

# AN ACT

To amend sections 102.01, 167.02, 167.04, 167.07, 715.014, 940.07, and 2744.07 and to enact sections 3901.82, 5534.403, 5534.811, and 5534.911 of the Revised Code to modify the law concerning regional councils of governments to clarify that a municipal corporation eligible to designate a tourism development district may designate more than one district, to specify that the American Law Institute's approved "Restatement of the Law, Liability Insurance" does not constitute the public policy of Ohio, to designate a portion of U.S. Route 33 in Meigs County as the "Steve Story Memorial Highway," to designate a portion of Interstate Route 270 in Franklin County as the "Officers Anthony Morelli and Eric Joering Memorial Highway," and to designate the portion of U.S. Route 24 in Henry County as the "Henry County Veterans Highway."

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 102.01, 167.02, 167.04, 167.07, 715.014, 940.07, and 2744.07 be amended and sections 3901.82, 5534.403, 5534.811, and 5534.911 of the Revised Code be enacted to read as follows:

Sec. 102.01. As used in this chapter:

(A) "Compensation" means money, thing of value, or financial benefit. "Compensation" does not include reimbursement for actual and necessary expenses incurred in the performance of official duties.

(B) "Public official or employee" means any person who is elected or appointed to an office or is an employee of any public agency. "Public official or employee" does not include a person elected or appointed to the office of precinct, ward, or district committee member under section 3517.03 of the Revised Code, any presidential elector, or any delegate to a national convention. "Public official or employee" does not include a person who is a teacher, instructor, professor, or other kind of educator whose position does not involve the performance of, or authority to perform, administrative or supervisory functions.

(C)~~(1)~~ "Public agency" means the general assembly, all courts, any department, division, institution, board, commission, authority, bureau or other instrumentality of the state, a county, city, village, or township, the five state retirement systems, or any other governmental entity. "~~Public~~

(2) Notwithstanding any contrary provision of division (C)(3)(a) of this section, "public agency" includes a regional council of governments established under Chapter 167. of the Revised Code.

(3) "Public agency" does not include ~~a~~ either of the following:

(a) A department, division, institution, board, commission, authority, or other instrumentality

of the state or a county, municipal corporation, township, or other governmental entity that functions exclusively for cultural, educational, historical, humanitarian, advisory, or research purposes; that does not expend more than ten thousand dollars per calendar year, excluding salaries and wages of employees; and whose members are uncompensated. ~~"Public agency" does not include the;~~

(b) The nonprofit corporation formed under section 187.01 of the Revised Code.

(D) "Immediate family" means a spouse residing in the person's household and any dependent child.

(E) "Income" includes gross income as defined and used in the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, interest and dividends on obligations or securities of any state or of any political subdivision or authority of any state or political subdivision, and interest or dividends on obligations of any authority, commission, or instrumentality of the United States.

(F) Except as otherwise provided in division (A) of section 102.08 of the Revised Code, "appropriate ethics commission" means:

(1) For matters relating to members of the general assembly, employees of the general assembly, employees of the legislative service commission, and candidates for the office of member of the general assembly, the joint legislative ethics committee;

(2) For matters relating to judicial officers and employees, and candidates for judicial office, the board of commissioners on grievances and discipline of the supreme court;

(3) For matters relating to all other persons, the Ohio ethics commission.

(G) "Anything of value" has the same meaning as provided in section 1.03 of the Revised Code and includes, but is not limited to, a contribution as defined in section 3517.01 of the Revised Code.

(H) "Honorarium" means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or similar gathering. "Honorarium" does not include ceremonial gifts or awards that have insignificant monetary value; unsolicited gifts of nominal value or trivial items of informational value; or earned income from any person, other than a legislative agent, for personal services that are customarily provided in connection with the practice of a bona fide business, if that business initially began before the public official or employee conducting that business was elected or appointed to the public official's or employee's office or position of employment.

(I) "Employer" means any person who, directly or indirectly, engages an executive agency lobbyist or legislative agent.

(J) "Executive agency decision," "executive agency lobbyist," and "executive agency lobbying activity" have the same meanings as in section 121.60 of the Revised Code.

(K) "Legislation," "legislative agent," "financial transaction," and "actively advocate" have the same meanings as in section 101.70 of the Revised Code.

(L) "Expenditure" has the same meaning as in section 101.70 of the Revised Code when used in relation to activities of a legislative agent, and the same meaning as in section 121.60 of the Revised Code when used in relation to activities of an executive agency lobbyist.

Sec. 167.02. (A) Membership in the regional council shall be the counties, municipal corporations, townships, special districts, school districts, and other political subdivisions entering into the agreement establishing the council or admitted to membership subsequently pursuant to the

agreement establishing the council or the bylaws of the council. Representation on the council may be in the manner as provided in the agreement establishing the council.

(B) If the agreement establishing the council does not set forth the manner for determining representation on the council such representation shall consist of one representative from each county, municipal corporation, township, special district, school district, or other political subdivision entering into the agreement, or subsequently admitted to membership in the council. The representative from each member county, municipal corporation, township, special district, school district, or other political subdivision shall be elected chief executive thereof, or, if such county, municipal corporation, township, special district, school district, or other political subdivision does not have an elected chief executive, a member of its governing body chosen by such body to be its representative.

(C) Records containing the names of the political subdivisions that are members of a regional council of governments or the names of the representatives from those political subdivisions who serve on the council are public records within the meaning of section 149.43 of the Revised Code, and those names are not considered to be trade secrets under section 1333.61 of the Revised Code.

(D) The director of development services shall assist the council in securing the cooperation of all appropriate agencies of the state or of the United States to aid in promoting the orderly growth and development of the area, solving the problems of local government, and discharging the responsibilities and duties of local government in the most efficient possible manner.

~~(D)~~(E) Any county, municipal corporation, township, special district, school district, or other political subdivision which has become a member of the council may withdraw by formal action of its governing board and upon sixty days notice to council after such action, or in the manner provided in the agreement establishing the council, provided no such procedure relative to withdrawals in the agreement establishing the council shall require the political subdivision desiring to withdraw to retain its membership in the council for a period in excess of two years.

Sec. 167.04. (A) The regional council of governments shall adopt by-laws, by a majority vote of its members, designating the officers of the council and the method of their selection, creating a governing board that may act for the council as provided in the by-laws, and providing for the conduct of its business.

(B) The by-laws of the regional council of governments shall provide for the appointment of a fiscal officer, who may hold any other office or employment with the council, and who shall receive, deposit, invest, and disburse the funds of the council in the manner authorized by the by-laws or action by the council.

(C) The by-laws of a regional council of governments the members of which include, under sections 167.01 and 167.02 of the Revised Code, at least eight counties may include a provision authorizing member attendance and voting at council meetings either in person or by proxy.

~~(D)(1) Within ten business days after forming a regional council of governments, the~~ The officers of the council shall notify the auditor of state of the regional council's formation, provide a copy of the council's by-laws, and ~~shall~~ provide on a form prescribed by the auditor of state ~~the any other~~ information regarding the regional council that the auditor of state considers necessary.

~~(2) As used in this division, "business day" means a day of the week, excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.~~

The council shall take no official action, other than formation, before notifying the auditor of state of its formation in accordance with this section. Any official action the council takes before making that notification, including entering into any contract, is void.

Sec. 167.07. ~~Membership~~-(A)(1) Except as otherwise provided in division (A)(2) of this section, membership on the a regional council of governments and holding an office of the council does not constitute the holding of a public office or employment within the meaning of any section of the Revised Code. ~~Membership~~

(2) A regional council of governments is considered a public agency for purposes of Chapter 102. and is considered a political subdivision for purposes of Chapter 2921. of the Revised Code.

(B) Membership on the council and holding an office of the council shall not constitute an interest, either direct or indirect, in a contract or expenditure of money by any municipal corporation, township, special district, school district, county, or other political subdivision other than the council itself. ~~No~~

(C) No member or officer of the council shall be disqualified from holding any public office or employment, nor shall such member or officer forfeit any such office or employment, by reason of his position serving as an officer or member of the council, notwithstanding any law to the contrary.

Sec. 715.014. (A) As used in this section:

(1) "Tourism development district" means a district designated by a municipal corporation under this section.

(2) "Territory of a tourism development district" means all of the area included within the territorial boundaries of a tourism development district.

(3) "Business" and "owner" have the same meanings as in section 503.56 of the Revised Code.

(4) "Eligible municipal corporation" means a municipal corporation wholly or partly located in a county having a population greater than three hundred seventy-five thousand but less than four hundred thousand that levies taxes under section 5739.021 or 5739.026 of the Revised Code, the aggregate rate of which does not exceed one-half of one per cent on September 29, 2015.

(5) "Fiscal officer" means the city auditor, village clerk, or other municipal officer having the duties and functions of a city auditor or village clerk.

(B)(1) The legislative authority of an eligible municipal corporation, by resolution or ordinance, may declare an area of the municipal corporation to be a tourism development district for the purpose of fostering and developing tourism in the district if all of the following criteria are met:

(a) The district's area does not exceed six hundred acres.

(b) All territory in the district is contiguous.

(c) Before adopting the resolution or ordinance, the legislative authority holds at least two public hearings concerning the creation of the tourism development district.

(d) Before adopting the resolution or ordinance, the legislative authority receives a petition signed by every record owner of a parcel of real property located in the proposed district and the owner of every business that operates in the proposed district.

(e) The legislative authority adopts the resolution or ordinance on or before December 31, 2020.

A legislative authority may declare more than one area of the municipal corporation to be a

tourism development district under this section.

(2) The petition described in division (B)(1)(d) of this section shall include an explanation of the taxes and charges that may be levied or imposed in the proposed district.

(3) The legislative authority shall certify the resolution or ordinance to the tax commissioner within five days after its adoption, along with a description of the boundaries of the district authorized in the resolution. That description shall include sufficient information for the commissioner to determine if the address of a vendor is within the boundaries of the district.

(4) Subject to the limitations of divisions (B)(1)(a) and (b) of this section, the legislative authority of an eligible municipal corporation may enlarge the territory of an existing tourism development district in the manner prescribed for the creation of a district under divisions (B)(1) to (3) of this section, except that the petition described in division (B)(1)(d) of this section must be signed by every record owner of a parcel of real property located in the area proposed to be added to the district and the owner of every business that operates in the area proposed to be added to the district.

(C) For the purpose of fostering and developing tourism in a tourism development district, a lessor leasing real property in a tourism development district may impose and collect a uniform fee on each parcel of real property leased by the lessor, to be paid by each of the person's lessees. A lessee is subject to such a fee only if the lease separately states the amount of the fee. Before a lessor may impose and collect such a fee, the lessor shall file a copy of such lease with the fiscal officer. A lessor that imposes such a fee shall remit all collections of the fee to the municipal corporation in which the real property is located.

The legislative authority of that municipal corporation shall establish all regulations necessary to provide for the administration and remittance of such fees. The regulations may prescribe the time for payment of the fee, and may provide for the imposition of a penalty or interest, or both, for late remittances, provided that the penalty does not exceed ten per cent of the amount of fee due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. The regulations shall provide, after deducting the real and actual costs of administering the fee, that the revenue be used exclusively for fostering and developing tourism within the tourism development district.

(D) The legislative authority of an eligible municipal corporation that has designated a tourism development district may levy the tax authorized under section 5739.101 of the Revised Code. Nothing in this section limits the power of the legislative authority of a municipal corporation to levy a tax on the basis of admissions in a tourism development district pursuant to its powers of local self-government conferred by Section 3 of Article XVIII, Ohio Constitution.

(E) On or before the first day of each January and July, beginning after the designation of ~~the~~ a tourism development district, the fiscal officer shall certify a list of vendors located within the tourism development district to the tax commissioner, which shall include the name, address, and vendor's license number for each vendor.

Sec. 940.07. (A) As used in this section:

(1) "Judgment" includes a consent judgment.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between

persons.

(B) Except as provided in divisions (C) and (D) of this section, the provisions of Chapter 2744. of the Revised Code apply to soil and water conservation districts as political subdivisions of the state and to their supervisors and other officers, employees, and agents as employees of political subdivisions of the state.

(C)(1) The attorney general, an assistant attorney general, or special counsel appointed by the attorney general shall defend a soil and water conservation district in any tort action that is commenced against the district as a political subdivision of the state under or pursuant to Chapter 2744. of the Revised Code, if a written request for the legal representation is submitted to the attorney general by the Ohio soil and water conservation commission. If a request is so submitted, the prosecuting attorney of the county associated with the district does not have legal representation duties in connection with the tort action under section 940.13 of the Revised Code.

(2) The attorney general, an assistant attorney general, or special counsel appointed by the attorney general shall defend a supervisor or other officer, employee, or agent of a soil and water conservation district in any tort action that is commenced against that person and based upon an action or omission allegedly associated with that person's employment or official responsibilities for the district, if both of the following apply:

(a) At the time of the action or omission, the person was not acting manifestly outside the scope of the person's employment or official responsibilities for the district or acting with malicious purpose, in bad faith, or in a wanton or reckless manner;

(b) A written request for the legal representation is submitted to the attorney general by the Ohio soil and water conservation commission.

(3) If a request for legal representation is submitted to the attorney general pursuant to division (C)(2) of this section, divisions (A)(~~H~~) and (~~C~~)-(D) of section 2744.07 of the Revised Code do not apply to the soil and water conservation district and the defense of its supervisor or other officer, employee, or agent.

(D)(1) The state shall indemnify and hold harmless a soil and water conservation district as follows:

(a) In the amount of any judgment that is rendered against the district in a tort action that is commenced under or pursuant to Chapter 2744. of the Revised Code;

(b) In the amount of any settlement of a tort action against the district as described in division (D)(1)(a) of this section, or of a claim for damages for injury, death, or loss to person or property that could become a basis of a tort action against the district as described in division (D)(1)(a) of this section.

(2) The state shall indemnify and hold harmless a supervisor or other officer, employee, or agent of a soil and water conservation district as follows:

(a) Subject to the limitations specified in division (D)(3) of this section, in the amount of any judgment that is rendered against that person in a tort action based upon an action or omission allegedly associated with the person's employment or official responsibilities for the district;

(b) Subject to the limitations specified in division (D)(3) of this section, in the amount of any settlement of a tort action as described in division (D)(2)(a) of this section or of any settlement of a claim for damages for injury, death, or loss to person or property that could become a basis of a tort

action as described in division (D)(2)(a) of this section.

(3)(a) The maximum aggregate amount of indemnification paid directly from state funds to or on behalf of any supervisor or other officer, employee, or agent of a soil and water conservation district pursuant to divisions (D)(2)(a) and (b) of this section shall be one million dollars per occurrence, regardless of the number of persons who suffer injury, death, or loss to person or property as a result of the action or omission of that person.

(b) An indemnification may be made pursuant to division (D)(2)(a) or (b) of this section only if, at the time of the action or omission, the supervisor or other officer, employee, or agent of a soil and water conservation district was not acting manifestly outside the scope of the supervisor's or other officer's, employee's, or agent's employment or official responsibilities for the district or acting with malicious purpose, in bad faith, or in a wanton or reckless manner.

(c) An indemnification shall not be made pursuant to division (D)(2)(a) or (b) of this section for any portion of a consent judgment or settlement that is unreasonable or for any portion of a judgment that represents punitive or exemplary damages.

(4) Division ~~(A)(2)-(B)~~ of section 2744.07 of the Revised Code does not apply to a soil and water conservation district, or to any of its supervisors or other officers, employees, or agents, to the extent that division (D) of this section requires the state to indemnify and hold harmless a supervisor or other officer, employee, or agent of that district.

Sec. 2744.07. ~~(A)(1) Except as otherwise provided in this division (A)(2) of this section, a political subdivision shall provide for the defense of an employee, in any state or federal court, in any civil action or proceeding which contains an allegation for damages for injury, death, or loss to person or property caused by an act or omission of the employee in connection with a governmental or proprietary function. The political subdivision has the duty to defend the employee if the act or omission occurred while the employee was acting both in good faith and not manifestly outside the scope of employment or official responsibilities. Amounts expended by a political subdivision in the defense of its employees shall be from funds appropriated for this purpose or from proceeds of insurance. The duty to provide for the defense of an employee specified in this division does not apply in a civil action or proceeding that is commenced by or on behalf of a political subdivision.~~

(2) A political subdivision does not have the duty to provide for the defense of an employee under division (A)(1) of this section if any of the following apply:

(a) The act or omission occurred while the employee was not acting in good faith.

(b) The act or omission occurred while the employee was acting manifestly outside the scope of the employee's employment or official responsibilities.

(c) The civil action or proceeding is commenced by or on behalf of a political subdivision.

(d) The employee is an employee of a regional council of governments established under Chapter 167. of the Revised Code and both of the following apply:

(i) The employee is not also an employee of a political subdivision that is a member of the council.

(ii) The act or omission, if proven, would constitute a violation of Chapter 102. or Chapter 2921. of the Revised Code.

(B)(1) Except as otherwise provided in this division (B)(2) of this section, a political subdivision shall indemnify and hold harmless an employee in the amount of any judgment, other

than a judgment for punitive or exemplary damages, that is obtained against the employee in a state or federal court or as a result of a law of a foreign jurisdiction and that is for damages for injury, death, or loss to person or property caused by an act or omission in connection with a governmental or proprietary function, ~~if at the time of the act or omission the employee was acting in good faith and within the scope of employment or official responsibilities.~~

(2) A political subdivision is not required to indemnify and hold harmless an employee under division (B)(1) of this section if any of the following apply:

(a) At the time of the act or omission, the employee was not acting in good faith.

(b) At the time of the act or omission, the employee was not acting within the scope of the employee's employment or official responsibilities.

(c) The employee is an employee of a regional council of governments established under Chapter 167. of the Revised Code and both of the following apply:

(i) The employee is not also an employee of a political subdivision that is a member of the council.

(ii) The act or omission constitutes a violation of Chapter 102. or Chapter 2921. of the Revised Code.

~~(B)(C)~~(1) A political subdivision may enter into a consent judgment or settlement and may secure releases from liability for itself or an employee, with respect to any claim for injury, death, or loss to person or property caused by an act or omission in connection with a governmental or proprietary function.

(2) No action or appeal of any kind shall be brought by any person, including any employee or a taxpayer, with respect to the decision of a political subdivision pursuant to division ~~(B)(C)~~(1) of this section whether to enter into a consent judgment or settlement or to secure releases, or concerning the amount and circumstances of a consent judgment or settlement. Amounts expended for any settlement shall be from funds appropriated for this purpose.

~~(C)(D)~~ If a political subdivision refuses to provide an employee with a defense in a civil action or proceeding as described in division (A)~~(+)~~ of this section, upon the motion of the political subdivision, the court shall conduct a hearing regarding the political subdivision's duty to defend the employee in that civil action. The political subdivision shall file the motion within thirty days of the close of discovery in the action. After the motion is filed, the employee shall have not less than thirty days to respond to the motion.

At the request of the political subdivision or the employee, the court shall order the motion to be heard at an oral hearing. At the hearing on the motion, the court shall consider all evidence and arguments submitted by the parties. ~~In determining whether a political subdivision has a duty to defend the employee in the action, the~~ The court shall determine whether the employee was acting both in good faith and not manifestly outside the scope of employment or official responsibilities political subdivision has the duty to defend the employee under division (A) of this section. The pleadings shall not be determinative of whether the employee acted in good faith or was manifestly outside the scope of employment or official responsibilities.

If the court determines that ~~the employee was acting both in good faith and not manifestly outside the scope of employment or official responsibilities~~ political subdivision has the duty to defend the employee under division (A) of this section, the court shall order the political subdivision



to defend the employee in the action.

Sec. 3901.82. The "Restatement of the Law, Liability Insurance" that was approved at the 2018 annual meeting of the American law institute does not constitute the public policy of this state and is not an appropriate subject of notice.

Sec. 5534.403. In addition to any other name prescribed in the Revised Code or otherwise, the eastbound and westbound lanes of interstate route number two hundred seventy, commencing at the interchange of that route and state route number three and extending in a westerly direction to the intersection of interstate route number two hundred seventy and Cleveland avenue, in Franklin County, shall be known as the "Officers Anthony Morelli and Eric Joering Memorial Highway."

The director of transportation may erect suitable markers along the highway indicating its name.

Sec. 5534.811. In addition to any other name prescribed in the Revised Code or otherwise, the eastbound and westbound lanes of United States route number twenty-four between the eastern border of Henry county and the western border of Henry county, shall be known as the "Henry County Veterans Highway."

The director of transportation may erect suitable markers along the highway indicating its name.

Sec. 5534.911. In addition to any other name prescribed by the Revised Code or otherwise, the southbound and northbound lanes of the road known as United States route number thirty-three, between the intersection of that route and the northern border of Meigs county and the intersection of that route and state route number six hundred eighty-one, in Meigs county, shall be known as the "Steve Story Memorial Highway."

The director of transportation may erect suitable markers along the highway indicating its name.

SECTION 2. That existing sections 102.01, 167.02, 167.04, 167.07, 715.014, 940.07, and 2744.07 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. S. B. No. 239

132nd G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_