

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 506**

**Representatives Johnson, G., Smith, K.**

**Cosponsors: Representatives Antonio, Boyd, Curtin, Phillips, Ramos, Lepore-Hagan**

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**A BILL**

To amend sections 117.01 and 187.03 and to enact 1  
section 187.14 of the Revised Code to allow the 2  
Auditor of State to conduct full audits of 3  
JobsOhio, to require all nonprofit economic 4  
development corporations that receive public 5  
funds to make annual disclosures related to both 6  
their public and private funds, and to require 7  
that JobsOhio submit a quarterly progress report 8  
detailing all of its active projects. 9

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

**Section 1.** That sections 117.01 and 187.03 be amended and 10  
section 187.14 of the Revised Code be enacted to read as 11  
follows: 12

**Sec. 117.01.** As used in this chapter: 13

(A) "Color of office" means actually, purportedly, or 14  
allegedly done under any law, ordinance, resolution, order, or 15  
other pretension to official right, power, or authority. 16

(B) "Public accountant" means any person who is authorized 17

by Chapter 4701. of the Revised Code to use the designation of 18  
certified public accountant or who was registered prior to 19  
January 1, 1971, as a public accountant. 20

(C) "Public money" means any money received, collected by, 21  
or due a public official under color of office, as well as any 22  
money collected by any individual on behalf of a public office 23  
or as a purported representative or agent of the public office. 24

"Public money" does not include either of the following: 25

(1) Money or revenue earned by or from a person's 26  
ownership, operation, or use of an asset, whether tangible or 27  
intangible, that either in whole or in part was sold, was 28  
leased, was licensed, was the granting of a franchise, or was 29  
otherwise transferred or conveyed by a public office to the 30  
person pursuant to an agreement, authorized by law, between the 31  
person and the public office in which the public office received 32  
consideration from the person for the asset that was sold, 33  
leased, licensed, franchised, or otherwise transferred or 34  
conveyed; 35

(2) With respect to the transfer described in Chapter 36  
4313. of the Revised Code and the operation of the enterprise 37  
acquisition project, revenues or receipts of or from the 38  
enterprise acquisition project in the hands of the nonprofit 39  
corporation formed under section 187.01 of the Revised Code or 40  
of a nonprofit entity the sole member of which is that nonprofit 41  
corporation, but does include any taxes collected on the 42  
spirituous liquor sales and then due the department of taxation 43  
and amounts then due to the state general revenue fund pursuant 44  
to section 4301.12 of the Revised Code. As used in this 45  
division, "enterprise acquisition project" has the meaning 46  
defined in section 4313.01 of the Revised Code. 47

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

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

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

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

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

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

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

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

(3) Any other type of examination, analysis, or inspection of a public office, or of the specific funds or accounts of a private institution, association, board, or corporation into which public money has been placed or deposited, that is

conducted according to generally accepted or governmental 76  
auditing standards established by rule pursuant to section 77  
117.19 of the Revised Code. 78

(H) "Person" has the meaning defined in section 1.59 of 79  
the Revised Code. 80

**Sec. 187.03.** (A) JobsOhio may perform such functions as 81  
permitted and shall perform such duties as prescribed by law and 82  
as set forth in any contract entered into under section 187.04 83  
of the Revised Code, but shall not be considered a state or 84  
public department, agency, office, body, institution, or 85  
instrumentality for purposes of section 1.60 or Chapter 102., 86  
121., 125., or 149. of the Revised Code. JobsOhio and its board 87  
of directors are not subject to the following sections of 88  
Chapter 1702. of the Revised Code: sections 1702.03, 1702.08, 89  
1702.09, 1702.21, 1702.24, 1702.26, 1702.27, 1702.28, 1702.29, 90  
1702.301, 1702.33, 1702.34, 1702.37, 1702.38, 1702.40 to 91  
1702.52, 1702.521, 1702.54, 1702.57, 1702.58, 1702.59, 1702.60, 92  
1702.80, and 1702.99. Nothing in this division shall be 93  
construed to impair the powers and duties of the Ohio ethics 94  
commission described in section 102.06 of the Revised Code to 95  
investigate and enforce section 102.02 of the Revised Code with 96  
regard to individuals required to file statements under division 97  
(B) (2) of this section. 98

(B) (1) Directors and employees of JobsOhio are not 99  
employees or officials of the state and, except as provided in 100  
division (B) (2) of this section, are not subject to Chapter 101  
102., 124., 145., or 4117. of the Revised Code. 102

(2) The chief investment officer, any other officer or 103  
employee with significant administrative, supervisory, 104  
contracting, or investment authority, and any director of 105

JobsOhio shall file, with the Ohio ethics commission, a 106  
financial disclosure statement pursuant to section 102.02 of the 107  
Revised Code that includes, in place of the information required 108  
by divisions (A) (2) (b), (g), (h), and (i) of that section, the 109  
information required by divisions (A) and (B) of section 102.022 110  
of the Revised Code. The governor shall comply with all 111  
applicable requirements of section 102.02 of the Revised Code. 112

(3) Actual or in-kind expenditures for the travel, meals, 113  
or lodging of the governor or of any public official or employee 114  
designated by the governor for the purpose of this division 115  
shall not be considered a violation of section 102.03 of the 116  
Revised Code if the expenditures are made by the corporation, or 117  
on behalf of the corporation by any person, in connection with 118  
the governor's performance of official duties related to 119  
JobsOhio. The governor may designate any person, including a 120  
person who is a public official or employee as defined in 121  
section 102.01 of the Revised Code, for the purpose of this 122  
division if such expenditures are made on behalf of the person 123  
in connection with the governor's performance of official duties 124  
related to JobsOhio. A public official or employee so designated 125  
by the governor shall comply with all applicable requirements of 126  
section 102.02 of the Revised Code. 127

At the times and frequency agreed to under division (B) (2) 128  
(b) of section 187.04 of the Revised Code, beginning in 2012, 129  
the corporation shall file with the development services agency 130  
a written report of all such expenditures paid or incurred 131  
during the preceding calendar year. The report shall state the 132  
dollar value and purpose of each expenditure, the date of each 133  
expenditure, the name of the person that paid or incurred each 134  
expenditure, and the location, if any, where services or 135  
benefits of an expenditure were received, provided that any such 136

information that may disclose proprietary information as defined 137  
in division (C) of this section shall not be included in the 138  
report. 139

(4) The prohibition applicable to former public officials 140  
or employees in division (A) (1) of section 102.03 of the Revised 141  
Code does not apply to any person appointed to be a director or 142  
hired as an employee of JobsOhio. 143

(5) Notwithstanding division (A) (2) of section 145.01 of 144  
the Revised Code, any person who is a former state employee 145  
shall no longer be considered a public employee for purposes of 146  
Chapter 145. of the Revised Code upon commencement of employment 147  
with JobsOhio. 148

(6) Any director, officer, or employee of JobsOhio may 149  
request an advisory opinion from the Ohio ethics commission with 150  
regard to questions concerning the provisions of sections 102.02 151  
and 102.022 of the Revised Code to which the person is subject. 152

(C) Meetings of the board of directors at which a quorum 153  
of the board is required to be physically present pursuant to 154  
division (F) of section 187.01 of the Revised Code shall be open 155  
to the public except, by a majority vote of the directors 156  
present at the meeting, such a meeting may be closed to the 157  
public only for one or more of the following purposes: 158

(1) To consider business strategy of the corporation; 159

(2) To consider proprietary information belonging to 160  
potential applicants or potential recipients of business 161  
recruitment, retention, or creation incentives. For the purposes 162  
of this division, "proprietary information" means marketing 163  
plans, specific business strategy, production techniques and 164  
trade secrets, financial projections, or personal financial 165

statements of applicants or members of the applicants' immediate family, including, but not limited to, tax records or other similar information not open to the public inspection.	166 167 168
(3) To consider legal matters, including litigation, in which the corporation is or may be involved;	169 170
(4) To consider personnel matters related to an individual employee of the corporation.	171 172
(D) The board of directors shall establish a reasonable method whereby any person may obtain the time and place of all public meetings described in division (C) of this section. The method shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all such meetings.	173 174 175 176 177 178
(E) The board of directors shall promptly prepare, file, and maintain minutes of all public meetings described in division (C) of this section.	179 180 181
(F) Not later than March 1, 2012, and the first day of March of each year thereafter, the chief investment officer of JobsOhio shall prepare and submit a report of the corporation's activities for the preceding year to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate. The annual report shall include the following:	182 183 184 185 186 187 188
(1) An analysis of the state's economy;	189
(2) A description of the structure, operation, and financial status of the corporation;	190 191
(3) A description of the corporation's strategy to improve the state economy and the standards of measure used to evaluate	192 193

its progress;	194
(4) An evaluation of the performance of current strategies and major initiatives;	195 196
(5) An analysis of any statutory or administrative barriers to successful economic development, business recruitment, and job growth in the state identified by JobsOhio during the preceding year.	197 198 199 200
<u>(G) Not later than the last day of each calendar quarter, the chief investment officer of JobsOhio shall prepare and submit a quarterly progress report to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate. The report shall include all of the following:</u>	201 202 203 204 205 206
<u>(1) Information on all active projects, including the name of the business involved in the project, the industry in which that business operates, the county and region in which the project is located, and the regional network partner responsible for the project;</u>	207 208 209 210 211
<u>(2) Information on the progress of any commitments made with regards to each active project, including the number of jobs the business committed to create or retain, the amount of money the business committed to invest in the state, the actual number of jobs the business has created or retained to date, the payroll attributed to such new or retained jobs, and the actual amount of money the business has invested in the state to date;</u>	212 213 214 215 216 217 218
<u>(3) Information on the type and amount of assistance provided with regards to each active project, including the amount of any loans made or grants awarded and the name of the program under which the loan was made or the grant was awarded;</u>	219 220 221 222



(4) A timeline of the progress of each active project, 223  
including the date on which initial contact was made with the 224  
business involved in the project, the date on which initial 225  
negotiations began between the business and JobsOhio, the date 226  
of any commitment letter or offer of assistance, the date of the 227  
business' formal application for assistance, and the date on 228  
which such application was approved. 229

**Sec. 187.14.** (A) JobsOhio and its subsidiaries are public 230  
offices for the purposes of Chapter 117. of the Revised Code and 231  
shall submit to audits by the auditor of state in accordance 232  
with that chapter. 233

(B) JobsOhio and its subsidiaries, and any nonprofit 234  
economic development corporation that receives or distributes 235  
public funds during the corporation's fiscal year, each shall 236  
prepare an annual financial report that provides a full 237  
accounting of all public and private funds the corporation 238  
received or distributed during that fiscal year. The corporation 239  
shall submit the report to the speaker and minority leader of 240  
the house of representatives, the president and minority leader 241  
of the senate, and the legislative service commission within 242  
sixty days after the last day of the corporation's fiscal year, 243  
and shall make the report available to the public upon request. 244  
The report shall be prepared according to generally accepted 245  
accounting principles and be certified by the board of directors 246  
or chief fiscal officer of the corporation. 247

**Section 2.** That existing sections 117.01 and 187.03 of the 248  
Revised Code are hereby repealed. 249