessed value of grandfathered CRA property to be tax-exempt. Under continuing law, municipal corporations and counties were and are allowed to exempt only 100% of the increased assessed value of improved real property located in a grandfathered CRA.

### **New community authorities**

(R.C. 349.01 and 349.04)

Continuing law provides that new community districts may be established by developers by petition to an organizational board of commissioners. If the board approves the petition, a New Community Authority (NCA) is established to develop land in the district, provide services in the district, and to raise revenue by levying community charges in the district.

The act provides that the organizational board of commissioners for a new community district that is located entirely within the boundaries of a municipal corporation is the legislative authority of that municipal corporation.

Continuing law provides that NCAs are governed by a board of trustees initially composed of a local government representative and citizen members (all appointed by



the organizational board of commissioners) and representatives of the developer in a number equal to the citizen members. In general, the appointed citizen members, representatives of the developer, and representative of local government are replaced by elected citizen members in accordance with continuing statutory law.

In the case of an NCA for which a petition is filed within three years after March 22, 2012, the organizational board of commissioners, by resolution, can adopt an alternative method of selecting or electing successor members of the board of trustees. The act first removes the three-years-after-March 22, 2012, limitation, thus making alternative methods of selecting or electing trustees available to all NCAs. But, if an alternative method of selection is adopted for an NCA organized prior to March 22, 2012, the act specifies that the board of trustees of that NCA is limited in the collection of community development charges and in the issuance of bonds or notes to the amount or to the extent otherwise permitted for a board of trustees whose members are not elected by the residents of the NCA.

### **Tax levy for fairs and other purposes**

(R.C. 5705.19)

The act authorizes a board of county commissioners to place on the ballot a tax levy in excess of ten mills for operating expenses of an agricultural fair that is operated by a county or independent agricultural society. It retains continuing law that allows a board of county commissioners to place on the ballot a tax levy in excess of ten mills for the purpose of purchasing, maintaining, or improving real estate on which to hold a fair.

The act also allows a board of county commissioners to place on the ballot a tax levy in excess of ten mills for any combination of agricultural fairs, soil and water conservation district program funding, and the OSU Extension Fund.

### **Township use of joint economic development zone income tax revenue**

(R.C. 715.691)

The act authorizes municipal corporations and townships that enter into a joint economic development zone (JEDZ) contract to use income tax revenue collected pursuant to the contract for the general purposes of a township that is subject to the contract.

Under continuing law, municipal corporations and townships may enter into a contractual agreement establishing a JEDZ and authorizing a board of directors to levy an income tax within the JEDZ that applies to persons working in the zone and



businesses operating there. The income tax must be approved by the majority of electors within the JEDZ (unless a majority of electors petition otherwise) and the rate must be less than or equal to the highest rate being levied by a municipal corporation that is a party to the JEDZ contract.

Prior law required that all proceeds of the income tax be utilized only for the purpose of the JEDZ or for the purposes of the municipal corporations that are parties to the JEDZ.

### **Allocation of lodging tax revenues by convention facilities authorities**

(R.C. 351.021)

The act expands the purposes for which a convention facilities authority (CFA) may allocate lodging tax revenue if the CFA is located in a county with a population between 80,000 and 90,000 according to the 2010 Census (i.e., Muskingum County).

Continuing law authorizes counties to create CFAs with the authority to administer convention, entertainment, or sports facilities located within their respective territories. Under certain circumstances, a CFA is authorized to levy a lodging tax of up to 4%. In lieu of, or in addition to, this tax, an authority may levy a lodging tax of up to 0.9% in an overlapping municipal corporation that levies a city lodging tax. The authority to levy such a tax has been extended several times on a limited basis to CFAs in qualifying counties over relatively short periods of time.

Under law partly changed by the act, CFAs that levy a lodging tax are required to use the revenue to pay the cost of one or more convention facilities, the principal, interest, and premium on bonds issued by the CFA to pay those costs, the operating and maintenance costs of convention facilities, and the operating costs of the CFA. The act empowers the Muskingum County CFA to allocate a portion of lodging tax revenue (not exceeding 15% of the total revenue from the tax in the preceding year) to county and municipal tourism facilities and programs, the improvement and maintenance of county fairgrounds, and any other purpose connected with the use of a county fairground.

### **Convention and visitors' bureau use of lodging tax revenue**

(R.C. 5739.09(J))

The act requires that lodging tax revenue distributed by a county to a convention and visitors' bureau in existence as of September 29, 2013 must be used solely for tourism sales, marketing and promotion, and their associated costs. Such expenses are defined to include operational and administrative costs of the bureau, sales and



marketing, and maintenance of the physical bureau structure. Lodging tax revenue previously pledged to the payment of debt service charges on bonds, notes, securities, or lease agreements are exempted from this requirement.

Under prior law, lodging tax revenue distributed to a convention and visitors' bureau could be used for any purpose that promotes, advertises, and markets the region (including financing the construction and operation of a convention center).

### **Use of oil and gas money for local park maintenance and acquisition**

(R.C. 511.261, 755.06, and 1545.23)

The act requires royalties and other moneys resulting from the sale or lease of mineral rights regarding a park within a township or metropolitan park district or land within a municipal park to be deposited into a special fund that must be created by the board of park commissioners or municipal legislative authority, as applicable, and used only for park maintenance and acquisition of new park lands.

### **Township use of TIF revenue for public safety expenses**

(R.C. 5709.75(E))

The act authorizes townships that have, at any time, adopted a resolution exempting real property from taxation using tax increment financing (TIF) to use unencumbered money in the TIF fund to pay for current public safety expenses. Continuing law requires the township to reimburse the fund by the time the TIF exemptions expire. (TIF exemptions may last up to 30 years.) The township must also be a party to a "hold harmless" or "service" agreement wherein the board of trustees agrees to compensate a school district for 100% of the tax revenue the district would have received from the tax-exempt improvements to parcels designated in the resolution.

Under prior law, the authority of a township to utilize unencumbered TIF funds for public safety expenses applied only to TIFs wherein the township exempted real property from taxation before January 1, 1995. In all other TIFs, money in a TIF fund (which originates from payments in lieu of taxes by property owners) could be used to pay for public infrastructure and, in some cases, to compensate school districts or other taxing units.

### **Township use of motor fuel tax revenue**

(R.C. 5735.27; Section 803.240)

Under continuing law, a portion of the revenue from the state motor fuel tax is distributed to townships to fund transportation-related projects. Townships may use



this revenue to (1) plan, construct, and maintain public roads within the township, (2) pay debt service on obligations incurred through the State Infrastructure Bank, (3) install railroad crossing signals, (4) purchase road machinery and equipment, and (5) plan, construct, and maintain buildings that house road machinery and equipment.

The act adds that a township may use motor fuel tax revenue to pay debt service on bonds issued to finance the purchase of road machinery and equipment, the planning, construction, and maintenance of buildings that house such machinery and equipment, and any highway improvement project for which the township is authorized to issue bonds. The act specifies that this new authority may apply to bonds authorized or issued before September 29, 2013.

### **County family and children first council membership**

(R.C. 121.37)

Each county family and children first council is comprised of certain mandatory members, as well as other representatives invited by the board of county commissioners. One of the mandatory members is the superintendent of the county developmental disabilities (DD) board.<sup>234</sup> A superintendent of a county DD board may serve as the superintendent of more than one county DD board pursuant to an agreement entered into between county DD boards. When a superintendent serves as the superintendent for multiple counties, the act permits the superintendent to appoint a designee to participate on the county council.

### **Regional Training Center – Butler County PCSA**

(R.C. 5103.42)

Under preexisting law, unchanged by the act except as described in the next paragraph, prior to the beginning of the fiscal biennium that first followed October 5, 2000, the public children services agencies (PCSAs) of Athens, Cuyahoga, Franklin, Greene, Guernsey, Hamilton, Lucas, and Summit counties were each required to establish and maintain a regional training center. At any time after the beginning of the specified biennium, the Department of Job and Family Services (ODJFS), on the recommendation of the Ohio Child Welfare Training Program Steering Committee, may direct a PCSA to establish and maintain a training center to replace a center established by a PCSA under the requirement described above. There may be no more and no less than eight centers in existence at any time.

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<sup>234</sup> R.C. 5126.0219, not in the act.



The act requires the Butler County PCSA, prior to the beginning of the fiscal biennium that first follows September 29, 2013, to establish and maintain a regional training center for training caseworkers and supervisors of PCSAs and related functions. It eliminates the duty of the Hamilton County PCSA to establish and maintain such a center and specifies that the center established by the Butler County PCSA replaces the center previously established by the Hamilton County PCSA.

### **County expenses eligible for payment by financial transaction devices**

(R.C. 301.28)

The act adds to the definition of "county expenses" that may be paid to a county office by use of a financial transaction device, payment of money confiscated during the commitment of an individual to a county jail, of bail, of money for a prisoner's inmate account, and of money for goods and services obtained by or for the use of an individual incarcerated by a county sheriff. Continuing law not changed by the act allows, but does not require, a board of county commissioners to adopt a resolution authorizing county officials and their offices (which includes the county sheriff) designated in the resolution to accept payments of "county expenses" by using a financial transaction device. The resolution must specify the county expenses that may be paid for through the use of such a device.

### **Withholding funds to pay debt service charges**

(R.C. 321.35)

Under the act, when the Treasurer of State is holding an obligation purchased from a county, township, or municipal corporation, the county auditor, upon demand of the Treasurer, must withhold from settlement payments of proceeds from any special tax levy or from advance payments of money in the county treasury to which the county, township, or municipal corporation is entitled, an amount sufficient to pay debt service charges on the obligation and any of the fee for the agreement to purchase the obligation. Continuing law authorizes political subdivisions to issue obligations that mature in one year, and the Treasurer of State may enter into agreements to invest state interim funds in those obligations.<sup>235</sup> The county auditor is already authorized to withhold school district funds for these purposes.

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<sup>235</sup> R.C. 135.143, not in the act.



## **Sale of city real property to board of county commissioners**

(R.C. 721.01, 721.03, and 721.29)

The act authorizes the legislative authority of a nonchartered city to sell real estate belonging to the city, that is no longer needed for city purposes, to a board of county commissioners without complying with a law that otherwise requires advertising and competitive bidding. The sale must be made upon such lawful terms as are agreed upon between the city and the board, but no sale may be made unless the contract for the sale is authorized by an ordinance that has been approved by a two-thirds vote of the members of the city's legislative authority, and by the board or officer having supervision or management of the real estate. Under case law, this provision appears also to apply to a chartered city if its charter fails to address procedures for conveying real estate, but that presumption is inconclusive.<sup>236</sup>

## **Legislative authority of nonchartered village – nonstaggered terms**

(R.C. 731.091)

The act clarifies the number of members that are eligible to be elected when the legislative authority of a nonchartered village adopts nonstaggered terms of office. Under continuing law, the members of the legislative authority of a nonchartered village are elected to staggered terms of office of four years. But the legislative authority of a nonchartered village may adopt an ordinance or resolution to eliminate staggered terms. Members then are to be elected to nonstaggered terms beginning at the next regular municipal election occurring not less than 90 days after the ordinance or resolution is certified to the board of elections. The act clarifies this law as follows:

(1) If the legislative authority has six members, the act specifies that the number of members eligible for election at the next regular municipal election are to be elected to two-year nonstaggered terms. Then, at all subsequent municipal elections, all members are to be elected to four-year nonstaggered terms. The result is six members serving four-year nonstaggered terms.

(2) If the legislative authority has five members, the act specifies that if members are first being elected after the reduction to five members, then one less than the number of members that otherwise would be eligible for election at the next regular municipal election are to be elected to two-year nonstaggered terms. If, however, the number of members eligible for election at the next regular municipal election previously has been reduced to five, then the number of members eligible for election at

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<sup>236</sup> See *Great Plains Exploration, LLC v. City of Willoughby*, 2006 Ohio 7009 (11th App. Dist. 2006).



that regular municipal election are to be elected to two-year nonstaggered terms. In either case, all members are to be elected at subsequent municipal elections to four-year nonstaggered terms. The result is five members serving four-year nonstaggered terms.

Prior law assumed that three members of the legislative authority of a nonchartered village were elected at each regular municipal election. This does not appear to be the case, however, which is why the act instead refers generally to "the number of members eligible for election." It appears that sometimes as few as two or as many as four members are to be elected.

This provision takes effect on June 30, 2013.

### **County providing employees to county land reutilization corporations**

(R.C. 307.07, 319.10, 321.49, and 1724.02)

Under continuing law, a county land reutilization corporation is a nonprofit corporation organized for the following purposes:

(1) Facilitating the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property within the county for whose benefit the corporation is being organized;

(2) Efficiently holding and managing vacant, abandoned, or tax-foreclosed real property pending the property's reclamation, rehabilitation, and reutilization;

(3) Assisting governmental entities and other nonprofit or for-profit persons to assemble, clear, and clear the title of the above types of property in a coordinated manner;

(4) Promoting economic and housing development in the county or region.

Under the act, the board of county commissioners, the county auditor, and the county treasurer each may enter into a contract with a county land reutilization corporation to provide employees to provide services to the corporation. A county employee who provides services to a county land reutilization corporation under such a contract is not considered an employee of the corporation during the provision of services, but remains an employee of the county.



## **Township member of county land reutilization board**

(R.C. 1724.03)

The act requires that the township member of the board of directors of a county land reutilization corporation be chosen by a majority of the boards of township trustees of townships having a population of at least 10,000 in the unincorporated area of the township, according to the most recent federal decennial census. Under continuing law, the board of directors of a county land reutilization corporation is composed of five, seven, or nine members, including one representative of a township with a population of at least 10,000 in the unincorporated area of the township, if at least two such townships exist in the county.

