

As Introduced

133rd General Assembly

Regular Session

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H. B. No. 733

Representatives Russo, Crossman

Cosponsors: Representatives Kent, Kelly, Boggs, Galonski, Patterson, Brent, Boyd, Weinstein, Sobecki, Lepore-Hagan, Miller, J., Brown, Skindell, Robinson, Sheehy, Lightbody, O'Brien, Clites, Crawley, Smith, K., Sweeney, Strahorn, Sykes, Ingram, Leland, Hicks-Hudson, Liston, Miranda, Howse, West, Blair, Upchurch, Denson

A BILL

To amend sections 105.41 and 4117.01 of the Revised Code to make employees of the General Assembly and any state agency of the legislative branch subject to the Public Employees' Collective Bargaining Law and to require a public employer to collectively bargain with an exclusive representative of those employees. 1
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 105.41 and 4117.01 of the Revised Code be amended to read as follows: 8
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Sec. 105.41. (A) There is hereby created in the legislative branch of government the capitol square review and advisory board, consisting of twelve members as follows: 10
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(1) Two members of the senate, appointed by the president of the senate, both of whom shall not be members of the same political party; 13
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(2) Two members of the house of representatives, appointed 16
by the speaker of the house of representatives, both of whom 17
shall not be members of the same political party; 18

(3) Four members appointed by the governor, with the 19
advice and consent of the senate, not more than three of whom 20
shall be members of the same political party, one of whom shall 21
be the chief of staff of the governor's office, one of whom 22
shall represent the Ohio arts council, one of whom shall 23
represent the Ohio history connection, and one of whom shall 24
represent the public at large; 25

(4) One member, who shall be a former president of the 26
senate, appointed by the current president of the senate. If the 27
current president of the senate, in the current president's 28
discretion, decides for any reason not to make the appointment 29
or if no person is eligible or available to serve, the seat 30
shall remain vacant. 31

(5) One member, who shall be a former speaker of the house 32
of representatives, appointed by the current speaker of the 33
house of representatives. If the current speaker of the house of 34
representatives, in the current speaker's discretion, decides 35
for any reason not to make the appointment or if no person is 36
eligible or available to serve, the seat shall remain vacant. 37

(6) The clerk of the senate and the clerk of the house of 38
representatives. 39

(B) Terms of office of each appointed member of the board 40
shall be for three years, except that members of the general 41
assembly appointed to the board shall be members of the board 42
only so long as they are members of the general assembly and the 43
chief of staff of the governor's office shall be a member of the 44

board only so long as the appointing governor remains in office. 45
Each member shall hold office from the date of the member's 46
appointment until the end of the term for which the member was 47
appointed. In case of a vacancy occurring on the board, the 48
president of the senate, the speaker of the house of 49
representatives, or the governor, as the case may be, shall in 50
the same manner prescribed for the regular appointment to the 51
commission, fill the vacancy by appointing a member. Any member 52
appointed to fill a vacancy occurring prior to the expiration of 53
the term for which the member's predecessor was appointed shall 54
hold office for the remainder of the term. Any appointed member 55
shall continue in office subsequent to the expiration date of 56
the member's term until the member's successor takes office, or 57
until a period of sixty days has elapsed, whichever occurs 58
first. 59

(C) The board shall hold meetings in a manner and at times 60
prescribed by the rules adopted by the board. A majority of the 61
board constitutes a quorum, and no action shall be taken by the 62
board unless approved by at least six members or by at least 63
seven members if a person is appointed under division (A) (4) or 64
(5) of this section. At its first meeting, the board shall adopt 65
rules for the conduct of its business and the election of its 66
officers, and shall organize by selecting officers other than a 67
chairperson as it considers necessary. In odd-numbered years, 68
the majority member from the senate shall serve as chairperson; 69
in even-numbered years, the majority member from the house of 70
representatives shall serve as chairperson. Board members shall 71
serve without compensation but shall be reimbursed for actual 72
and necessary expenses incurred in the performance of their 73
duties. 74

(D) The board may do any of the following: 75

(1) Employ or hire on a consulting basis professional, 76
technical, and clerical employees as are necessary for the 77
performance of its duties. All employees of the board are in the 78
unclassified service and serve at the pleasure of the board. For 79
~~purposes of section 4117.01 of the Revised Code, employees of~~ 80
~~the board shall be considered employees of the general assembly,~~ 81
~~except that employees who are covered by a collective bargaining~~ 82
~~agreement on September 29, 2011, shall remain subject to the~~ 83
~~agreement until the agreement expires on its terms, and the~~ 84
~~agreement shall not be extended or renewed. Upon expiration of~~ 85
~~the agreement, the employees are considered employees of the~~ 86
~~general assembly for purposes of section 4117.01 of the Revised~~ 87
~~Code and are in the unclassified service and serve at the~~ 88
~~pleasure of the board.~~ 89

(2) Hold public hearings at times and places as determined 90
by the board; 91

(3) Adopt, amend, or rescind rules necessary to accomplish 92
the duties of the board as set forth in this section; 93

(4) Sponsor, conduct, and support such social events as 94
the board may authorize and consider appropriate for the 95
employees of the board, employees and members of the general 96
assembly, employees of persons under contract with the board or 97
otherwise engaged to perform services on the premises of capitol 98
square, or other persons as the board may consider appropriate. 99
Subject to the requirements of Chapter 4303. of the Revised 100
Code, the board may provide beer, wine, and intoxicating liquor, 101
with or without charge, for those events and may use funds only 102
from the sale of goods and services fund to purchase the beer, 103
wine, and intoxicating liquor the board provides; 104

(5) Purchase a warehouse in which to store items of the 105

capitol collection trust and, whenever necessary, equipment or	106
other property of the board.	107
(E) The board shall do all of the following:	108
(1) Have sole authority to coordinate and approve any	109
improvements, additions, and renovations that are made to the	110
capitol square. The improvements shall include, but not be	111
limited to, the placement of monuments and sculpture on the	112
capitol grounds.	113
(2) Operate the capitol square, and have sole authority to	114
regulate all uses of the capitol square. The uses shall include,	115
but not be limited to, the casual and recreational use of the	116
capitol square.	117
(3) Employ, fix the compensation of, and prescribe the	118
duties of the executive director of the board and other	119
employees the board considers necessary for the performance of	120
its powers and duties;	121
(4) Establish and maintain the capitol collection trust.	122
The capitol collection trust shall consist of furniture,	123
antiques, and other items of personal property that the board	124
shall store in suitable facilities until they are ready to be	125
displayed in the capitol square.	126
(5) Perform repair, construction, contracting, purchasing,	127
maintenance, supervisory, and operating activities the board	128
determines are necessary for the operation and maintenance of	129
the capitol square;	130
(6) Maintain and preserve the capitol square, in	131
accordance with guidelines issued by the United States secretary	132
of the interior for application of the secretary's standards for	133
rehabilitation adopted in 36 C.F.R. part 67;	134

(7) Plan and develop a center at the capitol building for 135
the purpose of educating visitors about the history of Ohio, 136
including its political, economic, and social development and 137
the design and erection of the capitol building and its grounds. 138

(F) (1) The board shall lease capital facilities improved 139
by the department of administrative services or financed by the 140
treasurer of state pursuant to Chapter 154. of the Revised Code 141
for the use of the board, and may enter into any other 142
agreements with the department, the Ohio public facilities 143
commission, or any other authorized governmental agency 144
ancillary to improvement, financing, or leasing of those capital 145
facilities, including, but not limited to, any agreement 146
required by the applicable bond proceedings authorized by 147
Chapter 154. of the Revised Code. Any lease of capital 148
facilities authorized by this section shall be governed by 149
Chapter 154. of the Revised Code. 150

(2) Fees, receipts, and revenues received by the board 151
from the state underground parking garage constitute available 152
receipts as defined in section 154.24 of the Revised Code, and 153
may be pledged to the payment of bond service charges on 154
obligations issued by the treasurer of state pursuant to Chapter 155
154. of the Revised Code to improve, finance, or purchase 156
capital facilities useful to the board. The treasurer of state 157
may, with the consent of the board, provide in the bond 158
proceedings for a pledge of all or a portion of those fees, 159
receipts, and revenues as the treasurer of state determines. The 160
treasurer of state may provide in the bond proceedings or by 161
separate agreement with the board for the transfer of those 162
fees, receipts, and revenues to the appropriate bond service 163
fund or bond service reserve fund as required to pay the bond 164
service charges when due, and any such provision for the 165

transfer of those fees, receipts, and revenues shall be 166
controlling notwithstanding any other provision of law 167
pertaining to those fees, receipts, and revenues. 168

(3) All moneys received by the treasurer of state on 169
account of the board and required by the applicable bond 170
proceedings or by separate agreement with the board to be 171
deposited, transferred, or credited to the bond service fund or 172
bond service reserve fund established by the bond proceedings 173
shall be transferred by the treasurer of state to such fund, 174
whether or not it is in the custody of the treasurer of state, 175
without necessity for further appropriation. 176

(G) (1) Except as otherwise provided in division (G) (2) of 177
this section, all fees, receipts, and revenues received by the 178
board from the state underground parking garage shall be 179
deposited into the state treasury to the credit of the 180
underground parking garage operating fund, which is hereby 181
created, to be used for the purposes specified in division (F) 182
of this section and for the operation and maintenance of the 183
garage. All investment earnings of the fund shall be credited to 184
the fund. 185

(2) There is hereby created the parking garage automated 186
equipment fund, which shall be in the custody of the treasurer 187
of state but shall not be part of the state treasury. Money in 188
the fund shall be used to purchase the automated teller machine 189
quality dollar bills needed for operation of the parking garage 190
automated equipment. The fund shall consist of fees, receipts, 191
or revenues received by the board from the state underground 192
parking garage; provided, however, that the total amount 193
deposited into the fund at any one time shall not exceed ten 194
thousand dollars. All investment earnings of the fund shall be 195

credited to the fund.	196
(H) All donations received by the board shall be deposited	197
into the state treasury to the credit of the capitol square	198
renovation gift fund, which is hereby created. The fund shall be	199
used by the board as follows:	200
(1) To provide part or all of the funding related to	201
construction, goods, or services for the renovation of the	202
capitol square;	203
(2) To purchase art, antiques, and artifacts for display	204
at the capitol square;	205
(3) To award contracts or make grants to organizations for	206
educating the public regarding the historical background and	207
governmental functions of the capitol square. Chapters 125.,	208
127., and 153. and section 3517.13 of the Revised Code do not	209
apply to purchases made exclusively from the fund,	210
notwithstanding anything to the contrary in those chapters or	211
that section. All investment earnings of the fund shall be	212
credited to the fund.	213
(I) Except as provided in divisions (G), (H), and (J) of	214
this section, all fees, receipts, and revenues received by the	215
board shall be deposited into the state treasury to the credit	216
of the sale of goods and services fund, which is hereby created.	217
Money credited to the fund shall be used solely to pay costs of	218
the board other than those specified in divisions (F) and (G) of	219
this section. All investment earnings of the fund shall be	220
credited to the fund.	221
(J) There is hereby created in the state treasury the	222
capitol square improvement fund, to be used by the board to pay	223
construction, renovation, and other costs related to the capitol	224

square for which money is not otherwise available to the board. 225
Whenever the board determines that there is a need to incur 226
those costs and that the unencumbered, unobligated balance to 227
the credit of the underground parking garage operating fund 228
exceeds the amount needed for the purposes specified in division 229
(F) of this section and for the operation and maintenance of the 230
garage, the board may request the director of budget and 231
management to transfer from the underground parking garage 232
operating fund to the capitol square improvement fund the amount 233
needed to pay such construction, renovation, or other costs. The 234
director then shall transfer the amount needed from the excess 235
balance of the underground parking garage operating fund. 236

(K) As the operation and maintenance of the capitol square 237
constitute essential government functions of a public purpose, 238
the board shall not be required to pay taxes or assessments upon 239
the square, upon any property acquired or used by the board 240
under this section, or upon any income generated by the 241
operation of the square. 242

(L) As used in this section, "capitol square" means the 243
capitol building, senate building, capitol atrium, capitol 244
grounds, the state underground parking garage, and the warehouse 245
owned by the board. 246

(M) The capitol annex shall be known as the senate 247
building. 248

(N) Any person may possess a firearm in a motor vehicle in 249
the state underground parking garage at the state capitol 250
building, if the person's possession of the firearm in the motor 251
vehicle is not in violation of section 2923.16 of the Revised 252
Code or any other provision of the Revised Code. Any person may 253
store or leave a firearm in a locked motor vehicle that is 254

parked in the state underground parking garage at the state 255
capitol building, if the person's transportation and possession 256
of the firearm in the motor vehicle while traveling to the 257
garage was not in violation of section 2923.16 of the Revised 258
Code or any other provision of the Revised Code. 259

Sec. 4117.01. As used in this chapter: 260

(A) "Person," in addition to those included in division 261
(C) of section 1.59 of the Revised Code, includes employee 262
organizations, public employees, and public employers. 263

(B) "Public employer" means the state or any political 264
subdivision of the state located entirely within the state, 265
including, without limitation, any municipal corporation with a 266
population of at least five thousand according to the most 267
recent federal decennial census; county; township with a 268
population of at least five thousand in the unincorporated area 269
of the township according to the most recent federal decennial 270
census; school district; governing authority of a community 271
school established under Chapter 3314. of the Revised Code; 272
college preparatory boarding school established under Chapter 273
3328. of the Revised Code or its operator; state institution of 274
higher learning; public or special district; state agency, 275
authority, commission, or board; the general assembly; or other 276
branch of public employment. "Public employer" does not include 277
the nonprofit corporation formed under section 187.01 of the 278
Revised Code. 279

(C) "Public employee" means any person holding a position 280
by appointment or employment in the service of a public 281
employer, including any person working pursuant to a contract 282
between a public employer and a private employer and over whom 283
the national labor relations board has declined jurisdiction on 284

the basis that the involved employees are employees of a public employer, except:	285 286
(1) Persons holding elective office;	287
(2) Employees of the general assembly and <u>(a) Except as provided in division (C) (2) (b) of this section,</u> employees of any <u>other</u> a legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;	288 289 290 291 292
<u>(b) Employees of the general assembly and employees of any state agency in the legislative branch of government are public employees for purposes of this chapter.</u>	293 294 295
(3) Employees on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the governor or the chief executive;	296 297 298 299
(4) Persons who are members of the Ohio organized militia, while training or performing duty under section 5919.29 or 5923.12 of the Revised Code;	300 301 302
(5) Employees of the state employment relations board, including those employees of the state employment relations board utilized by the state personnel board of review in the exercise of the powers and the performance of the duties and functions of the state personnel board of review;	303 304 305 306 307
(6) Confidential employees;	308
(7) Management level employees;	309
(8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial	310 311 312

function;	313
(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;	314 315 316
(10) Supervisors;	317
(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;	318 319 320 321 322
(12) Employees of county boards of election;	323
(13) Seasonal and casual employees as determined by the state employment relations board;	324 325
(14) Part-time faculty members of an institution of higher education;	326 327
(15) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;	328 329 330 331 332 333 334
(16) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;	335 336 337
(17) Employees of community-based correctional facilities and district community-based correctional facilities created under sections 2301.51 to 2301.58 of the Revised Code.	338 339 340

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

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

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

(1) Employees of school districts who are department chairpersons or consulting teachers shall not be deemed supervisors.

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for

the purposes of future collective bargaining. The state 371
employment relations board shall decide all disputes concerning 372
the application of division (F) (2) of this section. 373

(3) With respect to faculty members of a state institution 374
of higher education, heads of departments or divisions are 375
supervisors; however, no other faculty member or group of 376
faculty members is a supervisor solely because the faculty 377
member or group of faculty members participate in decisions with 378
respect to courses, curriculum, personnel, or other matters of 379
academic policy. 380

(4) No teacher as defined in section 3319.09 of the 381
Revised Code shall be designated as a supervisor or a management 382
level employee unless the teacher is employed under a contract 383
governed by section 3319.01, 3319.011, or 3319.02 of the Revised 384
Code and is assigned to a position for which a license deemed to 385
be for administrators under state board rules is required 386
pursuant to section 3319.22 of the Revised Code. 387

(G) "To bargain collectively" means to perform the mutual 388
obligation of the public employer, by its representatives, and 389
the representatives of its employees to negotiate in good faith 390
at reasonable times and places with respect to wages, hours, 391
terms, and other conditions of employment and the continuation, 392
modification, or deletion of an existing provision of a 393
collective bargaining agreement, with the intention of reaching 394
an agreement, or to resolve questions arising under the 395
agreement. "To bargain collectively" includes executing a 396
written contract incorporating the terms of any agreement 397
reached. The obligation to bargain collectively does not mean 398
that either party is compelled to agree to a proposal nor does 399
it require the making of a concession. 400

(H) "Strike" means continuous concerted action in failing 401
to report to duty; willful absence from one's position; or 402
stoppage of work in whole from the full, faithful, and proper 403
performance of the duties of employment, for the purpose of 404
inducing, influencing, or coercing a change in wages, hours, 405
terms, and other conditions of employment. "Strike" does not 406
include a stoppage of work by employees in good faith because of 407
dangerous or unhealthful working conditions at the place of 408
employment that are abnormal to the place of employment. 409

(I) "Unauthorized strike" includes, but is not limited to, 410
concerted action during the term or extended term of a 411
collective bargaining agreement or during the pendency of the 412
settlement procedures set forth in section 4117.14 of the 413
Revised Code in failing to report to duty; willful absence from 414
one's position; stoppage of work; slowdown, or abstinence in 415
whole or in part from the full, faithful, and proper performance 416
of the duties of employment for the purpose of inducing, 417
influencing, or coercing a change in wages, hours, terms, and 418
other conditions of employment. "Unauthorized strike" includes 419
any such action, absence, stoppage, slowdown, or abstinence when 420
done partially or intermittently, whether during or after the 421
expiration of the term or extended term of a collective 422
bargaining agreement or during or after the pendency of the 423
settlement procedures set forth in section 4117.14 of the 424
Revised Code. 425

(J) "Professional employee" means any employee engaged in 426
work that is predominantly intellectual, involving the 427
consistent exercise of discretion and judgment in its 428
performance and requiring knowledge of an advanced type in a 429
field of science or learning customarily acquired by a prolonged 430
course in an institution of higher learning or a hospital, as 431

distinguished from a general academic education or from an 432
apprenticeship; or an employee who has completed the courses of 433
specialized intellectual instruction and is performing related 434
work under the supervision of a professional person to become 435
qualified as a professional employee. 436

(K) "Confidential employee" means any employee who works 437
in the personnel offices of a public employer and deals with 438
information to be used by the public employer in collective 439
bargaining; or any employee who works in a close continuing 440
relationship with public officers or representatives directly 441
participating in collective bargaining on behalf of the 442
employer. 443

(L) "Management level employee" means an individual who 444
formulates policy on behalf of the public employer, who 445
responsibly directs the implementation of policy, or who may 446
reasonably be required on behalf of the public employer to 447
assist in the preparation for the conduct of collective 448
negotiations, administer collectively negotiated agreements, or 449
have a major role in personnel administration. Assistant 450
superintendents, principals, and assistant principals whose 451
employment is governed by section 3319.02 of the Revised Code 452
are management level employees. With respect to members of a 453
faculty of a state institution of higher education, no person is 454
a management level employee because of the person's involvement 455
in the formulation or implementation of academic or institution 456
policy. 457

(M) "Wages" means hourly rates of pay, salaries, or other 458
forms of compensation for services rendered. 459

(N) "Member of a police department" means a person who is 460
in the employ of a police department of a municipal corporation 461

as a full-time regular police officer as the result of an 462
appointment from a duly established civil service eligibility 463
list or under section 737.15 or 737.16 of the Revised Code, a 464
full-time deputy sheriff appointed under section 311.04 of the 465
Revised Code, a township constable appointed under section 466
509.01 of the Revised Code, or a member of a township or joint 467
police district police department appointed under section 505.49 468
of the Revised Code. 469

(O) "Members of the state highway patrol" means highway 470
patrol troopers and radio operators appointed under section 471
5503.01 of the Revised Code. 472

(P) "Member of a fire department" means a person who is in 473
the employ of a fire department of a municipal corporation or a 474
township as a fire cadet, full-time regular firefighter, or 475
promoted rank as the result of an appointment from a duly 476
established civil service eligibility list or under section 477
505.38, 709.012, or 737.22 of the Revised Code. 478

(Q) "Day" means calendar day. 479

Section 2. That existing sections 105.41 and 4117.01 of 480
the Revised Code are hereby repealed. 481