

**As Reported by the House State Government and Elections
Committee**

**129th General Assembly
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Sub. H. B. No. 1

Representative Duffey

**Cosponsors: Representatives Mecklenborg, Adams, J., Combs, Dovilla,
Grossman, Huffman**

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A B I L L

To amend sections 1.60, 102.01, 117.01, 121.01, 1
121.22, 121.41, 121.60, 122.011, 124.01, 145.012, 2
149.011, 2921.01, and 4117.01 and to enact 3
sections 187.01 to 187.07 of the Revised Code to 4
authorize the Governor to form a nonprofit 5
corporation that would perform such state economic 6
development functions as directed by law and 7
pursuant to a contract with the Department of 8
Development, and to make an appropriation. 9

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

Section 1. That sections 1.60, 102.01, 117.01, 121.01, 10
121.22, 121.41, 121.60, 122.011, 124.01, 145.012, 149.011, 11
2921.01, and 4117.01 be amended and sections 187.01, 187.02, 12
187.03, 187.04, 187.05, 187.06, and 187.07 of the Revised Code be 13
enacted to read as follows: 14

Sec. 1.60. As used in Title I of the Revised Code, "state 15
agency," except as otherwise provided in the title, means every 16
organized body, office, or agency established by the laws of the 17

state for the exercise of any function of state government. "State agency" does not include the nonprofit corporation formed under section 187.01 of the Revised Code.

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) "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 agency" does not include 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 nonprofit corporation formed under section

<u>187.01 of the Revised Code.</u>	49
(D) "Immediate family" means a spouse residing in the person's household and any dependent child.	50 51
(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.	52 53 54 55 56 57 58
(F) Except as otherwise provided in division (A) of section 102.08 of the Revised Code, "appropriate ethics commission" means:	59 60
(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;	61 62 63 64
(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;	65 66 67
(3) For matters relating to all other persons, the Ohio ethics commission.	68 69
(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.	70 71 72 73
(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	74 75 76 77 78

gifts of nominal value or trivial items of informational value; or 79
earned income from any person, other than a legislative agent, for 80
personal services that are customarily provided in connection with 81
the practice of a bona fide business, if that business initially 82
began before the public official or employee conducting that 83
business was elected or appointed to the public official's or 84
employee's office or position of employment. 85

(I) "Employer" means any person who, directly or indirectly, 86
engages an executive agency lobbyist or legislative agent. 87

(J) "Executive agency decision," "executive agency lobbyist," 88
and "executive agency lobbying activity" have the same meanings as 89
in section 121.60 of the Revised Code. 90

(K) "Legislation," "legislative agent," "financial 91
transaction," and "actively advocate" have the same meanings as in 92
section 101.70 of the Revised Code. 93

(L) "Expenditure" has the same meaning as in section 101.70 94
of the Revised Code when used in relation to activities of a 95
legislative agent, and the same meaning as in section 121.60 of 96
the Revised Code when used in relation to activities of an 97
executive agency lobbyist. 98

Sec. 117.01. As used in this chapter: 99

(A) "Color of office" means actually, purportedly, or 100
allegedly done under any law, ordinance, resolution, order, or 101
other pretension to official right, power, or authority. 102

(B) "Public accountant" means any person who is authorized by 103
Chapter 4701. of the Revised Code to use the designation of 104
certified public accountant or who was registered prior to January 105
1, 1971, as a public accountant. 106

(C) "Public money" means any money received, collected by, or 107
due a public official under color of office, as well as any money 108

collected by any individual on behalf of a public office or as a 109
purported representative or agent of the public office. 110

(D) "Public office" means any state agency, public 111
institution, political subdivision, other organized body, office, 112
agency, institution, or entity established by the laws of this 113
state for the exercise of any function of government. "Public 114
office" does not include the nonprofit corporation formed under 115
section 187.01 of the Revised Code. 116

(E) "Public official" means any officer, employee, or duly 117
authorized representative or agent of a public office. 118

(F) "State agency" means every organized body, office, 119
agency, institution, or other entity established by the laws of 120
the state for the exercise of any function of state government. 121

(G) "Audit" means any of the following: 122

(1) Any examination, analysis, or inspection of the state's 123
or a public office's financial statements or reports; 124

(2) Any examination, analysis, or inspection of records, 125
documents, books, or any other evidence relating to either of the 126
following: 127

(a) The collection, receipt, accounting, use, or expenditure 128
of public money by a public office or by a private institution, 129
association, board, or corporation; 130

(b) The determination by the auditor of state, as required by 131
section 117.11 of the Revised Code, of whether a public office has 132
complied with all the laws, rules, ordinances, or orders 133
pertaining to the public office. 134

(3) Any other type of examination, analysis, or inspection of 135
a public office or of a private institution, association, board, 136
or corporation receiving public money that is conducted according 137
to generally accepted or governmental auditing standards 138

established by rule pursuant to section 117.19 of the Revised 139
Code. 140

Sec. 121.01. As used in sections 121.01 to 121.20 of the 141
Revised Code: 142

(A) "Department" means the several departments of state 143
administration enumerated in section 121.02 of the Revised Code. 144

(B) "Division" means a part of a department established as 145
provided in section 121.07 of the Revised Code for the convenient 146
performance of one or more of the functions committed to a 147
department. 148

(C) "Departments, offices, and institutions" include every 149
organized body, office, and agency established by the constitution 150
and laws of the state for the exercise of any function of the 151
state government, and every institution or organization which 152
receives any support from the state. "Departments, offices, and 153
institutions" does not include the nonprofit corporation formed 154
under section 187.01 of the Revised Code. 155

Sec. 121.22. (A) This section shall be liberally construed to 156
require public officials to take official action and to conduct 157
all deliberations upon official business only in open meetings 158
unless the subject matter is specifically excepted by law. 159

(B) As used in this section: 160

(1) "Public body" means any of the following: 161

(a) Any board, commission, committee, council, or similar 162
decision-making body of a state agency, institution, or authority, 163
and any legislative authority or board, commission, committee, 164
council, agency, authority, or similar decision-making body of any 165
county, township, municipal corporation, school district, or other 166
political subdivision or local public institution; 167

(b) Any committee or subcommittee of a body described in 168
division (B)(1)(a) of this section; 169

(c) A court of jurisdiction of a sanitary district organized 170
wholly for the purpose of providing a water supply for domestic, 171
municipal, and public use when meeting for the purpose of the 172
appointment, removal, or reappointment of a member of the board of 173
directors of such a district pursuant to section 6115.10 of the 174
Revised Code, if applicable, or for any other matter related to 175
such a district other than litigation involving the district. As 176
used in division (B)(1)(c) of this section, "court of 177
jurisdiction" has the same meaning as "court" in section 6115.01 178
of the Revised Code. 179

(2) "Meeting" means any prearranged discussion of the public 180
business of the public body by a majority of its members. 181

(3) "Regulated individual" means either of the following: 182

(a) A student in a state or local public educational 183
institution; 184

(b) A person who is, voluntarily or involuntarily, an inmate, 185
patient, or resident of a state or local institution because of 186
criminal behavior, mental illness or retardation, disease, 187
disability, age, or other condition requiring custodial care. 188

(4) "Public office" has the same meaning as in section 189
149.011 of the Revised Code. 190

(C) All meetings of any public body are declared to be public 191
meetings open to the public at all times. A member of a public 192
body shall be present in person at a meeting open to the public to 193
be considered present or to vote at the meeting and for purposes 194
of determining whether a quorum is present at the meeting. 195

The minutes of a regular or special meeting of any public 196
body shall be promptly prepared, filed, and maintained and shall 197

be open to public inspection. The minutes need only reflect the	198
general subject matter of discussions in executive sessions	199
authorized under division (G) or (J) of this section.	200
(D) This section does not apply to any of the following:	201
(1) A grand jury;	202
(2) An audit conference conducted by the auditor of state or	203
independent certified public accountants with officials of the	204
public office that is the subject of the audit;	205
(3) The adult parole authority when its hearings are	206
conducted at a correctional institution for the sole purpose of	207
interviewing inmates to determine parole or pardon;	208
(4) The organized crime investigations commission established	209
under section 177.01 of the Revised Code;	210
(5) Meetings of a child fatality review board established	211
under section 307.621 of the Revised Code and meetings conducted	212
pursuant to sections 5153.171 to 5153.173 of the Revised Code;	213
(6) The state medical board when determining whether to	214
suspend a certificate without a prior hearing pursuant to division	215
(G) of either section 4730.25 or 4731.22 of the Revised Code;	216
(7) The board of nursing when determining whether to suspend	217
a license or certificate without a prior hearing pursuant to	218
division (B) of section 4723.281 of the Revised Code;	219
(8) The state board of pharmacy when determining whether to	220
suspend a license without a prior hearing pursuant to division (D)	221
of section 4729.16 of the Revised Code;	222
(9) The state chiropractic board when determining whether to	223
suspend a license without a hearing pursuant to section 4734.37 of	224
the Revised Code-;	225
(10) The executive committee of the emergency response	226
commission when determining whether to issue an enforcement order	227

or request that a civil action, civil penalty action, or criminal
action be brought to enforce Chapter 3750. of the Revised Code; 228 229

(11) The board of directors of the nonprofit corporation 230
formed under section 187.01 of the Revised Code or any committee 231
thereof, and the board of directors of any subsidiary of that 232
corporation or a committee thereof. 233

(E) The controlling board, the development financing advisory 234
council, the industrial technology and enterprise advisory 235
council, the tax credit authority, or the minority development 236
financing advisory board, when meeting to consider granting 237
assistance pursuant to Chapter 122. or 166. of the Revised Code, 238
in order to protect the interest of the applicant or the possible 239
investment of public funds, by unanimous vote of all board, 240
council, or authority members present, may close the meeting 241
during consideration of the following information confidentially 242
received by the authority, council, or board from the applicant: 243

(1) Marketing plans; 244

(2) Specific business strategy; 245

(3) Production techniques and trade secrets; 246

(4) Financial projections; 247

(5) Personal financial statements of the applicant or members 248
of the applicant's immediate family, including, but not limited 249
to, tax records or other similar information not open to public 250
inspection. 251

The vote by the authority, council, or board to accept or 252
reject the application, as well as all proceedings of the 253
authority, council, or board not subject to this division, shall 254
be open to the public and governed by this section. 255

(F) Every public body, by rule, shall establish a reasonable 256
method whereby any person may determine the time and place of all 257

regularly scheduled meetings and the time, place, and purpose of 258
all special meetings. A public body shall not hold a special 259
meeting unless it gives at least twenty-four hours' advance notice 260
to the news media that have requested notification, except in the 261
event of an emergency requiring immediate official action. In the 262
event of an emergency, the member or members calling the meeting 263
shall notify the news media that have requested notification 264
immediately of the time, place, and purpose of the meeting. 265

The rule shall provide that any person, upon request and 266
payment of a reasonable fee, may obtain reasonable advance 267
notification of all meetings at which any specific type of public 268
business is to be discussed. Provisions for advance notification 269
may include, but are not limited to, mailing the agenda of 270
meetings to all subscribers on a mailing list or mailing notices 271
in self-addressed, stamped envelopes provided by the person. 272

(G) Except as provided in division (J) of this section, the 273
members of a public body may hold an executive session only after 274
a majority of a quorum of the public body determines, by a roll 275
call vote, to hold an executive session and only at a regular or 276
special meeting for the sole purpose of the consideration of any 277
of the following matters: 278

(1) To consider the appointment, employment, dismissal, 279
discipline, promotion, demotion, or compensation of a public 280
employee or official, or the investigation of charges or 281
complaints against a public employee, official, licensee, or 282
regulated individual, unless the public employee, official, 283
licensee, or regulated individual requests a public hearing. 284
Except as otherwise provided by law, no public body shall hold an 285
executive session for the discipline of an elected official for 286
conduct related to the performance of the elected official's 287
official duties or for the elected official's removal from office. 288
If a public body holds an executive session pursuant to division 289

(G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

(3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;

(4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(5) Matters required to be kept confidential by federal law 321
or regulations or state statutes; 322

(6) Details relative to the security arrangements and 323
emergency response protocols for a public body or a public office, 324
if disclosure of the matters discussed could reasonably be 325
expected to jeopardize the security of the public body or public 326
office; 327

(7) In the case of a county hospital operated pursuant to 328
Chapter 339. of the Revised Code, a joint township hospital 329
operated pursuant to Chapter 513. of the Revised Code, or a 330
municipal hospital operated pursuant to Chapter 749. of the 331
Revised Code, to consider trade secrets, as defined in section 332
1333.61 of the Revised Code. 333

If a public body holds an executive session to consider any 334
of the matters listed in divisions (G)(2) to (7) of this section, 335
the motion and vote to hold that executive session shall state 336
which one or more of the approved matters listed in those 337
divisions are to be considered at the executive session. 338

A public body specified in division (B)(1)(c) of this section 339
shall not hold an executive session when meeting for the purposes 340
specified in that division. 341

(H) A resolution, rule, or formal action of any kind is 342
invalid unless adopted in an open meeting of the public body. A 343
resolution, rule, or formal action adopted in an open meeting that 344
results from deliberations in a meeting not open to the public is 345
invalid unless the deliberations were for a purpose specifically 346
authorized in division (G) or (J) of this section and conducted at 347
an executive session held in compliance with this section. A 348
resolution, rule, or formal action adopted in an open meeting is 349
invalid if the public body that adopted the resolution, rule, or 350
formal action violated division (F) of this section. 351

(I)(1) Any person may bring an action to enforce this 352
section. An action under division (I)(1) of this section shall be 353
brought within two years after the date of the alleged violation 354
or threatened violation. Upon proof of a violation or threatened 355
violation of this section in an action brought by any person, the 356
court of common pleas shall issue an injunction to compel the 357
members of the public body to comply with its provisions. 358

(2)(a) If the court of common pleas issues an injunction 359
pursuant to division (I)(1) of this section, the court shall order 360
the public body that it enjoins to pay a civil forfeiture of five 361
hundred dollars to the party that sought the injunction and shall 362
award to that party all court costs and, subject to reduction as 363
described in division (I)(2) of this section, reasonable 364
attorney's fees. The court, in its discretion, may reduce an award 365
of attorney's fees to the party that sought the injunction or not 366
award attorney's fees to that party if the court determines both 367
of the following: 368

(i) That, based on the ordinary application of statutory law 369
and case law as it existed at the time of violation or threatened 370
violation that was the basis of the injunction, a well-informed 371
public body reasonably would believe that the public body was not 372
violating or threatening to violate this section; 373

(ii) That a well-informed public body reasonably would 374
believe that the conduct or threatened conduct that was the basis 375
of the injunction would serve the public policy that underlies the 376
authority that is asserted as permitting that conduct or 377
threatened conduct. 378

(b) If the court of common pleas does not issue an injunction 379
pursuant to division (I)(1) of this section and the court 380
determines at that time that the bringing of the action was 381
frivolous conduct, as defined in division (A) of section 2323.51 382
of the Revised Code, the court shall award to the public body all 383

court costs and reasonable attorney's fees, as determined by the 384
court. 385

(3) Irreparable harm and prejudice to the party that sought 386
the injunction shall be conclusively and irrebuttably presumed 387
upon proof of a violation or threatened violation of this section. 388

(4) A member of a public body who knowingly violates an 389
injunction issued pursuant to division (I)(1) of this section may 390
be removed from office by an action brought in the court of common 391
pleas for that purpose by the prosecuting attorney or the attorney 392
general. 393

(J)(1) Pursuant to division (C) of section 5901.09 of the 394
Revised Code, a veterans service commission shall hold an 395
executive session for one or more of the following purposes unless 396
an applicant requests a public hearing: 397

(a) Interviewing an applicant for financial assistance under 398
sections 5901.01 to 5901.15 of the Revised Code; 399

(b) Discussing applications, statements, and other documents 400
described in division (B) of section 5901.09 of the Revised Code; 401

(c) Reviewing matters relating to an applicant's request for 402
financial assistance under sections 5901.01 to 5901.15 of the 403
Revised Code. 404

(2) A veterans service commission shall not exclude an 405
applicant for, recipient of, or former recipient of financial 406
assistance under sections 5901.01 to 5901.15 of the Revised Code, 407
and shall not exclude representatives selected by the applicant, 408
recipient, or former recipient, from a meeting that the commission 409
conducts as an executive session that pertains to the applicant's, 410
recipient's, or former recipient's application for financial 411
assistance. 412

(3) A veterans service commission shall vote on the grant or 413

denial of financial assistance under sections 5901.01 to 5901.15 414
of the Revised Code only in an open meeting of the commission. The 415
minutes of the meeting shall indicate the name, address, and 416
occupation of the applicant, whether the assistance was granted or 417
denied, the amount of the assistance if assistance is granted, and 418
the votes for and against the granting of assistance. 419

Sec. 121.41. As used in sections 121.41 to 121.50 of the 420
Revised Code: 421

(A) "Appropriate ethics commission" has the same meaning as 422
in section 102.01 of the Revised Code. 423

(B) "Appropriate licensing agency" means a public or private 424
entity that is responsible for licensing, certifying, or 425
registering persons who are engaged in a particular vocation. 426

(C) "Person" has the same meaning as in section 1.59 of the 427
Revised Code and also includes any officer or employee of the 428
state or any political subdivision of the state. 429

(D) "State agency" has the same meaning as in section 1.60 of 430
the Revised Code and includes the Ohio casino control commission, 431
but does not include any of the following: 432

(1) The general assembly; 433

(2) Any court; 434

(3) The secretary of state, auditor of state, treasurer of 435
state, or attorney general and their respective offices. 436

(E) "State employee" means any person who is an employee of a 437
state agency, or any person who does business with the state 438
including, only for the purposes of sections 121.41 to 121.50 of 439
the Revised Code, the JobsOhio corporation formed under section 440
187.01 of the Revised Code. 441

(F) "State officer" means any person who is elected or 442

appointed to a public office in a state agency. 443

(G) "Wrongful act or omission" means an act or omission, 444
committed in the course of office holding or employment, that is 445
not in accordance with the requirements of law or such standards 446
of proper governmental conduct as are commonly accepted in the 447
community and thereby subverts, or tends to subvert, the process 448
of government. 449

Sec. 121.60. As used in sections 121.60 to 121.69 of the 450
Revised Code: 451

(A) "Person" and "compensation" have the same meanings as in 452
section 101.70 of the Revised Code. 453

(B) "Expenditure" means any of the following that is made to, 454
at the request of, for the benefit of, or on behalf of an elected 455
executive official, the director of a department created under 456
section 121.02 of the Revised Code, an executive agency official, 457
or a member of the staff of any public officer or employee listed 458
in this division: 459

(1) A payment, distribution, loan, advance, deposit, 460
reimbursement, or gift of money, real estate, or anything of 461
value, including, but not limited to, food and beverages, 462
entertainment, lodging, transportation, or honorariums; 463

(2) A contract, promise, or agreement to make an expenditure, 464
whether or not legally enforceable; 465

(3) The purchase, sale, or gift of services or any other 466
thing of value. "Expenditure" does not include a contribution, 467
gift, or grant to a foundation or other charitable organization 468
that is exempt from federal income taxation under subsection 469
501(c)(3) of the Internal Revenue Code. "Expenditure" does not 470
include the purchase, sale, or gift of services or any other thing 471
of value that is available to the general public on the same terms 472

as it is available to the persons listed in this division, or an 473
offer or sale of securities to any person listed in this division 474
that is governed by regulation D, 17 C.F.R. 230.501 to 230.508, 475
adopted under the authority of the "Securities Act of 1933," 48 476
Stat. 74, 15 U.S.C.A. and following, or that is governed by a 477
comparable provision under state law. 478

(C) "Employer" means any person who, directly or indirectly, 479
engages an executive agency lobbyist. 480

(D) "Engage" means to make any arrangement, and "engagement" 481
means arrangement, whereby an individual is employed or retained 482
for compensation to act for or on behalf of an employer to 483
influence executive agency decisions or to conduct any executive 484
agency lobbying activity. 485

(E) "Financial transaction" means a transaction or activity 486
that is conducted or undertaken for profit and arises from the 487
joint ownership or the ownership or part ownership in common of 488
any real or personal property or any commercial or business 489
enterprise of whatever form or nature between the following: 490

(1) An executive agency lobbyist, the executive agency 491
lobbyist's employer, or a member of the immediate family of the 492
executive agency lobbyist or the executive agency lobbyist's 493
employer; and 494

(2) Any elected executive official, the director of a 495
department created under section 121.02 of the Revised Code, an 496
executive agency official, or any member of the staff of a public 497
officer or employee listed in division (E)(2) of this section. 498

"Financial transaction" does not include any transaction or 499
activity described in division (E) of this section if it is 500
available to the general public on the same terms, or if it is an 501
offer or sale of securities to any person listed in division 502
(E)(2) of this section that is governed by regulation D, 17 C.F.R. 503

230.501 to 230.508, adopted under the authority of the "Securities 504
Act of 1933," 48 Stat. 74, 15 U.S.C.A. and following, or that is 505
governed by a comparable provision under state law. 506

(F) "Executive agency" means the office of an elected 507
executive official, a department created under section 121.02 of 508
the Revised Code, or any other state agency, department, board, or 509
commission controlled or directed by an elected executive official 510
or otherwise subject to an elected executive official's authority. 511
For the purposes of sections 121.60 to 121.69 of the Revised Code 512
only, "executive agency" includes the nonprofit corporation formed 513
under section 187.01 of the Revised Code. "Executive agency" does 514
not include any court, the general assembly, or the controlling 515
board. 516

(G) "Executive agency decision" means a decision of an 517
executive agency regarding the expenditure of funds of the state 518
or of an executive agency with respect to the award of a contract, 519
grant, lease, or other financial arrangement under which such 520
funds are distributed or allocated, or a regulatory decision of an 521
executive agency or any board or commission of the state. 522
"Executive agency decision" does not include either of the 523
following: 524

(1) A purchasing decision for which a vendor has filed a 525
statement certifying that the vendor has not made campaign 526
contributions in an amount such that section 3517.13 of the 527
Revised Code would invalidate the decision, if that vendor has not 528
engaged an executive agency lobbyist; 529

(2) The award of a competitively bid contract for which bid 530
specifications were prepared and for which at least three eligible 531
competitive bids were received by the executive agency. 532

(H) "Executive agency lobbyist" means any person engaged to 533
influence executive agency decisions or to conduct executive 534

agency lobbying activity as one of the person's main purposes on a 535
regular and substantial basis. "Executive agency lobbyist" does 536
not include an elected or appointed officer or employee of a 537
federal or state agency, state college, state university, or 538
political subdivision who attempts to influence or affect 539
executive agency decisions in a fiduciary capacity as a 540
representative of the officer's or employee's agency, college, 541
university, or political subdivision. 542

(I) "Executive agency lobbying activity" means contacts made 543
to promote, oppose, or otherwise influence the outcome of an 544
executive agency decision by direct communication with ~~an elected~~ 545
~~executive official, the director of any department listed in~~ 546
~~section 121.02 of the Revised Code, any executive agency official,~~ 547
~~a member of the staff of any public officer or employee listed in~~ 548
~~this division, any person described in division (E)(2) of this~~ 549
section, or the Ohio casino control commission. "Lobbying 550
activity" does not include any of the following: 551

(1) The action of any person having a direct interest in 552
executive agency decisions who, under Section 3 of Article I, Ohio 553
Constitution, assembles together with other persons to consult for 554
their common good, instructs a person listed in the first 555
paragraph of division (I) of this section, or petitions such a 556
person for the redress of grievances; 557

(2) Contacts made for the sole purpose of gathering 558
information contained in a public record; 559

(3) Appearances before an executive agency to give testimony. 560

(J) "Executive agency official" means an officer or employee 561
of an executive agency whose principal duties are to formulate 562
policy or to participate directly or indirectly in the 563
preparation, review, or award of contracts, grants, leases, or 564
other financial arrangements with an executive agency. 565

(K) "Aggrieved party" means a party entitled to resort to a 566
remedy. 567

(L) "Elected executive official" means the governor, 568
lieutenant governor, secretary of state, auditor of state, 569
treasurer of state, and the attorney general. 570

(M) "Staff" means any officer or employee of an executive 571
agency whose official duties are to formulate policy and who 572
exercises administrative or supervisory authority or who 573
authorizes the expenditure of state funds. 574

Sec. 122.011. (A) The department of development shall develop 575
and promote plans and programs designed to assure that state 576
resources are efficiently used, economic growth is properly 577
balanced, community growth is developed in an orderly manner, and 578
local governments are coordinated with each other and the state, 579
and for such purposes may do all of the following: 580

(1) Serve as a clearinghouse for information, data, and other 581
materials that may be helpful or necessary to persons or local 582
governments, as provided in section 122.07 of the Revised Code; 583

(2) Prepare and activate plans for the retention, 584
development, expansion, and use of the resources and commerce of 585
the state, as provided in section 122.04 of the Revised Code; 586

(3) Assist and cooperate with federal, state, and local 587
governments and agencies of federal, state, and local governments 588
in the coordination of programs to carry out the functions and 589
duties of the department; 590

(4) Encourage and foster research and development activities, 591
conduct studies related to the solution of community problems, and 592
develop recommendations for administrative or legislative actions, 593
as provided in section 122.03 of the Revised Code; 594

(5) Serve as the economic and community development planning 595

agency, which shall prepare and recommend plans and programs for 596
the orderly growth and development of this state and which shall 597
provide planning assistance, as provided in section 122.06 of the 598
Revised Code; 599

(6) Cooperate with and provide technical assistance to state 600
departments, political subdivisions, regional and local planning 601
commissions, tourist associations, councils of government, 602
community development groups, community action agencies, and other 603
appropriate organizations for carrying out the functions and 604
duties of the department or for the solution of community 605
problems; 606

(7) Coordinate the activities of state agencies that have an 607
impact on carrying out the functions and duties of the department; 608

(8) Encourage and assist the efforts of and cooperate with 609
local governments to develop mutual and cooperative solutions to 610
their common problems that relate to carrying out the purposes of 611
this section; 612

(9) Study existing structure, operations, and financing of 613
regional or local government and those state activities that 614
involve significant relations with regional or local governmental 615
units, recommend to the governor and to the general assembly such 616
changes in these provisions and activities as will improve the 617
operations of regional or local government, and conduct other 618
studies of legal provisions that affect problems related to 619
carrying out the purposes of this section; 620

(10) Create and operate a division of community development 621
to develop and administer programs and activities that are 622
authorized by federal statute or the Revised Code; 623

(11) Until October 15, 2007, establish fees and charges, in 624
consultation with the director of agriculture, for purchasing 625
loans from financial institutions and providing loan guarantees 626

under the family farm loan program created under sections 901.80 627
to 901.83 of the Revised Code; 628

(12) Provide loan servicing for the loans purchased and loan 629
guarantees provided under section 901.80 of the Revised Code as 630
that section existed prior to October 15, 2007; 631

(13) Until October 15, 2007, and upon approval by the 632
controlling board under division (A)(3) of section 901.82 of the 633
Revised Code of the release of money to be used for purchasing a 634
loan or providing a loan guarantee, request the release of that 635
money in accordance with division (B) of section 166.03 of the 636
Revised Code for use for the purposes of the fund created by 637
section 166.031 of the Revised Code. 638

(14) Allocate that portion of the national recovery zone 639
economic development bond limitation and that portion of the 640
national recovery zone facility bond limitation that has been 641
allocated to the state under section 1400U-1 of the Internal 642
Revenue Code, 26 U.S.C. 1400U-1. If any county or municipal 643
corporation waives any portion of an allocation it receives under 644
division (A)(14) of this section, the department may reallocate 645
that amount. Any allocation or reallocation shall be made in 646
accordance with this section and section 1400U-1 of the Internal 647
Revenue Code. 648

(B) The director of development may request the attorney 649
general to, and the attorney general, in accordance with section 650
109.02 of the Revised Code, shall bring a civil action in any 651
court of competent jurisdiction. The director may be sued in the 652
director's official capacity, in connection with this chapter, in 653
accordance with Chapter 2743. of the Revised Code. 654

(C) The director of development shall execute a contract 655
pursuant to section 187.04 of the Revised Code with the JobsOhio 656
corporation formed under section 187.01 of the Revised Code, and 657

may execute any additional contracts with the corporation 658
providing for the corporation to assist the director or department 659
in carrying out any duties of the director or department under 660
this chapter or under a contract with the director. 661

Sec. 124.01. Except as otherwise provided in this chapter, as 662
used in this chapter: 663

(A) "Civil service" includes all offices and positions of 664
trust or employment in the service of the state and in the service 665
of the counties, cities, city health districts, general health 666
districts, and city school districts of the state. 667

(B) "State service" includes all offices and positions in the 668
service of the state and the counties and general health districts 669
of the state. "State service" does not include offices and 670
positions in the service of the cities, city health districts, and 671
city school districts of the state. 672

(C) "Classified service" means the competitive classified 673
civil service of the state, the several counties, cities, city 674
health districts, general health districts, and city school 675
districts of the state, and civil service townships. 676

(D) "Appointing authority" means the officer, commission, 677
board, or body having the power of appointment to, or removal 678
from, positions in any office, department, commission, board, or 679
institution. 680

(E) "Commission" means the municipal civil service commission 681
of any city, except that, when in reference to the commission that 682
serves a city school district, "commission" means the civil 683
service commission determined under section 124.011 of the Revised 684
Code. 685

(F) "Employee" means any person holding a position subject to 686
appointment, removal, promotion, or reduction by an appointing 687

officer. "Employee" does not include an officer, employee, or 688
governor-appointed director of the nonprofit corporation formed 689
under section 187.01 of the Revised Code. 690

(G) "Civil service township" means any township with a 691
population of ten thousand or more persons residing within the 692
township and outside any municipal corporation, which has a police 693
or fire department of ten or more full-time paid employees and 694
which has a civil service commission established under division 695
(B) of section 124.40 of the Revised Code. 696

(H) "Flexible hours employee" means an employee who may work 697
more or less than eight hours on any given day so long as the 698
employee works forty hours in the same week. 699

(I) "Classification series" means any group of classification 700
titles that have the identical name but different numerical 701
designations, or identical titles except for designated levels of 702
supervision, except for those classification series established by 703
the director of administrative services in accordance with 704
division (A) of section 124.14 of the Revised Code. 705

(J) "Classification change" means a change in an employee's 706
classification in the job classification plan. 707

(K) "Service of the state" or "civil service of the state" 708
includes all offices and positions of trust or employment with the 709
government of the state. "Service of the state" and "civil service 710
of the state" do not include offices and positions of trust or 711
employment with state-supported colleges and universities, 712
counties, cities, city health districts, city school districts, 713
general health districts, ~~and~~ or civil service townships of the 714
state, or with the nonprofit corporation formed under section 715
187.01 of the Revised Code. 716

Sec. 145.012. (A) "Public employee," as defined in division 717

(A) of section 145.01 of the Revised Code, does not include any 718
person: 719

(1) Who is employed by a private, temporary-help service and 720
performs services under the direction of a public employer or is 721
employed on a contractual basis as an independent contractor under 722
a personal service contract with a public employer; 723

(2) Who is an emergency employee serving on a temporary basis 724
in case of fire, snow, earthquake, flood, or other similar 725
emergency; 726

(3) Who is employed in a program established pursuant to the 727
"Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 728
1501; 729

(4) Who is an appointed member of either the motor vehicle 730
salvage dealers board or the motor vehicle dealer's board whose 731
rate and method of payment are determined pursuant to division (J) 732
of section 124.15 of the Revised Code; 733

(5) Who is employed as an election worker and paid less than 734
five hundred dollars per calendar year for that service; 735

(6) Who is employed as a firefighter in a position requiring 736
satisfactory completion of a firefighter training course approved 737
under former section 3303.07 or section 4765.55 of the Revised 738
Code or conducted under section 3737.33 of the Revised Code except 739
for the following: 740

(a) Any firefighter who has elected under section 145.013 of 741
the Revised Code to remain a contributing member of the public 742
employees retirement system; 743

(b) Any firefighter who was eligible to transfer from the 744
public employees retirement system to the Ohio police and fire 745
pension fund under section 742.51 or 742.515 of the Revised Code 746
and did not elect to transfer; 747

(c) Any firefighter who has elected under section 742.516 of 748
the Revised Code to transfer from the Ohio police and fire pension 749
fund to the public employees retirement system. 750

(7) Who is a member of the board of health of a city or 751
general health district, which pursuant to sections 3709.051 and 752
3709.07 of the Revised Code includes a combined health district, 753
and whose compensation for attendance at meetings of the board is 754
set forth in division (B) of section 3709.02 or division (B) of 755
section 3709.05 of the Revised Code, as appropriate; 756

(8) Who participates in an alternative retirement plan 757
established under Chapter 3305. of the Revised Code; 758

(9) Who is a member of the board of directors of a sanitary 759
district established under Chapter 6115. of the Revised Code; 760

(10) Who is a member of the unemployment compensation 761
advisory council; 762

(11) Who is an employee, officer, or governor-appointed 763
member of the board of directors of the nonprofit corporation 764
formed under section 187.01 of the Revised Code. 765

(B) No inmate of a correctional institution operated by the 766
department of rehabilitation and correction, no patient in a 767
hospital for the mentally ill or criminally insane operated by the 768
department of mental health, no resident in an institution for the 769
mentally retarded operated by the department of developmental 770
disabilities, no resident admitted as a patient of a veterans' 771
home operated under Chapter 5907. of the Revised Code, and no 772
resident of a county home shall be considered as a public employee 773
for the purpose of establishing membership or calculating service 774
credit or benefits under this chapter. Nothing in this division 775
shall be construed to affect any service credit attained by any 776
person who was a public employee before becoming an inmate, 777
patient, or resident at any institution listed in this division, 778

or the payment of any benefit for which such a person or such a 779
person's beneficiaries otherwise would be eligible. 780

Sec. 149.011. As used in this chapter, except as otherwise 781
provided: 782

(A) "Public office" includes any state agency, public 783
institution, political subdivision, or other organized body, 784
office, agency, institution, or entity established by the laws of 785
this state for the exercise of any function of government. "Public 786
office" does not include the nonprofit corporation formed under 787
section 187.01 of the Revised Code. 788

(B) "State agency" includes every department, bureau, board, 789
commission, office, or other organized body established by the 790
constitution and laws of this state for the exercise of any 791
function of state government, including any state-supported 792
institution of higher education, the general assembly, any 793
legislative agency, any court or judicial agency, or any political 794
subdivision or agency of a political subdivision. "State agency" 795
does not include the nonprofit corporation formed under section 796
187.01 of the Revised Code. 797

(C) "Public money" includes all money received or collected 798
by or due a public official, whether in accordance with or under 799
authority of any law, ordinance, resolution, or order, under color 800
of office, or otherwise. It also includes any money collected by 801
any individual on behalf of a public office or as a purported 802
representative or agent of the public office. 803

(D) "Public official" includes all officers, employees, or 804
duly authorized representatives or agents of a public office. 805

(E) "Color of office" includes any act purported or alleged 806
to be done under any law, ordinance, resolution, order, or other 807
pretension to official right, power, or authority. 808

(F) "Archive" includes any public record that is transferred 809
to the state archives or other designated archival institutions 810
because of the historical information contained on it. 811

(G) "Records" includes any document, device, or item, 812
regardless of physical form or characteristic, including an 813
electronic record as defined in section 1306.01 of the Revised 814
Code, created or received by or coming under the jurisdiction of 815
any public office of the state or its political subdivisions, 816
which serves to document the organization, functions, policies, 817
decisions, procedures, operations, or other activities of the 818
office. 819

Sec. 187.01. As used in this chapter, "JobsOhio" means the 820
nonprofit corporation formed under this section, and includes any 821
subsidiary of that corporation. In any section of law that refers 822
to the nonprofit corporation formed under this section, reference 823
to the corporation includes reference to any such subsidiary 824
unless otherwise specified or clearly appearing from the context. 825

The governor is hereby authorized to form a nonprofit 826
corporation, to be named "JobsOhio," with the purposes of 827
promoting economic development, job creation, job retention, job 828
training, and the recruitment of business to this state. The 829
governor shall be the only member of the corporation. 830

The articles of incorporation shall set forth the following: 831

(A) The designation of the name of the corporation as 832
JobsOhio; 833

(B) The creation of a board of directors consisting of the 834
governor and eight directors, to be appointed by the governor, who 835
satisfy the qualifications prescribed by section 187.02 of the 836
Revised Code; 837

(C) A requirement that the governor make initial appointments 838

to the board within sixty days after the filing of the articles of 839
incorporation. Of the initial appointments made to the board, two 840
shall be for a term ending one year after the date the articles 841
were filed, two shall be for a term ending two years after the 842
date the articles were filed, and four shall be for a term ending 843
four years after the date the articles were filed. The articles 844
shall state that, following the initial appointments, the governor 845
shall appoint directors to terms of office of four years, with 846
each term of office ending on the same day of the same month as 847
did the term that it succeeds. 848

(D) The designation of the governor as the chairperson of the 849
board and procedures for electing directors to serve as officers 850
of the corporation and members of an executive committee; 851

(E) A provision for the appointment of a chief investment 852
officer of the corporation by the recommendation of the board of 853
directors and approval of the governor. The chief investment 854
officer shall serve at the pleasure of the governor and shall have 855
the power to execute contracts, spend corporation funds, and hire 856
employees on behalf of the corporation. 857

(F) Provisions requiring the board to do all of the 858
following: 859

(1) Adopt one or more resolutions providing for compensation 860
of the chief investment officer; 861

(2) Approve an employee compensation plan recommended by the 862
chief investment officer; 863

(3) Approve a contract with the director of development for 864
the corporation to exercise any and all of the powers, functions, 865
or duties of the department of development to the fullest extent 866
not otherwise prohibited by the laws of this state or of the 867
United States; 868

(4) Approve all major contracts for services recommended by 869

the chief investment officer; 870

(5) Establish an annual strategic plan and standards of 871
measure to be used in evaluating the corporation's success in 872
executing the plan; 873

(6) Establish a conflicts of interest policy that, at a 874
minimum, complies with section 187.06 of the Revised Code; 875

(7) Hold a minimum of four board of directors meetings per 876
year at which a quorum of the board is physically present, and 877
such other meetings, at which directors' physical presence is not 878
required, as may be necessary. Meetings at which a quorum of the 879
board is required to be physically present are subject to division 880
(D) of section 187.03 of the Revised Code. 881

(G) A statement that directors shall not receive any 882
compensation from the corporation, except that governor-appointed 883
directors may be reimbursed for actual and necessary expenses 884
incurred in connection with services performed for the 885
corporation; 886

(H) A provision authorizing the board to amend provisions of 887
the corporation's articles of incorporation or regulations, except 888
provisions required by this chapter; 889

(I) Procedures by which the corporation would be dissolved 890
and by which all corporation rights, liabilities, and assets would 891
be distributed to the state or to another corporation organized 892
under this chapter. The articles shall state that no dissolution 893
shall take effect until the corporation has made adequate 894
provision for the payment of any outstanding bonds, notes, or 895
other obligations. 896

(J) A provision establishing an audit committee to be 897
comprised of directors. The articles shall require that the audit 898
committee hire an independent certified public accountant to 899
perform a financial audit of the corporation at least once every 900

year. 901

(K) A provision authorizing the governor, as chairperson of 902
the corporation, to remove a director for misconduct as may be 903
defined in the articles or regulations of the corporation. The 904
removal of a director under this division creates a vacancy on the 905
board that the governor shall fill by appointment for the 906
remainder of the term of office of the vacated seat. 907

Sec. 187.02. (A) To qualify for appointment to the board of 908
directors of JobsOhio, an individual must satisfy all of the 909
following: 910

(1) Has an understanding of generally accepted accounting 911
principles and financial statements; 912

(2) Possesses the ability to assess the general application 913
of such principles in connection with the accounting for 914
estimates, accruals, and reserves; 915

(3) Has experience preparing, auditing, analyzing, or 916
evaluating financial statements that present a breadth and level 917
of complexity of accounting issues that are generally comparable 918
to the breadth and complexity of issues that can reasonably be 919
expected to be presented by the JobsOhio corporation's financial 920
statements, or experience actively supervising one or more persons 921
engaged in such activities; 922

(4) Has an understanding of internal controls and the 923
procedures for financial reporting; 924

(5) Has an understanding of audit committee functions. 925

(B) Specific experience demonstrating the qualifications 926
required by division (A) of this section may be evidenced by any 927
of the following: 928

(1) Education and experience as a principal financial 929
officer, principal accounting officer, controller, public 930

accountant or auditor, or experience in one or more positions that 931
involve the performance of similar functions; 932

(2) Experience actively supervising a principal financial 933
officer, principal accounting officer, controller, public 934
accountant, auditor, or person performing similar functions; 935

(3) Experience overseeing or assessing the performance of 936
companies or public accountants with respect to the preparation, 937
auditing, or evaluation of financial statements; 938

(4) Other experience considered relevant by the governor 939
consistent with division (A) of this section. 940

(C) Each individual appointed to the board of directors shall 941
be a citizen of the United States. At least five, but not more 942
than six, of the individuals appointed to the board shall be 943
residents of or domiciled in this state. 944

Sec. 187.03. (A) JobsOhio may perform such functions as 945
permitted and shall perform such duties as prescribed by law, but 946
shall not be considered a state or public department, agency, 947
office, body, institution, or instrumentality for purposes of 948
section 1.60 or Chapter 102., 121., 125., or 149. of the Revised 949
Code. JobsOhio and its board of directors are not subject to the 950
following sections of Chapter 1702. of the Revised Code: sections 951
1702.03, 1702.08, 1702.09, 1702.21, 1702.24, 1702.26, 1702.27, 952
1702.28, 1702.29, 1702.301, 1702.33, 1702.34, 1702.37, 1702.38, 953
1702.40 to 1702.52, 1702.521, 1702.54, 1702.57, 1702.58, 1702.59, 954
1702.60, 1702.80, and 1702.99. 955

(B)(1) With the exception of the governor, directors and 956
employees of JobsOhio are not employees or officials of the state 957
and, except as provided in division (B)(2) of this section, are 958
not subject to Chapter 102., 124., 145., or 4117. of the Revised 959
Code. 960

(2) Any employee, and any director except the governor, of 961
JobsOhio, who would be required to file a statement under section 962
102.02 of the Revised Code if the person were a public official or 963
employee, shall file a statement pursuant to that section that 964
includes, in place of the information required by divisions 965
(A)(2), (7), (8), and (9) of that section, the information 966
required by divisions (A) and (B) of section 102.022 of the 967
Revised Code. The governor shall comply with all applicable 968
requirements of section 102.02 of the Revised Code. 969

(3) Actual expenditures for the travel, meals, or lodging of 970
the governor or of any public official or employee designated by 971
the governor for the purpose of this division shall not be 972
considered a violation of section 102.03 of the Revised Code if 973
the expenditures are made by or on behalf of the corporation in 974
connection with the governor's performance of official duties as 975
chairperson of the board of directors of JobsOhio. The governor 976
may designate any person, including a person who is a public 977
official or employee as defined in section 102.01 of the Revised 978
Code, for the purpose of this division if such expenditures are 979
made on behalf of the person in connection with the governor's 980
performance of official duties as chairperson. 981

At the times and frequency agreed to under division (B)(2) of 982
section 187.04 of the Revised Code, beginning in 2012, the 983
corporation shall file with the department of development a 984
written report of any such expenditures the corporation paid or 985
incurred during the preceding calendar year. The report shall 986
state the dollar value and purpose of each expenditure, the date 987
of each expenditure, and the location, if any, where services or 988
benefits of an expenditure were received, provided that any such 989
information that may disclose proprietary information as defined 990
in division (D) of that section shall not be included in the 991
report. 992

(4) The prohibition applicable to former public officials or 993
employees in division (A)(1) of section 102.03 of the Revised Code 994
does not apply to any person appointed to be a director or hired 995
as an employee of JobsOhio. 996

(5) Any person who is a former state employee shall no longer 997
be considered a public employee for purposes of Chapter 145. of 998
the Revised Code upon commencement of employment with JobsOhio. 999

(D) Meetings of the board of directors at which a quorum of 1000
the board is required to be physically present pursuant to 1001
division (F) of section 187.01 of the Revised Code shall be open 1002
to the public except, by a majority vote of the directors present 1003
at the meeting, such a meeting may be closed to the public only 1004
for one or more of the following purposes: 1005

(1) To consider business strategy of the corporation; 1006

(2) To consider proprietary information belonging to 1007
potential applicants or potential recipients of business 1008
recruitment, retention, or creation incentives. For the purposes 1009
of this division, "proprietary information" means marketing plans, 1010
specific business strategy, production techniques and trade 1011
secrets, financial projections, or personal financial statements 1012
of applicants or members of the applicants' immediate family, 1013
including, but not limited to, tax records or other similar 1014
information not open to the public inspection. 1015

(3) To consider legal matters, including litigation, in which 1016
the corporation is or may be involved; 1017

(4) To consider personnel matters related to an individual 1018
employee of the corporation. 1019

(E) Not later than March 1, 2012, and the first day of March 1020
of each year thereafter, the chief investment officer of JobsOhio 1021
shall prepare and submit a report of the corporation's activities 1022
for the preceding year to the governor, the speaker and minority 1023

leader of the house of representatives, and the president and 1024
minority leader of the senate. The annual report shall include the 1025
following: 1026

(1) An analysis of the state's economy; 1027

(2) A description of the structure, operation, and financial 1028
status of the corporation; 1029

(3) A description of the corporation's strategy to improve 1030
the state economy and the standards of measure used to evaluate 1031
its progress; 1032

(4) An evaluation of the performance of current strategies 1033
and major initiatives; 1034

(5) An analysis of any statutory or administrative barriers 1035
to successful economic development, business recruitment, and job 1036
growth in the state identified by JobsOhio during the preceding 1037
year. 1038

Sec. 187.04. The director of development, as soon as 1039
practical after the effective date of this section, shall execute 1040
a contract with JobsOhio for the corporation to assist the 1041
director and the department of development in the exercise of any 1042
or all of the powers, functions, or duties of the department, 1043
including the operation and management of programs, offices, 1044
divisions, or boards, as may be determined by the director in 1045
consultation with the governor. 1046

The term of a contract entered into under this section shall 1047
not extend beyond a fiscal biennium of the general assembly, but 1048
may be renewed or amended by the parties. 1049

A contract entered into under this section shall include both 1050
of the following: 1051

(A) Terms assigning to the corporation the duties of advising 1052
and assisting the director of development in the director's 1053

evaluation of the department and the formulation of 1054
recommendations under section 187.05 of the Revised Code; 1055

(B) Terms designating records created or received by JobsOhio 1056
that shall be made available to the public under the same 1057
conditions as are public records under section 149.43 of the 1058
Revised Code. Documents designated to be made available to the 1059
public pursuant to the contract shall be kept on file with the 1060
department of development. 1061

Among records to be designated under this division shall be 1062
the following: 1063

(1) The corporation's federal income tax returns; 1064

(2) The report of expenditures described in division (B)(3) 1065
of section 187.03 of the Revised Code. The records shall be filed 1066
with the department at such times and frequency as agreed to by 1067
the corporation and the department, which shall not be less 1068
frequently than quarterly. 1069

(3) The annual total compensation paid to each employee of 1070
the corporation; 1071

(4) A copy of the audit report for each financial audit of 1072
the corporation performed by an independent certified public 1073
accountant pursuant to division (J) of section 187.01 of the 1074
Revised Code. 1075

(5) Records of any fully executed incentive proposals, to be 1076
filed annually; 1077

(6) Records pertaining to the monitoring of commitments made 1078
by incentive recipients, to be filed annually. 1079

(C) Records created or received by JobsOhio are not public 1080
records for the purposes of section 149.43 of the Revised Code, 1081
regardless of who may have custody of the records, unless the 1082
record is designated to be available to the public by the contract 1083

under division (B) of this section. 1084

Sec. 187.05. The director of development, as soon as 1085
practical after the effective date of this section, shall, in 1086
consultation with the governor, evaluate all powers, functions, 1087
and duties of the department. Within six months after that 1088
effective date, the director shall submit a report to the general 1089
assembly recommending statutory changes necessary to improve the 1090
functioning and efficiency of the department and to transfer 1091
specified powers, functions, and duties of the department to other 1092
existing agencies of the state or to JobsOhio, or eliminate 1093
specified powers, functions, or duties. The recommendations shall 1094
be submitted in writing to the speaker and minority leader of the 1095
house of representatives and the president and minority leader of 1096
the senate. 1097

After submitting the report, the director, in consultation 1098
with the governor, shall continue to evaluate the department and 1099
make additional recommendations on such matters to the general 1100
assembly. 1101

Sec. 187.06. (A) For purposes of this section, "interested 1102
individual" means a director or officer of JobsOhio who has, 1103
directly or indirectly, through business, investment, or family, 1104
any of the following: 1105

(1) An ownership or investment interest in any person with 1106
which JobsOhio has a transaction or arrangement; 1107

(2) A compensation arrangement with JobsOhio or with any 1108
person with which JobsOhio has a transaction or arrangement; 1109

(3) A potential ownership or investment interest in, or 1110
compensation arrangement with, any person with which JobsOhio is 1111
negotiating a transaction or arrangement. Compensation includes 1112
direct and indirect remuneration as well as material gifts or 1113

favours. 1114

(B) The conflicts of interest policy adopted pursuant to 1115
section 187.01 of the Revised Code shall protect JobsOhio's 1116
interest when it is considering a transaction or arrangement that 1117
might benefit the private interest of a director or officer of 1118
JobsOhio or might excessively benefit that individual. An 1119
interested individual shall disclose the existence of a financial 1120
interest to each member of the board of directors of JobsOhio. The 1121
interested individual shall be given an opportunity to disclose 1122
all material facts to the directors. After disclosure of the 1123
financial interest and all material facts, the board of directors 1124
shall decide if a conflict of interest exists. If a conflict 1125
exists, the board shall determine whether JobsOhio can obtain with 1126
reasonable efforts a more advantageous transaction or arrangement 1127
from a person that would not give rise to a conflict of interest. 1128
If a more advantageous transaction or arrangement is not 1129
reasonably possible under circumstances not producing a conflict 1130
of interest, the board shall determine by a majority vote of the 1131
disinterested directors whether the transaction or arrangement is 1132
in JobsOhio's best interest, for its own benefit, and whether it 1133
is fair and reasonable. 1134

(C) If the board of directors has reasonable cause to believe 1135
a director or officer has failed to disclose an actual or possible 1136
conflict of interest, it shall inform the individual of the basis 1137
for such belief and provide the individual with an opportunity to 1138
explain the alleged failure to disclose. If the board determines 1139
the individual has failed to disclose an actual or possible 1140
conflict of interest, it shall take appropriate disciplinary and 1141
corrective action. 1142

(D) Minutes of board meetings considering possible or actual 1143
conflicts of interest shall be kept. The minutes shall contain 1144
both of the following: 1145

(1) The names of the individuals who disclosed, or were found 1146
to have, a financial interest in connection with an actual or 1147
possible conflict of interest, the nature of the financial 1148
interest, any action taken to determine whether a conflict of 1149
interest was present, and the board's decision as to whether a 1150
conflict of interest existed; 1151

(2) The names of the individuals who were present for 1152
discussions and votes relating to the transaction or arrangement, 1153
the content of the discussion, including any alternatives to the 1154
proposed transaction or arrangement, and a record of any votes 1155
taken in connection with the proceedings. 1156

(E) An officer or employee of JobsOhio whose responsibility 1157
includes compensation matters and who receives compensation, 1158
directly or indirectly, from JobsOhio for services is precluded 1159
from voting or providing information to a compensation committee, 1160
if any, on matters pertaining to that individual's compensation. 1161

(F) The conflicts of interest policy adopted pursuant to 1162
section 187.01 of the Revised Code shall prohibit any director of 1163
JobsOhio from soliciting or accepting employment with any person 1164
that receives or has received an incentive or other assistance as 1165
a result of a decision the director participated in as a director 1166
of JobsOhio. 1167

(G) Each director or officer shall annually sign a statement 1168
which affirms the individual: 1169

(1) Has received a copy of the conflicts of interest policy; 1170

(2) Has read and understands the policy; 1171

(3) Has agreed to comply with the policy; 1172

(4) Understands JobsOhio's statutory purpose and that it is a 1173
nonprofit corporation. 1174

(H) To ensure JobsOhio operates in a manner consistent with 1175

its statutory purpose or contractual obligations, periodic reviews 1176
shall be conducted. The periodic reviews shall, at a minimum, 1177
determine all of the following: 1178

(1) Whether compensation arrangements and benefits are 1179
reasonable, based on competent survey information, and the result 1180
of arm's length bargaining; 1181

(2) Whether JobsOhio's operations are consistent with its 1182
articles of incorporation, regulations, and contractual 1183
obligations, and are properly documented; 1184

(3) Whether transactions are fair to JobsOhio, reflect 1185
reasonable investment or payments for goods and services, further 1186
JobsOhio's statutory purpose or contractual obligations, and do 1187
not result in excessive private benefit to directors, officers, or 1188
other persons. 1189

Sec. 187.07. Any action brought by or on behalf of the 1190
corporation against a director or former director in that 1191
individual's capacity as a director shall be brought in the court 1192
of common pleas of Franklin county. 1193

Sec. 2921.01. As used in sections 2921.01 to 2921.45 of the 1194
Revised Code: 1195

(A) "Public official" means any elected or appointed officer, 1196
or employee, or agent of the state or any political subdivision, 1197
whether in a temporary or permanent capacity, and includes, but is 1198
not limited to, legislators, judges, and law enforcement officers. 1199
"Public official" does not include an employee, officer, or 1200
governor-appointed member of the board of directors of the 1201
nonprofit corporation formed under section 187.01 of the Revised 1202
Code. 1203

(B) "Public servant" means any of the following: 1204

(1) Any public official;	1205
(2) Any person performing ad hoc a governmental function,	1206
including, but not limited to, a juror, member of a temporary	1207
commission, master, arbitrator, advisor, or consultant;	1208
(3) A person who is a candidate for public office, whether or	1209
not the person is elected or appointed to the office for which the	1210
person is a candidate. A person is a candidate for purposes of	1211
this division if the person has been nominated according to law	1212
for election or appointment to public office, or if the person has	1213
filed a petition or petitions as required by law to have the	1214
person's name placed on the ballot in a primary, general, or	1215
special election, or if the person campaigns as a write-in	1216
candidate in any primary, general, or special election.	1217
(C) "Party official" means any person who holds an elective	1218
or appointive post in a political party in the United States or	1219
this state, by virtue of which the person directs, conducts, or	1220
participates in directing or conducting party affairs at any level	1221
of responsibility.	1222
(D) "Official proceeding" means any proceeding before a	1223
legislative, judicial, administrative, or other governmental	1224
agency or official authorized to take evidence under oath, and	1225
includes any proceeding before a referee, hearing examiner,	1226
commissioner, notary, or other person taking testimony or a	1227
deposition in connection with an official proceeding.	1228
(E) "Detention" means arrest; confinement in any vehicle	1229
subsequent to an arrest; confinement in any public or private	1230
facility for custody of persons charged with or convicted of crime	1231
in this state or another state or under the laws of the United	1232
States or alleged or found to be a delinquent child or unruly	1233
child in this state or another state or under the laws of the	1234
United States; hospitalization, institutionalization, or	1235

confinement in any public or private facility that is ordered 1236
pursuant to or under the authority of section 2945.37, 2945.371, 1237
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 1238
Code; confinement in any vehicle for transportation to or from any 1239
facility of any of those natures; detention for extradition or 1240
deportation; except as provided in this division, supervision by 1241
any employee of any facility of any of those natures that is 1242
incidental to hospitalization, institutionalization, or 1243
confinement in the facility but that occurs outside the facility; 1244
supervision by an employee of the department of rehabilitation and 1245
correction of a person on any type of release from a state 1246
correctional institution; or confinement in any vehicle, airplane, 1247
or place while being returned from outside of this state into this 1248
state by a private person or entity pursuant to a contract entered 1249
into under division (E) of section 311.29 of the Revised Code or 1250
division (B) of section 5149.03 of the Revised Code. For a person 1251
confined in a county jail who participates in a county jail 1252
industry program pursuant to section 5147.30 of the Revised Code, 1253
"detention" includes time spent at an assigned work site and going 1254
to and from the work site. 1255

(F) "Detention facility" means any public or private place 1256
used for the confinement of a person charged with or convicted of 1257
any crime in this state or another state or under the laws of the 1258
United States or alleged or found to be a delinquent child or 1259
unruly child in this state or another state or under the laws of 1260
the United States. 1261

(G) "Valuable thing or valuable benefit" includes, but is not 1262
limited to, a contribution. This inclusion does not indicate or 1263
imply that a contribution was not included in those terms before 1264
September 17, 1986. 1265

(H) "Campaign committee," "contribution," "political action 1266
committee," "legislative campaign fund," "political party," and 1267

"political contributing entity" have the same meanings as in 1268
section 3517.01 of the Revised Code. 1269

(I) "Provider agreement" and "medical assistance program" 1270
have the same meanings as in section 2913.40 of the Revised Code. 1271

Sec. 4117.01. As used in this chapter: 1272

(A) "Person," in addition to those included in division (C) 1273
of section 1.59 of the Revised Code, includes employee 1274
organizations, public employees, and public employers. 1275

(B) "Public employer" means the state or any political 1276
subdivision of the state located entirely within the state, 1277
including, without limitation, any municipal corporation with a 1278
population of at least five thousand according to the most recent 1279
federal decennial census; county; township with a population of at 1280
least five thousand in the unincorporated area of the township 1281
according to the most recent federal decennial census; school 1282
district; governing authority of a community school established 1283
under Chapter 3314. of the Revised Code; state institution of 1284
higher learning; public or special district; state agency, 1285
authority, commission, or board; or other branch of public 1286
employment. "Public employer" does not include the nonprofit 1287
corporation formed under section 187.01 of the Revised Code. 1288

(C) "Public employee" means any person holding a position by 1289
appointment or employment in the service of a public employer, 1290
including any person working pursuant to a contract between a 1291
public employer and a private employer and over whom the national 1292
labor relations board has declined jurisdiction on the basis that 1293
the involved employees are employees of a public employer, except: 1294

(1) Persons holding elective office; 1295

(2) Employees of the general assembly and employees of any 1296
other legislative body of the public employer whose principal 1297

duties are directly related to the legislative functions of the	1298
body;	1299
(3) Employees on the staff of the governor or the chief	1300
executive of the public employer whose principal duties are	1301
directly related to the performance of the executive functions of	1302
the governor or the chief executive;	1303
(4) Persons who are members of the Ohio organized militia,	1304
while training or performing duty under section 5919.29 or 5923.12	1305
of the Revised Code;	1306
(5) Employees of the state employment relations board,	1307
including those employees of the state employment relations board	1308
utilized by the state personnel board of review in the exercise of	1309
the powers and the performance of the duties and functions of the	1310
state personnel board of review;	1311
(6) Confidential employees;	1312
(7) Management level employees;	1313
(8) Employees and officers of the courts, assistants to the	1314
attorney general, assistant prosecuting attorneys, and employees	1315
of the clerks of courts who perform a judicial function;	1316
(9) Employees of a public official who act in a fiduciary	1317
capacity, appointed pursuant to section 124.11 of the Revised	1318
Code;	1319
(10) Supervisors;	1320
(11) Students whose primary purpose is educational training,	1321
including graduate assistants or associates, residents, interns,	1322
or other students working as part-time public employees less than	1323
fifty per cent of the normal year in the employee's bargaining	1324
unit;	1325
(12) Employees of county boards of election;	1326
(13) Seasonal and casual employees as determined by the state	1327

employment relations board; 1328

(14) Part-time faculty members of an institution of higher 1329
education; 1330

(15) Participants in a work activity, developmental activity, 1331
or alternative work activity under sections 5107.40 to 5107.69 of 1332
the Revised Code who perform a service for a public employer that 1333
the public employer needs but is not performed by an employee of 1334
the public employer if the participant is not engaged in paid 1335
employment or subsidized employment pursuant to the activity; 1336

(16) Employees included in the career professional service of 1337
the department of transportation under section 5501.20 of the 1338
Revised Code; 1339

(17) Employees of community-based correctional facilities and 1340
district community-based correctional facilities created under 1341
sections 2301.51 to 2301.58 of the Revised Code who are not 1342
subject to a collective bargaining agreement on June 1, 2005+. 1343

(D) "Employee organization" means any labor or bona fide 1344
organization in which public employees participate and that exists 1345
for the purpose, in whole or in part, of dealing with public 1346
employers concerning grievances, labor disputes, wages, hours, 1347
terms, and other conditions of employment. 1348

(E) "Exclusive representative" means the employee 1349
organization certified or recognized as an exclusive 1350
representative under section 4117.05 of the Revised Code. 1351

(F) "Supervisor" means any individual who has authority, in 1352
the interest of the public employer, to hire, transfer, suspend, 1353
lay off, recall, promote, discharge, assign, reward, or discipline 1354
other public employees; to responsibly direct them; to adjust 1355
their grievances; or to effectively recommend such action, if the 1356
exercise of that authority is not of a merely routine or clerical 1357
nature, but requires the use of independent judgment, provided 1358

that: 1359

(1) Employees of school districts who are department 1360
chairpersons or consulting teachers shall not be deemed 1361
supervisors; 1362

(2) With respect to members of a police or fire department, 1363
no person shall be deemed a supervisor except the chief of the 1364
department or those individuals who, in the absence of the chief, 1365
are authorized to exercise the authority and perform the duties of 1366
the chief of the department. Where prior to June 1, 1982, a public 1367
employer pursuant to a judicial decision, rendered in litigation 1368
to which the public employer was a party, has declined to engage 1369
in collective bargaining with members of a police or fire 1370
department on the basis that those members are supervisors, those 1371
members of a police or fire department do not have the rights 1372
specified in this chapter for the purposes of future collective 1373
bargaining. The state employment relations board shall decide all 1374
disputes concerning the application of division (F)(2) of this 1375
section. 1376

(3) With respect to faculty members of a state institution of 1377
higher education, heads of departments or divisions are 1378
supervisors; however, no other faculty member or group of faculty 1379
members is a supervisor solely because the faculty member or group 1380
of faculty members participate in decisions with respect to 1381
courses, curriculum, personnel, or other matters of academic 1382
policy; 1383

(4) No teacher as defined in section 3319.09 of the Revised 1384
Code shall be designated as a supervisor or a management level 1385
employee unless the teacher is employed under a contract governed 1386
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 1387
is assigned to a position for which a license deemed to be for 1388
administrators under state board rules is required pursuant to 1389
section 3319.22 of the Revised Code. 1390

(G) "To bargain collectively" means to perform the mutual 1391
obligation of the public employer, by its representatives, and the 1392
representatives of its employees to negotiate in good faith at 1393
reasonable times and places with respect to wages, hours, terms, 1394
and other conditions of employment and the continuation, 1395
modification, or deletion of an existing provision of a collective 1396
bargaining agreement, with the intention of reaching an agreement, 1397
or to resolve questions arising under the agreement. "To bargain 1398
collectively" includes executing a written contract incorporating 1399
the terms of any agreement reached. The obligation to bargain 1400
collectively does not mean that either party is compelled to agree 1401
to a proposal nor does it require the making of a concession. 1402

(H) "Strike" means continuous concerted action in failing to 1403
report to duty; willful absence from one's position; or stoppage 1404
of work in whole from the full, faithful, and proper performance 1405
of the duties of employment, for the purpose of inducing, 1406
influencing, or coercing a change in wages, hours, terms, and 1407
other conditions of employment. "Strike" does not include a 1408
stoppage of work by employees in good faith because of dangerous 1409
or unhealthful working conditions at the place of employment that 1410
are abnormal to the place of employment. 1411

(I) "Unauthorized strike" includes, but is not limited to, 1412
concerted action during the term or extended term of a collective 1413
bargaining agreement or during the pendency of the settlement 1414
procedures set forth in section 4117.14 of the Revised Code in 1415
failing to report to duty; willful absence from one's position; 1416
stoppage of work; slowdown, or abstinence in whole or in part from 1417
the full, faithful, and proper performance of the duties of 1418
employment for the purpose of inducing, influencing, or coercing a 1419
change in wages, hours, terms, and other conditions of employment. 1420
"Unauthorized strike" includes any such action, absence, stoppage, 1421
slowdown, or abstinence when done partially or intermittently, 1422

whether during or after the expiration of the term or extended 1423
term of a collective bargaining agreement or during or after the 1424
pendency of the settlement procedures set forth in section 4117.14 1425
of the Revised Code. 1426

(J) "Professional employee" means any employee engaged in 1427
work that is predominantly intellectual, involving the consistent 1428
exercise of discretion and judgment in its performance and 1429
requiring knowledge of an advanced type in a field of science or 1430
learning customarily acquired by a prolonged course in an 1431
institution of higher learning or a hospital, as distinguished 1432
from a general academic education or from an apprenticeship; or an 1433
employee who has completed the courses of specialized intellectual 1434
instruction and is performing related work under the supervision 1435
of a professional person to become qualified as a professional 1436
employee. 1437

(K) "Confidential employee" means any employee who works in 1438
the personnel offices of a public employer and deals with 1439
information to be used by the public employer in collective 1440
bargaining; or any employee who works in a close continuing 1441
relationship with public officers or representatives directly 1442
participating in collective bargaining on behalf of the employer. 1443

(L) "Management level employee" means an individual who 1444
formulates policy on behalf of the public employer, who 1445
responsibly directs the implementation of policy, or who may 1446
reasonably be required on behalf of the public employer to assist 1447
in the preparation for the conduct of collective negotiations, 1448
administer collectively negotiated agreements, or have a major 1449
role in personnel administration. Assistant superintendents, 1450
principals, and assistant principals whose employment is governed 1451
by section 3319.02 of the Revised Code are management level 1452
employees. With respect to members of a faculty of a state 1453
institution of higher education, no person is a management level 1454

employee because of the person's involvement in the formulation or 1455
implementation of academic or institution policy. 1456

(M) "Wages" means hourly rates of pay, salaries, or other 1457
forms of compensation for services rendered. 1458

(N) "Member of a police department" means a person who is in 1459
the employ of a police department of a municipal corporation as a 1460
full-time regular police officer as the result of an appointment 1461
from a duly established civil service eligibility list or under 1462
section 737.15 or 737.16 of the Revised Code, a full-time deputy 1463
sheriff appointed under section 311.04 of the Revised Code, a 1464
township constable appointed under section 509.01 of the Revised 1465
Code, or a member of a township police district police department 1466
appointed under section 505.49 of the Revised Code. 1467

(O) "Members of the state highway patrol" means highway 1468
patrol troopers and radio operators appointed under section 1469
5503.01 of the Revised Code. 1470

(P) "Member of a fire department" means a person who is in 1471
the employ of a fire department of a municipal corporation or a 1472
township as a fire cadet, full-time regular firefighter, or 1473
promoted rank as the result of an appointment from a duly 1474
established civil service eligibility list or under section 1475
505.38, 709.012, or 737.22 of the Revised Code. 1476

(Q) "Day" means calendar day. 1477

Section 2. That existing sections 1.60, 102.01, 117.01, 1478
121.01, 121.22, 121.41, 121.60, 122.011, 124.01, 145.012, 149.011, 1479
2921.01, and 4117.01 of the Revised Code are hereby repealed. 1480

Section 3. The Supreme Court of Ohio shall have exclusive, 1481
original jurisdiction over any claim asserting that any one or 1482
more sections of the Revised Code amended or enacted by this act, 1483
or any portion of one or more of those sections, or any rule 1484

adopted under one or more of those sections, violates any 1485
provision of the Ohio Constitution; and over any claim asserting 1486
that any action taken pursuant to those sections by the Governor 1487
or the nonprofit corporation formed under section 187.01 of the 1488
Revised Code violates any provision of the Ohio Constitution or 1489
any provision of the Revised Code. Any such claim shall be filed 1490
as otherwise required by the Court's rules of practice not later 1491
than the sixtieth day after the effective date of this act. If any 1492
claim over which the Supreme Court is granted exclusive, original 1493
jurisdiction by this section is filed in any lower court, the 1494
claim shall be dismissed by the court on the ground that the court 1495
lacks jurisdiction to review it. 1496

Section 4. Section 145.012 of the Revised Code is presented 1497
in this act as a composite of the section as amended by both Am. 1498
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. The 1499
General Assembly, applying the principle stated in division (B) of 1500
section 1.52 of the Revised Code that amendments are to be 1501
harmonized if reasonably capable of simultaneous operation, finds 1502
that the composite is the resulting version of the section in 1503
effect prior to the effective date of the section as presented in 1504
this act. 1505

Section 5. The Director of Development, in consultation with 1506
the Director of Budget and Management, shall find within the 1507
Department of Development's total unexpended and unencumbered 1508
fiscal year 2011 General Revenue Fund appropriation an amount not 1509
to exceed \$1,000,000 in order to establish and operate the 1510
JobsOhio corporation established in Chapter 187. of the Revised 1511
Code. The Director of Development shall identify appropriation 1512
items within the General Revenue Fund that are to be reduced for 1513
this purpose, and any reduction in appropriations to these items 1514

pursuant to this section shall not collectively exceed \$1,000,000. 1515
The amounts identified by the Director are hereby appropriated in 1516
General Revenue Fund appropriation item 195527, JobsOhio, for 1517
transition and start-up costs of the JobsOhio corporation. Nothing 1518
in this section shall be construed as increasing or decreasing the 1519
Department of Development's total fiscal year 2011 General Revenue 1520
Fund appropriation. 1521

Section 6. Sections 1, 2, 3, 4, 5, and 6 of this act are not 1522
subject to the referendum because they are or they relate to an 1523
appropriation for current expenses within the meaning of Ohio 1524
Constitution, Article II, Section 1d, and section 1.471 of the 1525
Revised Code, and therefore those sections take effect immediately 1526
when this act becomes law. 1527