

**As Introduced**

**133rd General Assembly  
Regular Session  
2019-2020**

**H. B. No. 676**

**Representative Jordan**

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**A BILL**

To enact sections 196.01, 196.02, 196.03, 196.04, 1  
and 196.05 of the Revised Code to create twelve 2  
regional State and Local Government 3  
Accountability Appeal Boards and to declare an 4  
emergency. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 196.01, 196.02, 196.03, 196.04, 6  
and 196.05 of the Revised Code be enacted to read as follows: 7

**Sec. 196.01.** As used in this chapter: 8

(A) "Board" means a state and local government 9  
accountability appeal board or, if clearly indicated by the 10  
context, the particular board that is hearing or has heard an 11  
appeal under this chapter. 12

(B) "Business" includes a corporation, limited liability 13  
company, sole proprietorship, partnership, or other association 14  
for every trade, occupation, and profession. 15

(C) "Declaration of emergency" means the emergency 16  
declared under Executive Order 2020-01D, issued on March 9, 17  
2020. 18

(D) "License" means any license, permit, including a 19  
building permit, certificate, commission, charter, registration, 20  
card, or other similar authority that is issued or conferred to 21  
a business by a state agency, a political subdivision of this 22  
state, or an official of a political subdivision of this state. 23

**Sec. 196.02.** (A) There is hereby created twelve state and 24  
local government accountability appeal boards, which shall be 25  
comprised of one board in each of the same districts as the 26  
judicial court of appeals as described in section 2501.01 of the 27  
Revised Code. The purpose of the boards is to ensure that issues 28  
that arise in the reopening or continuation of business as it 29  
relates to the declaration of emergency are heard and resolved 30  
expeditiously. 31

(B) (1) Each board shall consist of five members, which 32  
shall include the following: 33

(a) Three members appointed by the governor; 34

(b) One member appointed by the speaker of the house of 35  
representatives; 36

(c) One member appointed by the president of the senate. 37

(2) The head of the common sense initiative, established 38  
under section 107.61 of the Revised Code, shall appoint an 39  
executive director to oversee the boards as their principal 40  
administrative officer. The executive director shall be paid a 41  
salary fixed pursuant to Chapter 124. of the Revised Code. 42  
Regional staff may be hired to assist in the operation of the 43  
boards. The executive director shall work with each board to 44  
assist in coordinating the activities of the boards with the 45  
goal of achieving a reasonably consistent approach. 46

(C) Terms of office shall be for five years, commencing on 47

the twenty-ninth day of July and ending on the twenty-eighth day 48  
of July. Each member shall hold office from the date of the 49  
member's appointment until the end of the term for which the 50  
member was appointed. Any member appointed to fill a vacancy 51  
occurring prior to the expiration of the term for which the 52  
member's predecessor was appointed shall hold office for the 53  
remainder of such term. Any member shall continue in office 54  
subsequent to the expiration date of the member's term until the 55  
member's successor takes office, or until a period of sixty days 56  
has elapsed, whichever occurs first. 57

(D) Three members of a board shall constitute a quorum for 58  
the purpose of conducting the business thereof. A vacancy in a 59  
board shall not impair the right of the remaining members to 60  
exercise all the powers of the board. 61

(E) Each member of a board shall be paid a salary 62  
established pursuant to division (J) of section 124.15 of the 63  
Revised Code plus necessary and actual expenses while traveling 64  
on business of the board. 65

(F) Any member of a board may be removed by the governor 66  
for inefficiency, neglect of duty, misconduct, or malfeasance in 67  
office, after being given a written statement of the charges 68  
against the member and an opportunity to be heard publicly 69  
thereon. 70

(G) Each board is a public body for purposes of section 71  
121.22 of the Revised Code. 72

**Sec. 196.03.** (A) Each board shall ensure that issues that 73  
arise in the reopening or continuation of business as it relates 74  
to the declaration of emergency are heard and resolved 75  
expeditiously. These issues may include all of the following: 76

<u>(1) State health guidelines;</u>	77
<u>(2) State and local government business requirements;</u>	78
<u>(3) Regulations regarding licenses.</u>	79
<u>(B) Each board shall do all of the following:</u>	80
<u>(1) Establish and maintain a principal office in the</u>	81
<u>geographic district, as described in division (A) of section</u>	82
<u>196.02 of the Revised Code;</u>	83
<u>(2) Appoint hearing examiners, alternative dispute</u>	84
<u>resolution professionals, and other employees and agents who it</u>	85
<u>considers necessary and prescribe their duties subject to</u>	86
<u>Chapter 124. of the Revised Code;</u>	87
<u>(3) Receive, investigate, and determine the best course of</u>	88
<u>action for each business that files an appeal;</u>	89
<u>(4) Formulate policies to effectuate the purposes of this</u>	90
<u>chapter and make recommendations to agencies and officers of the</u>	91
<u>state or political subdivisions to effectuate the policies;</u>	92
<u>(5) Report, from time to time, but not less than once a</u>	93
<u>year, to the general assembly and the governor, describing the</u>	94
<u>hearings it has conducted and their outcome, the decisions it</u>	95
<u>has rendered, and the other work performed by it.</u>	96
<u>(C) Any business may file an appeal with a board alleging</u>	97
<u>that a particular state or local government regulation or policy</u>	98
<u>will unnecessarily hinder, impair, obstruct, or prevent the</u>	99
<u>continuation of business. The businesses shall file the appeal</u>	100
<u>with the board located within the geographic district in which</u>	101
<u>the main principal office of the business is located.</u>	102
<u>(D) After a business files an appeal with the board under</u>	103

division (C) of this section, the board shall do either of the 104  
following: 105

(1) Hold a hearing within fourteen days after the appeal 106  
is filed; 107

(2) Subject to division (E) of this section, resolve the 108  
issue by the use of alternative dispute resolution. 109

(E) Alternative dispute resolution shall only be used if 110  
both parties agree to participate in the process. The purpose of 111  
the alternative dispute resolution is to resolve the issues in a 112  
manner that is satisfactory to both parties and shall not be 113  
used as a forum to decide the merits of the case. If successful, 114  
the case is closed and the board shall take no further action. 115  
If the alternative dispute resolution is not successful or if 116  
the party other than the aggrieved party does not agree to 117  
alternative dispute resolution, the aggrieved party may file for 118  
an official hearing with the board or file a civil action in a 119  
court of competent jurisdiction. 120

(F) A board may hold hearings, subpoena witnesses, compel 121  
their attendance, administer oaths, take the testimony of any 122  
person under oath, require the production for examination of any 123  
books and papers relating to any matter under investigation or 124  
in question before the board, and make rules as to the issuance 125  
of subpoenas by individual board members. 126

(G) In conducting a hearing or investigation, a board 127  
shall have access at all reasonable times to premises, records, 128  
documents, individuals, and other evidence or possible sources 129  
of evidence and may examine, record, and copy the premises, 130  
records, documents, and other evidence or possible sources of 131  
evidence and take and record the testimony or statements of the 132

individuals as reasonably necessary for the furtherance of the 133  
hearing or investigation. In investigations, the board shall 134  
comply with the fourth amendment to the United States 135  
Constitution relating to unreasonable searches and seizures. The 136  
board or a member of the board may issue subpoenas to compel 137  
access to or the production of premises, records, documents, and 138  
other evidence or possible sources of evidence or the appearance 139  
of individuals, and may issue interrogatories to a respondent, 140  
to the same extent and subject to the same limitations as would 141  
apply if the subpoenas or interrogatories were issued or served 142  
in aid of a civil action in a court of common pleas. 143

(H) Within five days after service of a subpoena upon any 144  
person, the person may petition the board that issued the 145  
subpoena to revoke or modify the subpoena. The board shall grant 146  
the petition if it finds that the subpoena requires an 147  
appearance or attendance at an unreasonable time or place, that 148  
it requires production of evidence that does not relate to any 149  
matter before the board, that it does not describe with 150  
sufficient particularity the evidence to be produced, that 151  
compliance would be unduly onerous, or for other good reason. 152

(I) In case of contumacy or refusal to obey a subpoena, 153  
the board that issued the subpoena or the person at whose 154  
request it was issued may petition for its enforcement in the 155  
court of common pleas in the county in which the person to whom 156  
the subpoena was addressed resides, was served, or transacts 157  
business. 158

(J) Subject to sections 196.04 and 196.05 of the Revised 159  
Code, a determination by a board shall be a final order that is 160  
binding upon the parties and enforceable in a court of law. The 161  
board shall serve the parties with a notice of that 162

determination. 163

**Sec. 196.04.** (A) Any party may apply to a board for 164  
reconsideration of any final order of that board. The 165  
application must be in writing, state specifically the grounds 166  
on which it is based, and be filed, along with all supporting 167  
materials, with the board within ten days from the date of 168  
service of the notice of determination. The board shall serve 169  
notice of the application for reconsideration on all other 170  
parties to the matter in which the application for 171  
reconsideration is filed. 172

(B) The board may, in its discretion, accept or reject an 173  
application for reconsideration. 174

(1) If the board rejects an application for 175  
reconsideration, it shall record its action accordingly and 176  
shall notify the parties. 177

(2) If the board accepts an application for 178  
reconsideration, it shall make a determination and shall notify 179  
the parties. The board may, in its discretion, hear one or more 180  
of the parties. The new determination shall constitute a final 181  
order. 182

(C) The board may, upon its own motion, reconsider any 183  
determination it makes. If the board reconsiders a determination 184  
on its own motion, it shall record its action accordingly and 185  
notify the parties. The new determination shall constitute a 186  
final order. 187

**Sec. 196.05.** (A) Any party claiming to be aggrieved by a 188  
final order of a board, may obtain judicial review thereof, and 189  
the board that issued the final order may obtain an order of 190  
court for the enforcement of its final orders, in a proceeding 191

as provided in this section. Such proceeding shall be brought in 192  
the common pleas court located within the county in which the 193  
board is located. 194

(B) Such proceedings shall be initiated by the filing of a 195  
petition in court as provided in division (A) of this section 196  
and the service of a copy of the said petition upon the board 197  
and upon all parties who appeared before the board. Thereupon 198  
the board shall file with the court a transcript of the record 199  
upon the hearing before it. The transcript shall include all 200  
proceedings in the case, including all evidence and proffers of 201  
evidence. The court shall thereupon have jurisdiction of the 202  
proceeding and of the questions determined therein, and shall 203  
have power to grant such temporary relief, restraining order, or 204  
other order as it deems just and proper and to make and enter, 205  
upon the record and such additional evidence as the court has 206  
admitted, an order enforcing, modifying and enforcing as so 207  
modified, or setting aside in whole or in part, the order of the 208  
board or remanding for further proceedings. 209

(C) An objection that has not been made before the board 210  
shall not be considered by the court, unless the failure or 211  
neglect to object is excused because of extraordinary 212  
circumstances. 213

(D) The court may grant a request for the admission of 214  
additional evidence when satisfied that such additional evidence 215  
is newly discovered and could not with reasonable diligence have 216  
been ascertained prior to the hearing before the board. 217

(E) The findings of the board as to the facts shall be 218  
conclusive if supported by reliable, probative, and substantial 219  
evidence on the record and such additional evidence as the court 220  
has admitted considered as a whole. 221

(F) The jurisdiction of the court shall be exclusive and 222  
its judgment and order shall be final subject to appellate 223  
review. Violation of the court's order shall be punishable as 224  
contempt. 225

(G) The board's copy of the testimony shall be available 226  
at all reasonable times to all parties without cost for 227  
examination and for the purposes of judicial review of the order 228  
of the board. The petition shall be heard on the transcript of 229  
the record without requirement of printing. 230

(H) If no proceeding to obtain judicial review is 231  
instituted by a complainant, or respondent within thirty days 232  
from the service of order of the board pursuant to this section, 233  
the board may obtain a decree of the court for the enforcement 234  
of such order upon showing that respondent is subject to the 235  
board's jurisdiction and resides or transacts business within 236  
the county in which the petition for enforcement is brought. 237

(I) All suits brought under this section shall be heard 238  
and determined as expeditiously as possible. 239

**Section 2.** This act is hereby declared to be an emergency 240  
measure necessary for the immediate preservation of the public 241  
peace, health, and safety. The reason for such necessity is to 242  
provide businesses a method to resolve issues quickly that may 243  
otherwise hinder the continuation of business in this state. 244  
Therefore, this act shall go into immediate effect. 245