

**As Passed by the House**

**133rd General Assembly**

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**2019-2020**

**Sub. H. B. No. 163**

**Representative Brinkman**

**Cosponsors: Representatives Seitz, Blessing, Keller, Lipps, Romanchuk, Patton,  
Lang, Edwards, LaTourette, DeVitis, Becker, Zeltwanger, Carruthers, Koehler,  
Lanese, Merrin**

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**A BILL**

To amend sections 5747.50, 5747.51, and 5747.53 and 1  
to enact sections 9.662, 743.80, and 5747.504 of 2  
the Revised Code to create a process for 3  
withholding local government funds and state 4  
water and sewer assistance from municipal 5  
corporations that engage in certain water and 6  
sewer practices with respect to extraterritorial 7  
service. 8

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

**Section 1.** That sections 5747.50, 5747.51, and 5747.53 be 9  
amended and sections 9.662, 743.80, and 5747.504 of the Revised 10  
Code be enacted to read as follows: 11

**Sec. 9.662.** Upon receiving the copy of a declaratory 12  
judgment forwarded by the tax commissioner under division (B) of 13  
section 5747.504 of the Revised Code, the director of 14  
environmental protection, the director of the Ohio public works 15  
commission, the Ohio water development authority, and the 16  
director of development services may not award any loan, grant, 17

or other form of financial assistance to the noncompliant 18  
municipal corporation identified in the certification for the 19  
purpose of improving that municipal corporation's water or 20  
sewerage system, except for awards of federal funds required by 21  
federal law or guidelines to be awarded to the municipal 22  
corporation for that purpose. 23

Upon receiving the copy of a declaratory judgment 24  
forwarded by the tax commissioner under division (C) (1) of 25  
section 5747.504 of the Revised Code, the director of 26  
environmental protection, the director of the Ohio public works 27  
commission, the Ohio water development authority, and the 28  
director of development services shall cease enforcing this 29  
prohibition against that municipal corporation. 30

**Sec. 743.80.** (A) As used in this section, "customer class" 31  
means ratepayers for property that is of the same use or nature, 32  
such as residential property or commercial property. 33

(B) Except as provided under division (G) of this section, 34  
a township or municipal corporation may file an action for 35  
declaratory judgment as provided in Chapter 2721. of the Revised 36  
Code to declare as a noncompliant municipal corporation a 37  
municipal corporation that provides water or sewer service to 38  
property located in that township or municipal corporation and 39  
to declare the township or municipal corporation filing the 40  
action, or any township or municipal corporation made a party to 41  
the action under this division, as an affected subdivision. The 42  
action must be filed in the court of common pleas in any county 43  
that includes territory of the alleged noncompliant municipal 44  
corporation. The alleged noncompliant municipal corporation 45  
shall be made the defendant in the action. Upon the filing of 46  
such an action, each other township or municipal corporation 47

with property that is provided water or sewer service from the 48  
defendant municipal corporation shall be served with a copy of 49  
the complaint and, upon filing a request with the court, shall 50  
be made a party to the action. 51

(C) The court shall issue a declaratory judgment declaring 52  
the defendant municipal corporation to be a noncompliant 53  
municipal corporation if the court determines that any other 54  
subdivision that is a party to the action establishes, by a 55  
preponderance of the evidence, that the defendant municipal 56  
corporation engages in either of the following practices: 57

(1) Charging a customer class for property located in the 58  
other subdivision higher rates for water or sewer services than 59  
for the same customer class for property located in the 60  
defendant municipal corporation, unless the defendant municipal 61  
corporation establishes, by a preponderance of the evidence, 62  
either of the following: 63

(a) Those higher rates are calculated pursuant to 64  
generally accepted industry practices consistent with the 65  
methodology in industry guidance applicable to municipal-owned 66  
sewer and water systems. 67

(b) Both (i) the higher rates for property located in the 68  
other subdivision do not exceed one hundred twenty-five per cent 69  
of the rates for the same customer class for property located in 70  
the defendant municipal corporation and (ii) the defendant 71  
municipal corporation, on the effective date of the enactment of 72  
this section, provided water or sewer service to the property 73  
and charged that property not more than one hundred twenty-five 74  
per cent of the rates for the same customer class for property 75  
located in the defendant municipal corporation on that date. 76

(2) Requiring, as a condition of providing water or sewer services to property located within the subdivision, that the subdivision provide direct payments to the defendant municipal corporation, unless the defendant municipal corporation establishes, by a preponderance of the evidence, that those direct payments are reasonably related to the cost of providing water or sewer services to property within the territory of that subdivision. 77  
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(D) If the court issues a declaratory judgment declaring a municipal corporation to be a noncompliant municipal corporation, the court shall also declare in that declaratory judgment which of the townships or municipal corporations that are a party to the action qualify as an affected subdivision. The court shall declare a township or municipal corporation to be an affected subdivision if the court finds that the township or municipal corporation is either required to make a direct payment described in division (C) (2) of this section or has property within its territory, the ratepayer for which is subject to the higher rates described in division (C) (1) of this section. Any party to the action that is not a prevailing party may appeal the action. 85  
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(E) Not later than one hundred eighty days after the date the time to appeal the declaratory judgment described in division (C) of this section has elapsed, any township or municipal corporation declared to be an affected subdivision in that declaratory judgment may certify a copy of the declaratory judgment to the tax commissioner, who shall proceed as provided in section 5747.504 of the Revised Code. 98  
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(F) A municipal corporation that a court has declared in a declaratory judgment issued under division (C) of this section 105  
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to be a noncompliant municipal corporation may file an action 107  
for declaratory judgment as provided in Chapter 2721. of the 108  
Revised Code to declare that the municipal corporation no longer 109  
qualifies as a noncompliant municipal corporation in the same 110  
court of common pleas that issued the declaratory judgment 111  
described in division (C) of this section. Upon the filing of 112  
such an action, each township or municipal corporation declared 113  
by the court under division (D) of this section to be an 114  
affected subdivision shall be made a defendant to the action. 115

The court shall issue a declaratory judgment declaring 116  
that the noncompliant municipal corporation no longer qualifies 117  
as a noncompliant municipal corporation if the municipal 118  
corporation establishes, by a preponderance of the evidence, 119  
that the municipal corporation does not engage in either of the 120  
practices described in divisions (C)(1) and (2) of this section 121  
in relation to each affected subdivision. 122

Any party to the action that is not a prevailing party may 123  
appeal the action. A declaratory judgment issued by a court 124  
under division (F) of this section shall supersede any prior 125  
declaratory judgment issued under division (C) of this section 126  
with respect to the noncompliant municipal corporation. If a 127  
court issues a declaratory judgment declaring that the municipal 128  
corporation no longer qualifies as a noncompliant municipal 129  
corporation, not later than one hundred eighty days after the 130  
date the time to appeal the declaratory judgment described in 131  
division (F) of this section has elapsed, the municipal 132  
corporation that filed the action may certify the declaratory 133  
judgment to the tax commissioner, who shall proceed as provided 134  
in section 5747.504 of the Revised Code. 135

(G) No action for declaratory judgment may be filed under 136

division (B) of this section on the basis of either of the 137  
following: 138

(1) Water or sewer rates established or prescribed 139  
pursuant to a contract in effect on the effective date of the 140  
enactment of this section between a municipal corporation 141  
supplying water or sewer service and a county, township, or 142  
another municipal corporation within which is located property 143  
served by water or sewer service from that supplying municipal 144  
corporation; 145

(2) Any direct payment required from a township or 146  
municipal corporation to another municipal corporation as a 147  
condition of the other municipal corporation supplying water or 148  
sewer service to property located in that subdivision pursuant 149  
to a contract in effect on the effective date of the enactment 150  
of this section. 151

**Sec. 5747.50.** (A) As used in this section: 152

(1) "County's proportionate share of the calendar year 153  
2007 LGF and LGRAF distributions" means the percentage computed 154  
for the county under division (B) (1) (a) of section 5747.501 of 155  
the Revised Code. 156

(2) "County's proportionate share of the total amount of 157  
the local government fund additional revenue formula" means each 158  
county's proportionate share of the state's population as 159  
determined for and certified to the county for distributions to 160  
be made during the current calendar year under division (B) (2) 161  
(a) of section 5747.501 of the Revised Code. If prior to the 162  
first day of January of the current calendar year the federal 163  
government has issued a revision to the population figures 164  
reflected in the estimate produced pursuant to division (B) (2) 165

(a) of section 5747.501 of the Revised Code, such revised 166  
population figures shall be used for making the distributions 167  
during the current calendar year. 168

(3) "2007 LGF and LGRAF county distribution base available 169  
in that month" means the lesser of the amounts described in 170  
division (A) (3) (a) and (b) of this section, provided that the 171  
amount shall not be less than zero: 172

(a) The total amount available for distribution to 173  
counties from the local government fund during the current 174  
month. 175

(b) The total amount distributed to counties from the 176  
local government fund and the local government revenue 177  
assistance fund to counties in calendar year 2007 less the total 178  
amount distributed to counties under division (B) (1) of this 179  
section during previous months of the current calendar year. 180

(4) "Local government fund additional revenue distribution 181  
base available during that month" means the total amount 182  
available for distribution to counties during the month from the 183  
local government fund, less any amounts to be distributed in 184  
that month from the local government fund under division (B) (1) 185  
of this section, provided that the local government fund 186  
additional revenue distribution base available during that month 187  
shall not be less than zero. 188

(5) "Total amount available for distribution to counties" 189  
means the total amount available for distribution from the local 190  
government fund during the current month less the total amount 191  
available for distribution to municipal corporations during the 192  
current month under division (C) of this section. 193

(B) On or before the tenth day of each month, the tax 194

commissioner shall provide for payment to each county an amount 195  
equal to the sum of: 196

(1) The county's proportionate share of the calendar year 197  
2007 LGF and LGRAF distributions multiplied by the 2007 LGF and 198  
LGRAF county distribution base available in that month, provided 199  
that if the 2007 LGF and LGRAF county distribution base 200  
available in that month is zero, no payment shall be made under 201  
division (B) (1) of this section for the month or the remainder 202  
of the calendar year; and 203

(2) The county's proportionate share of the total amount 204  
of the local government fund additional revenue formula 205  
multiplied by the local government fund additional revenue 206  
distribution base available during that month. 207

Money received into the treasury of a county under this 208  
division shall be credited to the undivided local government 209  
fund in the treasury of the county on or before the fifteenth 210  
day of each month. On or before the twentieth day of each month, 211  
the county auditor shall issue warrants against all of the 212  
undivided local government fund in the county treasury in the 213  
respective amounts allowed as provided in section 5747.51 of the 214  
Revised Code, and the treasurer shall distribute and pay such 215  
sums to the subdivision therein. 216

(C) (1) As used in division (C) of this section: 217

(a) "Total amount available for distribution to 218  
municipalities during the current month" means the difference 219  
obtained by subtracting one million dollars from the product 220  
obtained by multiplying the total amount available for 221  
distribution from the local government fund during the current 222  
month by the aggregate municipal share. 223

(b) "Aggregate municipal share" means the quotient 224  
obtained by dividing the total amount distributed directly from 225  
the local government fund to municipal corporations during 226  
calendar year 2007 by the total distributions from the local 227  
government fund and local government revenue assistance fund 228  
during calendar year 2007. 229

(2) On or before the tenth day of each month, the tax 230  
commissioner shall provide for payment from the local government 231  
fund to each municipal corporation an amount equal to the 232  
product derived by multiplying the municipal corporation's 233  
percentage of the total amount distributed to all such municipal 234  
corporations under this division during calendar year 2007 by 235  
the total amount available for distribution to municipal 236  
corporations during the current month. 237

(3) Payments received by a municipal corporation under 238  
this division shall be paid into its general fund and may be 239  
used for any lawful purpose. 240

(4) The amount distributed to municipal corporations under 241  
this division during any calendar year shall not exceed the 242  
amount distributed directly from the local government fund to 243  
municipal corporations during calendar year 2007. If that 244  
maximum amount is reached during any month, distributions to 245  
municipal corporations in that month shall be as provided in 246  
divisions (C) (1) and (2) of this section, but no further 247  
distributions shall be made to municipal corporations under 248  
division (C) of this section during the remainder of the 249  
calendar year. 250

(5) Upon being informed of a municipal corporation's 251  
dissolution, the tax commissioner shall cease providing for 252  
payments to that municipal corporation under division (C) of 253

this section. The proportionate shares of the total amount 254  
available for distribution to each of the remaining municipal 255  
corporations under this division shall be increased on a pro 256  
rata basis. 257

The tax commissioner shall reduce or cease payments under 258  
division (C) of this section to municipal corporations for which 259  
~~reduced~~ a reduction or cessation of payments are required under 260  
section 5747.502 or 5747.504 of the Revised Code. 261

(D) Each municipal corporation which has in effect a tax 262  
imposed under Chapter 718. of the Revised Code shall, no later 263  
than the thirty-first day of August of each year, certify to the 264  
tax commissioner, on a form prescribed by the commissioner, the 265  
amount of income tax revenue collected and refunded by such 266  
municipal corporation pursuant to such chapter during the 267  
preceding calendar year, arranged, when possible, by the type of 268  
income from which the revenue was collected or the refund was 269  
issued. The municipal corporation shall also report the amount 270  
of income tax revenue collected and refunded on behalf of a 271  
joint economic development district or a joint economic 272  
development zone that levies an income tax administered by the 273  
municipal corporation and the amount of such revenue distributed 274  
to contracting parties during the preceding calendar year. The 275  
tax commissioner may withhold payment of local government fund 276  
moneys pursuant to division (C) of this section from any 277  
municipal corporation for failure to comply with this reporting 278  
requirement. 279

(E) (1) For the purposes of division (E) of this section: 280

(a) "Eligible taxing district" means a township, township 281  
fire district, or joint fire district for which the total 282  
taxable value of eligible power plants for tax year 2017 is at 283

least thirty per cent less than the total taxable value of	284
eligible power plants for tax year 2016.	285
(b) "Eligible power plant" means a power plant that is	286
subject to the requirements of 10 C.F.R. part 73.	287
(c) "Total taxable value of eligible power plants" of an	288
eligible taxing district means the total taxable value of the	289
taxable property of eligible power plants apportioned to the	290
district as shown in a preliminary assessment or amended	291
preliminary assessment and listed on the tax list of real and	292
public utility property.	293
(d) "Taxable property" has the same meaning as in section	294
5727.01 of the Revised Code.	295
(e) "Tax rate" of an eligible taxing district means one of	296
the following:	297
(i) For townships, the sum of the rates of levies imposed	298
under section 505.39, 505.51, or division (I), (J), (U), or (JJ)	299
of section 5705.19 of the Revised Code and extended on the tax	300
list of real and public utility property for tax year 2017,	301
excluding any levy imposed at whatever rate is required to raise	302
a fixed sum of money;	303
(ii) For township fire districts and joint fire districts,	304
the sum of the rates of levies extended on the tax list of real	305
and public utility property for tax year 2017, excluding any	306
levy imposed at whatever rate is required to raise a fixed sum	307
of money.	308
(2) Each fiscal year from fiscal year 2018 through fiscal	309
year 2028, the tax commissioner shall compute the following	310
amount for each eligible taxing district:	311

(a) For fiscal years 2018 and 2019, the amount obtained by 312  
multiplying the eligible taxing district's tax rate by the 313  
difference obtained by subtracting (i) the total taxable value 314  
of eligible power plants of the district for tax year 2017 from 315  
(ii) the total taxable value of eligible power plants of the 316  
district for tax year 2016; 317

(b) For fiscal years 2020 through 2028, ninety per cent of 318  
the amount calculated for the district under division (E) (2) (a) 319  
or (b) of this section for the preceding fiscal year. 320

The commissioner shall certify the sum of the amounts 321  
calculated for all eligible taxing districts under this division 322  
for a fiscal year to the director of budget and management who, 323  
on or before the seventh day of each month of that fiscal year, 324  
shall transfer from the general revenue fund to the local 325  
government fund one-twelfth of the amount certified. 326

(3) On or before the tenth day of each month, the tax 327  
commissioner shall provide for payment to each county treasury 328  
in which an eligible taxing district is located an amount equal 329  
to one-twelfth of the amount computed for the district for that 330  
fiscal year under division (E) (2) of this section. 331

Money received into the treasury of a county under 332  
division (E) of this section shall be credited to the undivided 333  
local government fund in the treasury of the county on or before 334  
the fifteenth day of each month. On or before the twentieth day 335  
of each month, the county auditor shall issue warrants against 336  
the undivided local government fund for the amounts attributable 337  
to each eligible taxing district, and the treasurer shall 338  
distribute and pay such amounts to each eligible taxing 339  
district. Money received by a township fire district or joint 340  
fire district under this division shall be credited to the 341

district's general fund and may be used for any lawful purpose 342  
of the district. Money received by a township under this 343  
division shall be credited to the township's general fund and 344  
shall be used for the purpose of funding fire, police, emergency 345  
medical, or ambulance services. 346

Sec. 5747.504. (A) As used in this section: 347

(1) "Noncompliant municipal corporation" means a municipal 348  
corporation that has been declared to be a noncompliant 349  
municipal corporation in a declaratory judgment certified to the 350  
tax commissioner under division (E) of section 743.80 of the 351  
Revised Code. 352

(2) "Affected subdivision" means a municipal corporation 353  
or township that has been declared to be an affected subdivision 354  
in a declaratory judgment certified to the tax commissioner 355  
under division (E) of section 743.80 of the Revised Code. 356

(B) Upon receiving a certification of a declaratory 357  
judgment under division (E) of section 743.80 of the Revised 358  
Code, the tax commissioner shall do all of the following: 359

(1) Immediately forward a copy of the declaratory judgment 360  
to the director of environmental protection, the director of the 361  
Ohio public works commission, the Ohio water development 362  
authority, and the director of development services; 363

(2) Cease providing for payments to the noncompliant 364  
municipal corporation under division (C) of section 5747.50 of 365  
the Revised Code, beginning with the next required payment, and 366  
reduce payments to the appropriate county undivided local 367  
government fund under division (B) of section 5747.50 of the 368  
Revised Code by an amount equal to the payments the municipal 369  
corporation would otherwise receive under section 5747.503, 370

5747.51, or 5747.53 of the Revised Code, in both cases beginning 371  
with the next required payment; 372

(3) Immediately notify the county auditor and county 373  
treasurer that payments to the noncompliant municipal 374  
corporation from the county undivided local government fund are 375  
to cease until the tax commissioner notifies the auditor and 376  
treasurer under division (C) (3) of this section that the 377  
payments are to resume. 378

The county treasurer shall cease providing for payments to 379  
the municipal corporation from the undivided local government 380  
fund beginning with the payment specified by the tax 381  
commissioner. 382

(C) Upon receiving a certification of a declaratory 383  
judgment under division (F) of section 743.80 of the Revised 384  
Code, the tax commissioner shall do all of the following: 385

(1) Immediately forward a copy of the declaratory judgment 386  
to the director of environmental protection, the director of the 387  
Ohio public works commission, the Ohio water development 388  
authority, and the director of development services; 389

(2) Resume payments to the formerly noncompliant municipal 390  
corporation under division (C) of section 5747.50 of the Revised 391  
Code and resume payments to the county's undivided local 392  
government fund to the extent such payments were reduced under 393  
division (B) (2) of this section, in both cases beginning with 394  
the next required payment; 395

(3) Immediately notify the county auditor and county 396  
treasurer that the treasurer is to resume payments from the 397  
undivided local government fund to the formerly noncompliant 398  
municipal corporation under section 5747.503, 5747.51, or 399

5747.53 of the Revised Code. 400

The county treasurer shall resume payments to the 401  
municipal corporation from the undivided local government fund 402  
beginning with the payment specified by the tax commissioner. 403

(D) The tax commissioner shall provide for payment of an 404  
amount equal to amounts withheld from a noncompliant municipal 405  
corporation under division (B) (2) of this section to each 406  
township and municipal corporation that is an affected 407  
subdivision with respect to the noncompliant municipal 408  
corporation. The payment to each such subdivision shall be in 409  
the proportion that the population of that subdivision bears to 410  
the total population of all affected subdivisions, as determined 411  
by the most recent federal decennial census. 412

(E) An affected subdivision shall use money received under 413  
division (D) of this section for the current operating expenses 414  
of the subdivision. 415

**Sec. 5747.51.** (A) On or before the twenty-fifth day of 416  
July of each year, the tax commissioner shall make and certify 417  
to the county auditor of each county an estimate of the amount 418  
of the local government fund to be allocated to the undivided 419  
local government fund of each county for the ensuing calendar 420  
year, adjusting the total as required to account for 421  
subdivisions receiving local government funds under section 422  
5747.502 of the Revised Code or subdivisions ceasing to receive 423  
local government funds under section 5747.504 of the Revised 424  
Code. 425

(B) At each annual regular session of the county budget 426  
commission convened pursuant to section 5705.27 of the Revised 427  
Code, each auditor shall present to the commission the 428

certificate of the commissioner, the annual tax budget and 429  
estimates, and the records showing the action of the commission 430  
in its last preceding regular session. The commission, after 431  
extending to the representatives of each subdivision an 432  
opportunity to be heard, under oath administered by any member 433  
of the commission, and considering all the facts and information 434  
presented to it by the auditor, shall determine the amount of 435  
the undivided local government fund needed by and to be 436  
apportioned to each subdivision for current operating expenses, 437  
as shown in the tax budget of the subdivision. This 438  
determination shall be made pursuant to divisions (C) to (I) of 439  
this section, unless the commission has provided for a formula 440  
pursuant to section 5747.53 of the Revised Code. The 441  
commissioner shall reduce or increase the amount of funds from 442  
the undivided local government fund to a subdivision required to 443  
receive reduced or increased funds under section 5747.502 or 444  
5747.504 of the Revised Code. 445

Nothing in this section prevents the budget commission, 446  
for the purpose of apportioning the undivided local government 447  
fund, from inquiring into the claimed needs of any subdivision 448  
as stated in its tax budget, or from adjusting claimed needs to 449  
reflect actual needs. For the purposes of this section, "current 450  
operating expenses" means the lawful expenditures of a 451  
subdivision, except those for permanent improvements and except 452  
payments for interest, sinking fund, and retirement of bonds, 453  
notes, and certificates of indebtedness of the subdivision. 454

(C) The commission shall determine the combined total of 455  
the estimated expenditures, including transfers, from the 456  
general fund and any special funds other than special funds 457  
established for road and bridge; street construction, 458  
maintenance, and repair; state highway improvement; and gas, 459

water, sewer, and electric public utilities operated by a 460  
subdivision, as shown in the subdivision's tax budget for the 461  
ensuing calendar year. 462

(D) From the combined total of expenditures calculated 463  
pursuant to division (C) of this section, the commission shall 464  
deduct the following expenditures, if included in these funds in 465  
the tax budget: 466

(1) Expenditures for permanent improvements as defined in 467  
division (E) of section 5705.01 of the Revised Code; 468

(2) In the case of counties and townships, transfers to 469  
the road and bridge fund, and in the case of municipalities, 470  
transfers to the street construction, maintenance, and repair 471  
fund and the state highway improvement fund; 472

(3) Expenditures for the payment of debt charges; 473

(4) Expenditures for the payment of judgments. 474

(E) In addition to the deductions made pursuant to 475  
division (D) of this section, revenues accruing to the general 476  
fund and any special fund considered under division (C) of this 477  
section from the following sources shall be deducted from the 478  
combined total of expenditures calculated pursuant to division 479  
(C) of this section: 480

(1) Taxes levied within the ten-mill limitation, as 481  
defined in section 5705.02 of the Revised Code; 482

(2) The budget commission allocation of estimated county 483  
public library fund revenues to be distributed pursuant to 484  
section 5747.48 of the Revised Code; 485

(3) Estimated unencumbered balances as shown on the tax 486  
budget as of the thirty-first day of December of the current 487

year in the general fund, but not any estimated balance in any 488  
special fund considered in division (C) of this section; 489

(4) Revenue, including transfers, shown in the general 490  
fund and any special funds other than special funds established 491  
for road and bridge; street construction, maintenance, and 492  
repair; state highway improvement; and gas, water, sewer, and 493  
electric public utilities, from all other sources except those 494  
that a subdivision receives from an additional tax or service 495  
charge voted by its electorate or receives from special 496  
assessment or revenue bond collection. For the purposes of this 497  
division, where the charter of a municipal corporation prohibits 498  
the levy of an income tax, an income tax levied by the 499  
legislative authority of such municipal corporation pursuant to 500  
an amendment of the charter of that municipal corporation to 501  
authorize such a levy represents an additional tax voted by the 502  
electorate of that municipal corporation. For the purposes of 503  
this division, any measure adopted by a board of county 504  
commissioners pursuant to section 322.02, 4504.02, or 5739.021 505  
of the Revised Code, including those measures upheld by the 506  
electorate in a referendum conducted pursuant to section 507  
322.021, 4504.021, or 5739.022 of the Revised Code, shall not be 508  
considered an additional tax voted by the electorate. 509

Subject to division (G) of section 5705.29 of the Revised 510  
Code, money in a reserve balance account established by a 511  
county, township, or municipal corporation under section 5705.13 512  
of the Revised Code shall not be considered an unencumbered 513  
balance or revenue under division (E) (3) or (4) of this section. 514  
Money in a reserve balance account established by a township 515  
under section 5705.132 of the Revised Code shall not be 516  
considered an unencumbered balance or revenue under division (E) 517  
(3) or (4) of this section. 518

If a county, township, or municipal corporation has 519  
created and maintains a nonexpendable trust fund under section 520  
5705.131 of the Revised Code, the principal of the fund, and any 521  
additions to the principal arising from sources other than the 522  
reinvestment of investment earnings arising from such a fund, 523  
shall not be considered an unencumbered balance or revenue under 524  
division (E) (3) or (4) of this section. Only investment earnings 525  
arising from investment of the principal or investment of such 526  
additions to principal may be considered an unencumbered balance 527  
or revenue under those divisions. 528

(F) The total expenditures calculated pursuant to division 529  
(C) of this section, less the deductions authorized in divisions 530  
(D) and (E) of this section, shall be known as the "relative 531  
need" of the subdivision, for the purposes of this section. 532

(G) The budget commission shall total the relative need of 533  
all participating subdivisions in the county, and shall compute 534  
a relative need factor by dividing the total estimate of the 535  
undivided local government fund by the total relative need of 536  
all participating subdivisions. 537

(H) The relative need of each subdivision shall be 538  
multiplied by the relative need factor to determine the 539  
proportionate share of the subdivision in the undivided local 540  
government fund of the county; provided, that the maximum 541  
proportionate share of a county shall not exceed the following 542  
maximum percentages of the total estimate of the undivided local 543  
government fund governed by the relationship of the percentage 544  
of the population of the county that resides within municipal 545  
corporations within the county to the total population of the 546  
county as reported in the reports on population in Ohio by the 547  
department of development as of the twentieth day of July of the 548

year in which the tax budget is filed with the budget	549	
commission:	550	
	Percentage share of	551
Percentage of municipal	the county shall	552
population within the county:	not exceed:	553
Less than forty-one per cent	Sixty per cent	554
Forty-one per cent or more but	Fifty per cent	555
less than eighty-one per cent		556
Eighty-one per cent or more	Thirty per cent	557
Where the proportionate share of the county exceeds the		558
limitations established in this division, the budget commission		559
shall adjust the proportionate shares determined pursuant to		560
this division so that the proportionate share of the county does		561
not exceed these limitations, and it shall increase the		562
proportionate shares of all other subdivisions on a pro rata		563
basis. In counties having a population of less than one hundred		564
thousand, not less than ten per cent shall be distributed to the		565
townships therein.		566
(I) The proportionate share of each subdivision in the		567
undivided local government fund determined pursuant to division		568
(H) of this section for any calendar year shall not be less than		569
the product of the average of the percentages of the undivided		570
local government fund of the county as apportioned to that		571
subdivision for the calendar years 1968, 1969, and 1970,		572
multiplied by the total amount of the undivided local government		573
fund of the county apportioned pursuant to former section		574
5735.23 of the Revised Code for the calendar year 1970. For the		575
purposes of this division, the total apportioned amount for the		576
calendar year 1970 shall be the amount actually allocated to the		577

county in 1970 from the state collected intangible tax as levied 578  
by section 5707.03 of the Revised Code and distributed pursuant 579  
to section 5725.24 of the Revised Code, plus the amount received 580  
by the county in the calendar year 1970 pursuant to division (B) 581  
(1) of former section 5739.21 of the Revised Code, and 582  
distributed pursuant to former section 5739.22 of the Revised 583  
Code. If the total amount of the undivided local government fund 584  
for any calendar year is less than the amount of the undivided 585  
local government fund apportioned pursuant to former section 586  
5739.23 of the Revised Code for the calendar year 1970, the 587  
minimum amount guaranteed to each subdivision for that calendar 588  
year pursuant to this division shall be reduced on a basis 589  
proportionate to the amount by which the amount of the undivided 590  
local government fund for that calendar year is less than the 591  
amount of the undivided local government fund apportioned for 592  
the calendar year 1970. 593

(J) On the basis of such apportionment, the county auditor 594  
shall compute the percentage share of each such subdivision in 595  
the undivided local government fund and shall at the same time 596  
certify to the tax commissioner the percentage share of the 597  
county as a subdivision. No payment shall be made from the 598  
undivided local government fund, except in accordance with such 599  
percentage shares. 600

Within ten days after the budget commission has made its 601  
apportionment, whether conducted pursuant to section 5747.51 or 602  
5747.53 of the Revised Code, the auditor shall publish a list of 603  
the subdivisions and the amount each is to receive from the 604  
undivided local government fund and the percentage share of each 605  
subdivision, in a newspaper or newspapers of countywide 606  
circulation, and send a copy of such allocation to the tax 607  
commissioner. 608

The county auditor shall also send a copy of such 609  
allocation by ordinary or electronic mail to the fiscal officer 610  
of each subdivision entitled to participate in the allocation of 611  
the undivided local government fund of the county. This copy 612  
shall constitute the official notice of the commission action 613  
referred to in section 5705.37 of the Revised Code. 614

All money received into the treasury of a subdivision from 615  
the undivided local government fund in a county treasury shall 616  
be paid into the general fund and used for the current operating 617  
expenses of the subdivision. 618

If a municipal corporation maintains a municipal 619  
university, such municipal university, when the board of 620  
trustees so requests the legislative authority of the municipal 621  
corporation, shall participate in the money apportioned to such 622  
municipal corporation from the total local government fund, 623  
however created and constituted, in such amount as requested by 624  
the board of trustees, provided such sum does not exceed nine 625  
per cent of the total amount paid to the municipal corporation. 626

If any public official fails to maintain the records 627  
required by sections 5747.50 to 5747.55 of the Revised Code or 628  
by the rules issued by the tax commissioner, the auditor of 629  
state, or the treasurer of state pursuant to such sections, or 630  
fails to comply with any law relating to the enforcement of such 631  
sections, the local government fund money allocated to the 632  
county may be withheld until such time as the public official 633  
has complied with such sections or such law or the rules issued 634  
pursuant thereto. 635

**Sec. 5747.53.** (A) As used in this section: 636

(1) "City, located wholly or partially in the county, with 637

the greatest population" means the city, located wholly or 638  
partially in the county, with the greatest population residing 639  
in the county; however, if the county budget commission on or 640  
before January 1, 1998, adopted an alternative method of 641  
apportionment that was approved by the legislative authority of 642  
the city, located partially in the county, with the greatest 643  
population but not the greatest population residing in the 644  
county, "city, located wholly or partially in the county, with 645  
the greatest population" means the city, located wholly or 646  
partially in the county, with the greatest population whether 647  
residing in the county or not, if this alternative meaning is 648  
adopted by action of the board of county commissioners and a 649  
majority of the boards of township trustees and legislative 650  
authorities of municipal corporations located wholly or 651  
partially in the county. 652

(2) "Participating political subdivision" means a 653  
municipal corporation or township that satisfies all of the 654  
following: 655

(a) It is located wholly or partially in the county. 656

(b) It is not the city, located wholly or partially in the 657  
county, with the greatest population. 658

(c) Undivided local government fund moneys are apportioned 659  
to it under the county's alternative method or formula of 660  
apportionment in the current calendar year. 661

(B) In lieu of the method of apportionment of the 662  
undivided local government fund of the county provided by 663  
section 5747.51 of the Revised Code, the county budget 664  
commission may provide for the apportionment of the fund under 665  
an alternative method or on a formula basis as authorized by 666

this section. The commissioner shall reduce or increase the 667  
amount of funds from the undivided local government fund to a 668  
subdivision required to receive reduced or increased funds under 669  
section 5747.502 or 5747.504 of the Revised Code. 670

Except as otherwise provided in division (C) of this 671  
section, the alternative method of apportionment shall have 672  
first been approved by all of the following governmental units: 673  
the board of county commissioners; the legislative authority of 674  
the city, located wholly or partially in the county, with the 675  
greatest population; and a majority of the boards of township 676  
trustees and legislative authorities of municipal corporations, 677  
located wholly or partially in the county, excluding the 678  
legislative authority of the city, located wholly or partially 679  
in the county, with the greatest population. In granting or 680  
denying approval for an alternative method of apportionment, the 681  
board of county commissioners, boards of township trustees, and 682  
legislative authorities of municipal corporations shall act by 683  
motion. A motion to approve shall be passed upon a majority vote 684  
of the members of a board of county commissioners, board of 685  
township trustees, or legislative authority of a municipal 686  
corporation, shall take effect immediately, and need not be 687  
published. 688

Any alternative method of apportionment adopted and 689  
approved under this division may be revised, amended, or 690  
repealed in the same manner as it may be adopted and approved. 691  
If an alternative method of apportionment adopted and approved 692  
under this division is repealed, the undivided local government 693  
fund of the county shall be apportioned among the subdivisions 694  
eligible to participate in the fund, commencing in the ensuing 695  
calendar year, under the apportionment provided in section 696  
5747.52 of the Revised Code, unless the repeal occurs by 697

operation of division (C) of this section or a new method for 698  
apportionment of the fund is provided in the action of repeal. 699

(C) This division applies only in counties in which the 700  
city, located wholly or partially in the county, with the 701  
greatest population has a population of twenty thousand or less 702  
and a population that is less than fifteen per cent of the total 703  
population of the county. In such a county, the legislative 704  
authorities or boards of township trustees of two or more 705  
participating political subdivisions, which together have a 706  
population residing in the county that is a majority of the 707  
total population of the county, each may adopt a resolution to 708  
exclude the approval otherwise required of the legislative 709  
authority of the city, located wholly or partially in the 710  
county, with the greatest population. All of the resolutions to 711  
exclude that approval shall be adopted not later than the first 712  
Monday of August of the year preceding the calendar year in 713  
which distributions are to be made under an alternative method 714  
of apportionment. 715

A motion granting or denying approval of an alternative 716  
method of apportionment under this division shall be adopted by 717  
a majority vote of the members of the board of county 718  
commissioners and by a majority vote of a majority of the boards 719  
of township trustees and legislative authorities of the 720  
municipal corporations located wholly or partially in the 721  
county, other than the city, located wholly or partially in the 722  
county, with the greatest population, shall take effect 723  
immediately, and need not be published. The alternative method 724  
of apportionment under this division shall be adopted and 725  
approved annually, not later than the first Monday of August of 726  
the year preceding the calendar year in which distributions are 727  
to be made under it. A motion granting approval of an 728

alternative method of apportionment under this division repeals 729  
any existing alternative method of apportionment, effective with 730  
distributions to be made from the fund in the ensuing calendar 731  
year. An alternative method of apportionment under this division 732  
shall not be revised or amended after the first Monday of August 733  
of the year preceding the calendar year in which distributions 734  
are to be made under it. 735

(D) In determining an alternative method of apportionment 736  
authorized by this section, the county budget commission may 737  
include in the method any factor considered to be appropriate 738  
and reliable, in the sole discretion of the county budget 739  
commission. 740

(E) The limitations set forth in section 5747.51 of the 741  
Revised Code, stating the maximum amount that the county may 742  
receive from the undivided local government fund and the minimum 743  
amount the townships in counties having a population of less 744  
than one hundred thousand may receive from the fund, are 745  
applicable to any alternative method of apportionment authorized 746  
under this section. 747

(F) On the basis of any alternative method of 748  
apportionment adopted and approved as authorized by this 749  
section, as certified by the auditor to the county treasurer, 750  
the county treasurer shall make distribution of the money in the 751  
undivided local government fund to each subdivision eligible to 752  
participate in the fund, and the auditor, when the amount of 753  
those shares is in the custody of the treasurer in the amounts 754  
so computed to be due the respective subdivisions, shall at the 755  
same time certify to the tax commissioner the percentage share 756  
of the county as a subdivision. All money received into the 757  
treasury of a subdivision from the undivided local government 758

fund in a county treasury shall be paid into the general fund 759  
and used for the current operating expenses of the subdivision. 760  
If a municipal corporation maintains a municipal university, the 761  
university, when the board of trustees so requests the 762  
legislative authority of the municipal corporation, shall 763  
participate in the money apportioned to the municipal 764  
corporation from the total local government fund, however 765  
created and constituted, in the amount requested by the board of 766  
trustees, provided that amount does not exceed nine per cent of 767  
the total amount paid to the municipal corporation. 768

(G) The actions of the county budget commission taken 769  
pursuant to this section are final and may not be appealed to 770  
the board of tax appeals, except on the issues of abuse of 771  
discretion and failure to comply with the formula. 772

**Section 2.** That existing sections 5747.50, 5747.51, and 773  
5747.53 of the Revised Code are hereby repealed. 774

**Section 3.** Section 5747.51 of the Revised Code is 775  
presented in this act as a composite of the section as amended 776  
by both Sub. H.B. 166 and Sub. H.B. 390 of the 131st General 777  
Assembly. The General Assembly, applying the principle stated in 778  
division (B) of section 1.52 of the Revised Code that amendments 779  
are to be harmonized if reasonably capable of simultaneous 780  
operation, finds that the composite is the resulting version of 781  
the section in effect prior to the effective date of the section 782  
as presented in this act. 783