

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**S. B. No. 239**

**Senator Dolan**

**Cosponsors: Senators Lehner, Beagle**

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**A BILL**

To amend sections 102.01, 167.02, 167.04, 167.07, 1  
and 2744.01 of the Revised Code to modify the 2  
law concerning regional councils of governments. 3

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

**Section 1.** That sections 102.01, 167.02, 167.04, 167.07, 4  
and 2744.01 of the Revised Code be amended to read as follows: 5

**Sec. 102.01.** As used in this chapter: 6

(A) "Compensation" means money, thing of value, or 7  
financial benefit. "Compensation" does not include reimbursement 8  
for actual and necessary expenses incurred in the performance of 9  
official duties. 10

(B) "Public official or employee" means any person who is 11  
elected or appointed to an office or is an employee of any 12  
public agency. "Public official or employee" does not include a 13  
person elected or appointed to the office of precinct, ward, or 14  
district committee member under section 3517.03 of the Revised 15  
Code, any presidential elector, or any delegate to a national 16  
convention. "Public official or employee" does not include a 17  
person who is a teacher, instructor, professor, or other kind of 18

educator whose position does not involve the performance of, or 19  
authority to perform, administrative or supervisory functions. 20

(C) (1) "Public agency" means the general assembly, all 21  
courts, any department, division, institution, board, 22  
commission, authority, bureau or other instrumentality of the 23  
state, a county, city, village, or township, the five state 24  
retirement systems, or any other governmental entity. ~~"Public-~~ 25

(2) Notwithstanding any contrary provision of division (C) 26  
(3)(a) of this section, "public agency" includes a regional 27  
council of governments established under Chapter 167. of the 28  
Revised Code. 29

(3) "Public agency" does not include a-either of the 30  
following: 31

(a) A department, division, institution, board, 32  
commission, authority, or other instrumentality of the state or 33  
a county, municipal corporation, township, or other governmental 34  
entity that functions exclusively for cultural, educational, 35  
historical, humanitarian, advisory, or research purposes; that 36  
does not expend more than ten thousand dollars per calendar 37  
year, excluding salaries and wages of employees; and whose 38  
members are uncompensated. ~~"Public agency" does not include the-~~ 39  
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(b) The nonprofit corporation formed under section 187.01 41  
of the Revised Code. 42

(D) "Immediate family" means a spouse residing in the 43  
person's household and any dependent child. 44

(E) "Income" includes gross income as defined and used in 45  
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 46  
1, as amended, interest and dividends on obligations or 47

securities of any state or of any political subdivision or 48  
authority of any state or political subdivision, and interest or 49  
dividends on obligations of any authority, commission, or 50  
instrumentality of the United States. 51

(F) Except as otherwise provided in division (A) of 52  
section 102.08 of the Revised Code, "appropriate ethics 53  
commission" means: 54

(1) For matters relating to members of the general 55  
assembly, employees of the general assembly, employees of the 56  
legislative service commission, and candidates for the office of 57  
member of the general assembly, the joint legislative ethics 58  
committee; 59

(2) For matters relating to judicial officers and 60  
employees, and candidates for judicial office, the board of 61  
commissioners on grievances and discipline of the supreme court; 62

(3) For matters relating to all other persons, the Ohio 63  
ethics commission. 64

(G) "Anything of value" has the same meaning as provided 65  
in section 1.03 of the Revised Code and includes, but is not 66  
limited to, a contribution as defined in section 3517.01 of the 67  
Revised Code. 68

(H) "Honorarium" means any payment made in consideration 69  
for any speech given, article published, or attendance at any 70  
public or private conference, convention, meeting, social event, 71  
meal, or similar gathering. "Honorarium" does not include 72  
ceremonial gifts or awards that have insignificant monetary 73  
value; unsolicited gifts of nominal value or trivial items of 74  
informational value; or earned income from any person, other 75  
than a legislative agent, for personal services that are 76

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 106  
each county, municipal corporation, township, special district, 107  
school district, or other political subdivision entering into 108  
the agreement, or subsequently admitted to membership in the 109  
council. The representative from each member county, municipal 110  
corporation, township, special district, school district, or 111  
other political subdivision shall be elected chief executive 112  
thereof, or, if such county, municipal corporation, township, 113  
special district, school district, or other political 114  
subdivision does not have an elected chief executive, a member 115  
of its governing body chosen by such body to be its 116  
representative. 117

(C) The names of the political subdivisions that are 118  
members of a regional council of governments and the names of 119  
the representatives from those political subdivisions who serve 120  
on the council are public records within the meaning of section 121  
149.43 of the Revised Code and are not considered to be trade 122  
secrets under section 1333.61 of the Revised Code. 123

(D) The director of development services shall assist the 124  
council in securing the cooperation of all appropriate agencies 125  
of the state or of the United States to aid in promoting the 126  
orderly growth and development of the area, solving the problems 127  
of local government, and discharging the responsibilities and 128  
duties of local government in the most efficient possible 129  
manner. 130

~~(D)~~ (E) Any county, municipal corporation, township, 131  
special district, school district, or other political 132  
subdivision which has become a member of the council may 133  
withdraw by formal action of its governing board and upon sixty 134  
days notice to council after such action, or in the manner 135

provided in the agreement establishing the council, provided no 136  
such procedure relative to withdrawals in the agreement 137  
establishing the council shall require the political subdivision 138  
desiring to withdraw to retain its membership in the council for 139  
a period in excess of two years. 140

**Sec. 167.04.** (A) The regional council of governments shall 141  
adopt by-laws, by a majority vote of its members, designating 142  
the officers of the council and the method of their selection, 143  
creating a governing board that may act for the council as 144  
provided in the by-laws, and providing for the conduct of its 145  
business. 146

(B) The by-laws of the regional council of governments 147  
shall provide for the appointment of a fiscal officer, who may 148  
hold any other office or employment with the council, and who 149  
shall receive, deposit, invest, and disburse the funds of the 150  
council in the manner authorized by the by-laws or action by the 151  
council. 152

(C) The by-laws of a regional council of governments the 153  
members of which include, under sections 167.01 and 167.02 of 154  
the Revised Code, at least eight counties may include a 155  
provision authorizing member attendance and voting at council 156  
meetings either in person or by proxy. 157

(D) ~~(1) Within ten business days after forming a regional-~~ 158  
~~council of governments, the~~ The officers of the council shall 159  
notify the auditor of state of the regional council's formation, 160  
provide a copy of the council's by-laws, and ~~shall~~ provide on a 161  
form prescribed by the auditor of state ~~the any other~~ 162  
information regarding the regional council that the auditor of 163  
state considers necessary. 164

~~(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.~~ 165  
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**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~~ 173  
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(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. 179  
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(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 183  
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(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. 189  
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<b>Sec. 2744.01.</b> As used in this chapter:	194
(A) "Emergency call" means a call to duty, including, but not limited to, communications from citizens, police dispatches, and personal observations by peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer.	195 196 197 198 199
(B) "Employee" means an officer, agent, employee, or servant, whether or not compensated or full-time or part-time, who is authorized to act and is acting within the scope of the officer's, agent's, employee's, or servant's employment for a political subdivision. "Employee" does not include an independent contractor and does not include any individual engaged by a school district pursuant to section 3319.301 of the Revised Code. "Employee" includes any elected or appointed official of a political subdivision. "Employee" also includes a person who has been convicted of or pleaded guilty to a criminal offense and who has been sentenced to perform community service work in a political subdivision whether pursuant to section 2951.02 of the Revised Code or otherwise, and a child who is found to be a delinquent child and who is ordered by a juvenile court pursuant to section 2152.19 or 2152.20 of the Revised Code to perform community service or community work in a political subdivision.	200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216
(C) (1) "Governmental function" means a function of a political subdivision that is specified in division (C) (2) of this section or that satisfies any of the following:	217 218 219
(a) A function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement;	220 221 222



(b) A function that is for the common good of all citizens	223
of the state;	224
(c) A function that promotes or preserves the public	225
peace, health, safety, or welfare; that involves activities that	226
are not engaged in or not customarily engaged in by	227
nongovernmental persons; and that is not specified in division	228
(G) (2) of this section as a proprietary function.	229
(2) A "governmental function" includes, but is not limited	230
to, the following:	231
(a) The provision or nonprovision of police, fire,	232
emergency medical, ambulance, and rescue services or protection;	233
(b) The power to preserve the peace; to prevent and	234
suppress riots, disturbances, and disorderly assemblages; to	235
prevent, mitigate, and clean up releases of oil and hazardous	236
and extremely hazardous substances as defined in section 3750.01	237
of the Revised Code; and to protect persons and property;	238
(c) The provision of a system of public education;	239
(d) The provision of a free public library system;	240
(e) The regulation of the use of, and the maintenance and	241
repair of, roads, highways, streets, avenues, alleys, sidewalks,	242
bridges, aqueducts, viaducts, and public grounds;	243
(f) Judicial, quasi-judicial, prosecutorial, legislative,	244
and quasi-legislative functions;	245
(g) The construction, reconstruction, repair, renovation,	246
maintenance, and operation of buildings that are used in	247
connection with the performance of a governmental function,	248
including, but not limited to, office buildings and courthouses;	249

(h) The design, construction, reconstruction, renovation,	250
repair, maintenance, and operation of jails, places of juvenile	251
detention, workhouses, or any other detention facility, as	252
defined in section 2921.01 of the Revised Code;	253
(i) The enforcement or nonperformance of any law;	254
(j) The regulation of traffic, and the erection or	255
nonerection of traffic signs, signals, or control devices;	256
(k) The collection and disposal of solid wastes, as	257
defined in section 3734.01 of the Revised Code, including, but	258
not limited to, the operation of solid waste disposal	259
facilities, as "facilities" is defined in that section, and the	260
collection and management of hazardous waste generated by	261
households. As used in division (C) (2) (k) of this section,	262
"hazardous waste generated by households" means solid waste	263
originally generated by individual households that is listed	264
specifically as hazardous waste in or exhibits one or more	265
characteristics of hazardous waste as defined by rules adopted	266
under section 3734.12 of the Revised Code, but that is excluded	267
from regulation as a hazardous waste by those rules.	268
(l) The provision or nonprovision, planning or design,	269
construction, or reconstruction of a public improvement,	270
including, but not limited to, a sewer system;	271
(m) The operation of a job and family services department	272
or agency, including, but not limited to, the provision of	273
assistance to aged and infirm persons and to persons who are	274
indigent;	275
(n) The operation of a health board, department, or	276
agency, including, but not limited to, any statutorily required	277
or permissive program for the provision of immunizations or	278

other inoculations to all or some members of the public,	279
provided that a "governmental function" does not include the	280
supply, manufacture, distribution, or development of any drug or	281
vaccine employed in any such immunization or inoculation program	282
by any supplier, manufacturer, distributor, or developer of the	283
drug or vaccine;	284
(o) The operation of mental health facilities,	285
developmental disabilities facilities, alcohol treatment and	286
control centers, and children's homes or agencies;	287
(p) The provision or nonprovision of inspection services	288
of all types, including, but not limited to, inspections in	289
connection with building, zoning, sanitation, fire, plumbing,	290
and electrical codes, and the taking of actions in connection	291
with those types of codes, including, but not limited to, the	292
approval of plans for the construction of buildings or	293
structures and the issuance or revocation of building permits or	294
stop work orders in connection with buildings or structures;	295
(q) Urban renewal projects and the elimination of slum	296
conditions, including the performance of any activity that a	297
county land reutilization corporation is authorized to perform	298
under Chapter 1724. or 5722. of the Revised Code;	299
(r) Flood control measures;	300
(s) The design, construction, reconstruction, renovation,	301
operation, care, repair, and maintenance of a township cemetery;	302
(t) The issuance of revenue obligations under section	303
140.06 of the Revised Code;	304
(u) The design, construction, reconstruction, renovation,	305
repair, maintenance, and operation of any school athletic	306
facility, school auditorium, or gymnasium or any recreational	307

area or facility, including, but not limited to, any of the	308
following:	309
(i) A park, playground, or playfield;	310
(ii) An indoor recreational facility;	311
(iii) A zoo or zoological park;	312
(iv) A bath, swimming pool, pond, water park, wading pool, wave pool, water slide, or other type of aquatic facility;	313 314
(v) A golf course;	315
(vi) A bicycle motocross facility or other type of recreational area or facility in which bicycling, skating, skate boarding, or scooter riding is engaged;	316 317 318
(vii) A rope course or climbing walls;	319
(viii) An all-purpose vehicle facility in which all- purpose vehicles, as defined in section 4519.01 of the Revised Code, are contained, maintained, or operated for recreational activities.	320 321 322 323
(v) The provision of public defender services by a county or joint county public defender's office pursuant to Chapter 120. of the Revised Code;	324 325 326
(w) (i) At any time before regulations prescribed pursuant to 49 U.S.C.A 20153 become effective, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in a zone within a municipal corporation in which, by ordinance, the legislative authority of the municipal corporation regulates the sounding of locomotive horns, whistles, or bells;	327 328 329 330 331 332 333
(ii) On and after the effective date of regulations	334

prescribed pursuant to 49 U.S.C.A. 20153, the designation, 335  
establishment, design, construction, implementation, operation, 336  
repair, or maintenance of a public road rail crossing in such a 337  
zone or of a supplementary safety measure, as defined in 49 338  
U.S.C.A 20153, at or for a public road rail crossing, if and to 339  
the extent that the public road rail crossing is excepted, 340  
pursuant to subsection (c) of that section, from the requirement 341  
of the regulations prescribed under subsection (b) of that 342  
section. 343

(x) Participation in a regional council of governments 344  
established under Chapter 167. of the Revised Code; 345

(y) A function that the general assembly mandates a 346  
political subdivision to perform. 347

(D) "Law" means any provision of the constitution, 348  
statutes, or rules of the United States or of this state; 349  
provisions of charters, ordinances, resolutions, and rules of 350  
political subdivisions; and written policies adopted by boards 351  
of education. When used in connection with the "common law," 352  
this definition does not apply. 353

(E) "Motor vehicle" has the same meaning as in section 354  
4511.01 of the Revised Code. 355

(F) "Political subdivision" or "subdivision" means a 356  
municipal corporation, township, county, school district, or 357  
other body corporate and politic responsible for governmental 358  
activities in a geographic area smaller than that of the state. 359  
"Political subdivision" includes, but is not limited to, a 360  
county hospital commission appointed under section 339.14 of the 361  
Revised Code, board of hospital commissioners appointed for a 362  
municipal hospital under section 749.04 of the Revised Code, 363

board of hospital trustees appointed for a municipal hospital 364  
under section 749.22 of the Revised Code, regional planning 365  
commission created pursuant to section 713.21 of the Revised 366  
Code, county planning commission created pursuant to section 367  
713.22 of the Revised Code, joint planning council created 368  
pursuant to section 713.231 of the Revised Code, interstate 369  
regional planning commission created pursuant to section 713.30 370  
of the Revised Code, port authority created pursuant to section 371  
4582.02 or 4582.26 of the Revised Code or in existence on 372  
December 16, 1964, ~~regional council established by political-~~ 373  
~~subdivisions pursuant to Chapter 167. of the Revised Code,~~ 374  
emergency planning district and joint emergency planning 375  
district designated under section 3750.03 of the Revised Code, 376  
joint emergency medical services district created pursuant to 377  
section 307.052 of the Revised Code, fire and ambulance district 378  
created pursuant to section 505.375 of the Revised Code, joint 379  
interstate emergency planning district established by an 380  
agreement entered into under that section, county solid waste 381  
management district and joint solid waste management district 382  
established under section 343.01 or 343.012 of the Revised Code, 383  
community school established under Chapter 3314. of the Revised 384  
Code, county land reutilization corporation organized under 385  
Chapter 1724. of the Revised Code, the county or counties served 386  
by a community-based correctional facility and program or 387  
district community-based correctional facility and program 388  
established and operated under sections 2301.51 to 2301.58 of 389  
the Revised Code, a community-based correctional facility and 390  
program or district community-based correctional facility and 391  
program that is so established and operated, and the facility 392  
governing board of a community-based correctional facility and 393  
program or district community-based correctional facility and 394  
program that is so established and operated. "Political 395

<u>subdivision" does not include a regional council of governments</u>	396
<u>established under Chapter 167. of the Revised Code.</u>	397
(G) (1) "Proprietary function" means a function of a	398
political subdivision that is specified in division (G) (2) of	399
this section or that satisfies both of the following:	400
(a) The function is not one described in division (C) (1)	401
(a) or (b) of this section and is not one specified in division	402
(C) (2) of this section;	403
(b) The function is one that promotes or preserves the	404
public peace, health, safety, or welfare and that involves	405
activities that are customarily engaged in by nongovernmental	406
persons.	407
(2) A "proprietary function" includes, but is not limited	408
to, the following:	409
(a) The operation of a hospital by one or more political	410
subdivisions;	411
(b) The design, construction, reconstruction, renovation,	412
repair, maintenance, and operation of a public cemetery other	413
than a township cemetery;	414
(c) The establishment, maintenance, and operation of a	415
utility, including, but not limited to, a light, gas, power, or	416
heat plant, a railroad, a busline or other transit company, an	417
airport, and a municipal corporation water supply system;	418
(d) The maintenance, destruction, operation, and upkeep of	419
a sewer system;	420
(e) The operation and control of a public stadium,	421
auditorium, civic or social center, exhibition hall, arts and	422
crafts center, band or orchestra, or off-street parking	423

facility. 424

(H) "Public roads" means public roads, highways, streets, 425  
avenues, alleys, and bridges within a political subdivision. 426  
"Public roads" does not include berms, shoulders, rights-of-way, 427  
or traffic control devices unless the traffic control devices 428  
are mandated by the Ohio manual of uniform traffic control 429  
devices. 430

(I) "State" means the state of Ohio, including, but not 431  
limited to, the general assembly, the supreme court, the offices 432  
of all elected state officers, and all departments, boards, 433  
offices, commissions, agencies, colleges and universities, 434  
institutions, and other instrumentalities of the state of Ohio. 435  
"State" does not include political subdivisions. 436

**Section 2.** That existing sections 102.01, 167.02, 167.04, 437  
167.07, and 2744.01 of the Revised Code are hereby repealed. 438