

Sub. H. B. No. 96
As Passed by the Senate
DASCD22

_____ moved to amend as follows:

After line 1482, insert:

"**Sec. 9.27.** (A) As used in this section, "state" and
"state agency" mean the state of Ohio, including the governor,
lieutenant governor, secretary of state, auditor of state,
attorney general, and treasurer of state, and all departments,
boards, offices, commissions, agencies, institutions, and other
instrumentalities of the state of Ohio, but not including the
general assembly or any legislative agency, or any court or
judicial agency.

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

(1) A provision that requires the state to indemnify or
hold harmless another person.

(2) A provision by which the state agrees to binding
arbitration or any other binding extra-judicial dispute
resolution process.

(3) A provision that names a venue for any action or 19
dispute against the state other than a court of proper 20
jurisdiction in Franklin county, Ohio. 21

(4) A provision that requires the state to agree to limit 22
the liability for any direct loss to the state for bodily 23
injury, death, or damage to property of the state caused by the 24
negligence, intentional or willful misconduct, fraudulent act, 25
recklessness, or other tortious conduct of a person or a 26
person's employees or agents, or a provision that would 27
otherwise impose an indemnification obligation on the state. 28

(5) A provision that requires the state to be bound by a 29
term or condition that is unknown to the state at the time of 30
signing a contract, that is not specifically negotiated with the 31
state, that may be unilaterally changed by the other party, or 32
that is electronically accepted by a state employee. 33

(6) A provision that provides for a person other than the 34
attorney general to serve as legal counsel for the state or for 35
any state agency, unless allowed for under the process set forth 36
in section 109.07 of the Revised Code. 37

(7) A provision that is inconsistent with the state's 38
obligations under section 149.43 of the Revised Code. 39

(8) A provision for automatic renewal such that state 40
funds are or would be obligated in subsequent fiscal years. 41

(9) A provision that limits the state's ability to recover 42
the cost of cover for a replacement contractor. 43

(10) With respect to a purchase in which a state agency 44
receives a license to use a software application designed to run 45
on generally available desktop or server hardware or cloud 46

platforms, a requirement that the state agency install or run 47
the software on hardware or in a cloud platform dedicated solely 48
to the state agency, or a provision that otherwise restricts the 49
state agency from installing or running the software on hardware 50
or in a cloud platform of the state agency's choosing. 51

(C) If a contract contains a term or condition described 52
in division (B) of this section, the term or condition is void 53
ab initio, and the contract containing that term or condition 54
otherwise shall be enforceable as if it did not contain such 55
term or condition. 56

(D) A contract that contains a term or condition described 57
in division (B) of this section shall be governed by and 58
construed in accordance with Ohio law notwithstanding any term 59
or condition to the contrary in the contract. 60

(E) This section does not apply to a contract in effect 61
~~before the effective date of this section~~ September 30, 2021, or 62
to the renewal or extension of a contract in effect before ~~the~~ 63
~~effective date of this section~~ that date. " 64

Update the title, amend, enact, or repeal clauses accordingly 65

The motion was _____ agreed to.

SYNOPSIS

Software purchases

R.C. 9.27

Reinstates the Executive version provision, which was

retained by the House, and which specifies that a contract 70
entered into by the state for a purchase, in which a state 71
agency receives a license to use a software application designed 72
to run on generally available desktop or server hardware or 73
cloud platforms, may not include certain provisions. 74
Specifically, may not include a requirement that the state 75
agency install or run the software on hardware or in a cloud 76
platform dedicated solely to the state agency, and may not 77
include a provision that otherwise restricts the state agency 78
from installing or running the software on hardware or in a 79
cloud platform of the state agency's choosing. 80