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S.B. 342
136th General Assembly

Bill Analysis

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Version: As Passed by the Senate

Primary Sponsors: Sens. Landis and Chavez

Racheal Vargo, Research Analyst

SUMMARY

- Prohibits a conservancy district's board of directors from including certain provisions, such as an indemnification clause, in a contract for the procurement of goods or services.

DETAILED ANALYSIS

Prohibited conservancy district contract provisions

The bill prohibits a contract entered into by a conservancy district's board of directors for the procurement of goods or services from including any of the following provisions, unless otherwise required or permitted by state or federal law:

- A provision that requires the conservancy district to indemnify or hold harmless another person;
- A provision that names a venue for any action or dispute against the conservancy district other than a court of proper jurisdiction in Ohio;
- A provision that requires the conservancy district to agree to limit the liability for any direct loss to the district for bodily injury, death, or damage to district property caused by the negligence, intentional or willful misconduct, fraudulent act, recklessness, or other tortious conduct of a person or a person's employees or agents, or a provision that otherwise imposes an indemnification obligation on the conservancy district;
- A provision that requires the conservancy district to be bound by a term or condition that is unknown to the district at the time of signing a contract, that is not specifically negotiated with the district, that may be unilaterally changed by the other party, or that is electronically accepted by a district employee;
- A provision that is inconsistent with the conservancy district's obligations regarding availability of public records; or

- A provision that limits the conservancy district's ability to recover the cost for a replacement contractor.

If a contract contains one of these terms or conditions, the term or condition is void *ab initio* (invalid from the outset), however, the contract otherwise is enforceable as if it did not contain the invalid term or condition.[1] For example, if a conservancy district enters into a contract with a vendor, but the vendor refuses to negotiate contract terms beyond its boilerplate terms, the conservancy district can enter into that contract without risking liability for the district. If the contract contains an indemnification clause or other prohibited provision, the contract is valid, but the prohibited clause or provision is invalid. Effectively, this may give conservancy districts more flexibility to legally enter into contracts with vendors that are unwilling to negotiate terms.

Similar laws and retroactivity

This bill significantly mirrors current law's prohibition against a county entering into a contract containing certain provisions, such as an indemnity clause.[2] However, that law specifically exempts the prohibition from applying to any contract in effect before the law's effective date (April 9, 2025), or to the renewal or extension of a contract in effect before that date. While S.B. 342 does not contain that explicit exemption, Article II, Section 28 of the Ohio Constitution prohibits the General Assembly from passing retroactive laws or laws impairing the obligation of contracts. Therefore, if a case is brought before a court to determine the applicability of this bill regarding a contract entered into prior to the bill's effective date, a court may find that the bill's prohibitions do not apply.

HISTORY

Action	Date
Introduced	01-20-26
Reported, S. Agriculture and Natural Resources	06-10-26
Passed Senate (33-0)	06-10-26

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[1] R.C. 6101.162.

[2] See R.C. 307.901, not in the bill.