

H. B. No. 497  
As Introduced

\_\_\_\_\_ moved to amend as follows:

In line 3 of the title, after "5540.03" insert "and to enact section 1  
307.901" 2

In line 11, after "5540.03" insert "be amended and section 307.901"; 3  
delete "amended" and insert "enacted" 4

After line 435, insert: 5

"Sec. 307.901. (A) As used in this section, "county" 6  
includes any agency, department, authority, commission, office, 7  
or board of a county. 8

(B) Except as otherwise required or permitted by state or 9  
federal law, a contract entered into by the contracting 10  
authority for the procurement of goods or services shall not 11  
include any of the following: 12

(1) A provision that requires the county to indemnify or 13  
hold harmless another person; 14

(2) A provision by which the county agrees to binding 15  
arbitration or any other binding extra-judicial dispute 16



resolution process; 17

(3) A provision that names a venue for any action or 18  
dispute against the county other than a court of proper 19  
jurisdiction in the county; 20

(4) A provision that requires the county to agree to limit 21  
the liability for any direct loss to the county for bodily 22  
injury, death, or damage to property of the county caused by the 23  
negligence, intentional or willful misconduct, fraudulent act, 24  
recklessness, or other tortious conduct of a person or a 25  
person's employees or agents, or a provision that otherwise 26  
imposes an indemnification obligation on the county; 27

(5) A provision that requires the county to be bound by a 28  
term or condition that is unknown to the county at the time of 29  
signing a contract, that is not specifically negotiated with the 30  
county, that may be unilaterally changed by the other party, or 31  
that is electronically accepted by a county employee; 32

(6) A provision that provides for a person other than the 33  
prosecuting attorney, or an attorney employed pursuant to 34  
section 305.14 or 309.09 of the Revised Code, to serve as legal 35  
counsel for the county; 36

(7) A provision that is inconsistent with the county's 37  
obligations under section 149.43 of the Revised Code; 38

(8) A provision that limits the county's ability to 39  
recover the cost for a replacement contractor. 40

(C) If a contract contains a term or condition described 41  
in division (B) of this section, the term or condition is void 42  
ab initio, and the contract containing that term or condition 43  
otherwise is enforceable as if it did not contain such term or 44

condition. 45

(D) A contract that contains a term or condition described 46  
in division (B) of this section shall be governed by and 47  
construed in accordance with Ohio law notwithstanding any term 48  
or condition to the contrary in the contract. 49

(E) This section does not apply to a contract in effect 50  
before the effective date of this section or to the renewal or 51  
extension of a contract in effect before the effective date of 52  
this section." 53

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS 54

**County contract terms and conditions** 55

**R.C. 307.901** 56

Prohibits a contract entered into by a county for the 57  
procurement of goods or services from including certain terms 58  
and conditions, such as an indemnity clause. 59