

As Passed by the House

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 130

Representatives Hagan, Duffey

Cosponsors: Representatives Amstutz, Henne, Perales, Ruhl, Maag, Blessing, Retherford, Bishoff, Brown, Brenner, Hackett, Leland, Burkley, McClain, Reineke, Romanchuk, Scherer, Thompson, Antani, Antonio, Baker, Boyce, Buchy, Conditt, Craig, Cupp, Derickson, Dovilla, Hambley, Kunze, Landis, O'Brien, M., Patterson, Roegner, Rogers, Schaffer, Sheehy, Sweeney

A BILL

To amend section 149.43 and to enact sections 117.432, 149.60, 149.62, and 149.65 of the Revised Code to create the DataOhio Board, to specify requirements for posting public records online, to require the Auditor of State to adopt rules regarding a uniform accounting system for public offices, to establish an online catalog of public data at data.Ohio.gov, to establish the Local Government Information Exchange Grant Program, and to make an appropriation.

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

Section 1. That section 149.43 be amended and sections 117.432, 149.60, 149.62, and 149.65 of the Revised Code be enacted to read as follows:

Sec. 117.432. (A) The general assembly recognizes that uniform accounting procedures and charts of accounts improve

financial management while maintaining the principle of home 16
rule over local matters. It is the intent of the general 17
assembly to facilitate the ability of the public easily to 18
compare public data generated by the state and other public 19
offices using this common language. 20

(B) Within two years after the effective date of this 21
section, the auditor of state shall establish, by rule adopted 22
under Chapter 119. of the Revised Code, appropriate uniform 23
accounting procedures and charts of accounts that may be used by 24
all public offices. Public offices that maintain their financial 25
records in accordance with the rules established by the auditor 26
of state under this section shall be declared by the auditor of 27
state to have earned a "DataOhio Transparency Award-Uniformity 28
of Accounting." 29

(C) The auditor of state may use existing uniform 30
accounting procedures or charts of accounts to satisfy the 31
requirements of division (B) of this section, or may supplement 32
or amend existing uniform accounting procedures or charts of 33
accounts to satisfy the requirements of division (B) of this 34
section. 35

Sec. 149.43. (A) As used in this section: 36

(1) "Public record" means records kept by any public 37
office, including, but not limited to, state, county, city, 38
village, township, and school district units, and records 39
pertaining to the delivery of educational services by an 40
alternative school in this state kept by the nonprofit or for- 41
profit entity operating the alternative school pursuant to 42
section 3313.533 of the Revised Code. "Public record" does not 43
mean any of the following: 44

| | |
|--|----------------------------------|
| (a) Medical records; | 45 |
| (b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions; | 46 47 48 |
| (c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections; | 49 50 51 |
| (d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code; | 52 53 54 |
| (e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency; | 55 56 57 58 59 60 |
| (f) Records specified in division (A) of section 3107.52 of the Revised Code; | 61 62 |
| (g) Trial preparation records; | 63 |
| (h) Confidential law enforcement investigatory records; | 64 |
| (i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code; | 65 66 |
| (j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code; | 67 68 |
| (k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of | 69 70 71 |

| | |
|--|----|
| section 5120.21 of the Revised Code; | 72 |
| (l) Records maintained by the department of youth services | 73 |
| pertaining to children in its custody released by the department | 74 |
| of youth services to the department of rehabilitation and | 75 |
| correction pursuant to section 5139.05 of the Revised Code; | 76 |
| (m) Intellectual property records; | 77 |
| (n) Donor profile records; | 78 |
| (o) Records maintained by the department of job and family | 79 |
| services pursuant to section 3121.894 of the Revised Code; | 80 |
| (p) Peace officer, parole officer, probation officer, | 81 |
| bailiff, prosecuting attorney, assistant prosecuting attorney, | 82 |
| correctional employee, community-based correctional facility | 83 |
| employee, youth services employee, firefighter, EMT, or | 84 |
| investigator of the bureau of criminal identification and | 85 |
| investigation residential and familial information; | 86 |
| (q) In the case of a county hospital operated pursuant to | 87 |
| Chapter 339. of the Revised Code or a municipal hospital | 88 |
| operated pursuant to Chapter 749. of the Revised Code, | 89 |
| information that constitutes a trade secret, as defined in | 90 |
| section 1333.61 of the Revised Code; | 91 |
| (r) Information pertaining to the recreational activities | 92 |
| of a person under the age of eighteen; | 93 |
| (s) In the case of a child fatality review board acting | 94 |
| under sections 307.621 to 307.629 of the Revised Code or a | 95 |
| review conducted pursuant to guidelines established by the | 96 |
| director of health under section 3701.70 of the Revised Code, | 97 |
| records provided to the board or director, statements made by | 98 |
| board members during meetings of the board or by persons | 99 |

| | |
|--|-----|
| participating in the director's review, and all work products of | 100 |
| the board or director, and in the case of a child fatality | 101 |
| review board, child fatality review data submitted by the board | 102 |
| to the department of health or a national child death review | 103 |
| database, other than the report prepared pursuant to division | 104 |
| (A) of section 307.626 of the Revised Code; | 105 |
| (t) Records provided to and statements made by the | 106 |
| executive director of a public children services agency or a | 107 |
| prosecuting attorney acting pursuant to section 5153.171 of the | 108 |
| Revised Code other than the information released under that | 109 |
| section; | 110 |
| (u) Test materials, examinations, or evaluation tools used | 111 |
| in an examination for licensure as a nursing home administrator | 112 |
| that the board of executives of long-term services and supports | 113 |
| administers under section 4751.04 of the Revised Code or | 114 |
| contracts under that section with a private or government entity | 115 |
| to administer; | 116 |
| (v) Records the release of which is prohibited by state or | 117 |
| federal law; | 118 |
| (w) Proprietary information of or relating to any person | 119 |
| that is submitted to or compiled by the Ohio venture capital | 120 |
| authority created under section 150.01 of the Revised Code; | 121 |
| (x) Financial statements and data any person submits for | 122 |
| any purpose to the Ohio housing finance agency or the | 123 |
| controlling board in connection with applying for, receiving, or | 124 |
| accounting for financial assistance from the agency, and | 125 |
| information that identifies any individual who benefits directly | 126 |
| or indirectly from financial assistance from the agency; | 127 |
| (y) Records listed in section 5101.29 of the Revised Code; | 128 |

| | |
|--|-----|
| (z) Discharges recorded with a county recorder under | 129 |
| section 317.24 of the Revised Code, as specified in division (B) | 130 |
| (2) of that section; | 131 |
| (aa) Usage information including names and addresses of | 132 |
| specific residential and commercial customers of a municipally | 133 |
| owned or operated public utility; | 134 |
| (bb) Records described in division (C) of section 187.04 | 135 |
| of the Revised Code that are not designated to be made available | 136 |
| to the public as provided in that division; | 137 |
| (cc) Information and records that are made confidential, | 138 |
| privileged, and not subject to disclosure under divisions (B) | 139 |
| and (C) of section 2949.221 of the Revised Code. | 140 |
| (2) "Confidential law enforcement investigatory record" | 141 |
| means any record that pertains to a law enforcement matter of a | 142 |
| criminal, quasi-criminal, civil, or administrative nature, but | 143 |
| only to the extent that the release of the record would create a | 144 |
| high probability of disclosure of any of the following: | 145 |
| (a) The identity of a suspect who has not been charged | 146 |
| with the offense to which the record pertains, or of an | 147 |
| information source or witness to whom confidentiality has been | 148 |
| reasonably promised; | 149 |
| (b) Information provided by an information source or | 150 |
| witness to whom confidentiality has been reasonably promised, | 151 |
| which information would reasonably tend to disclose the source's | 152 |
| or witness's identity; | 153 |
| (c) Specific confidential investigatory techniques or | 154 |
| procedures or specific investigatory work product; | 155 |
| (d) Information that would endanger the life or physical | 156 |

safety of law enforcement personnel, a crime victim, a witness, 157
or a confidential information source. 158

(3) "Medical record" means any document or combination of 159
documents, except births, deaths, and the fact of admission to 160
or discharge from a hospital, that pertains to the medical 161
history, diagnosis, prognosis, or medical condition of a patient 162
and that is generated and maintained in the process of medical 163
treatment. 164

(4) "Trial preparation record" means any record that 165
contains information that is specifically compiled in reasonable 166
anticipation of, or in defense of, a civil or criminal action or 167
proceeding, including the independent thought processes and 168
personal trial preparation of an attorney. 169

(5) "Intellectual property record" means a record, other 170
than a financial or administrative record, that is produced or 171
collected by or for faculty or staff of a state institution of 172
higher learning in the conduct of or as a result of study or 173
research on an educational, commercial, scientific, artistic, 174
technical, or scholarly issue, regardless of whether the study 175
or research was sponsored by the institution alone or in 176
conjunction with a governmental body or private concern, and 177
that has not been publicly released, published, or patented. 178

(6) "Donor profile record" means all records about donors 179
or potential donors to a public institution of higher education 180
except the names and reported addresses of the actual donors and 181
the date, amount, and conditions of the actual donation. 182

(7) "Peace officer, parole officer, probation officer, 183
bailiff, prosecuting attorney, assistant prosecuting attorney, 184
correctional employee, community-based correctional facility 185

employee, youth services employee, firefighter, EMT, or 186
investigator of the bureau of criminal identification and 187
investigation residential and familial information" means any 188
information that discloses any of the following about a peace 189
officer, parole officer, probation officer, bailiff, prosecuting 190
attorney, assistant prosecuting attorney, correctional employee, 191
community-based correctional facility employee, youth services 192
employee, firefighter, EMT, or investigator of the bureau of 193
criminal identification and investigation: 194

(a) The address of the actual personal residence of a 195
peace officer, parole officer, probation officer, bailiff, 196
assistant prosecuting attorney, correctional employee, 197
community-based correctional facility employee, youth services 198
employee, firefighter, EMT, or an investigator of the bureau of 199
criminal identification and investigation, except for the state 200
or political subdivision in which the peace officer, parole 201
officer, probation officer, bailiff, assistant prosecuting 202
attorney, correctional employee, community-based correctional 203
facility employee, youth services employee, firefighter, EMT, or 204
investigator of the bureau of criminal identification and 205
investigation resides; 206

(b) Information compiled from referral to or participation 207
in an employee assistance program; 208

(c) The social security number, the residential telephone 209
number, any bank account, debit card, charge card, or credit 210
card number, or the emergency telephone number of, or any 211
medical information pertaining to, a peace officer, parole 212
officer, probation officer, bailiff, prosecuting attorney, 213
assistant prosecuting attorney, correctional employee, 214
community-based correctional facility employee, youth services 215

employee, firefighter, EMT, or investigator of the bureau of 216
criminal identification and investigation; 217

(d) The name of any beneficiary of employment benefits, 218
including, but not limited to, life insurance benefits, provided 219
to a peace officer, parole officer, probation officer, bailiff, 220
prosecuting attorney, assistant prosecuting attorney, 221
correctional employee, community-based correctional facility 222
employee, youth services employee, firefighter, EMT, or 223
investigator of the bureau of criminal identification and 224
investigation by the peace officer's, parole officer's, 225
probation officer's, bailiff's, prosecuting attorney's, 226
assistant prosecuting attorney's, correctional employee's, 227
community-based correctional facility employee's, youth services 228
employee's, firefighter's, EMT's, or investigator of the bureau 229
of criminal identification and investigation's employer; 230

(e) The identity and amount of any charitable or 231
employment benefit deduction made by the peace officer's, parole 232
officer's, probation officer's, bailiff's, prosecuting 233
attorney's, assistant prosecuting attorney's, correctional 234
employee's, community-based correctional facility employee's, 235
youth services employee's, firefighter's, EMT's, or investigator 236
of the bureau of criminal identification and investigation's 237
employer from the peace officer's, parole officer's, probation 238
officer's, bailiff's, prosecuting attorney's, assistant 239
prosecuting attorney's, correctional employee's, community-based 240
correctional facility employee's, youth services employee's, 241
firefighter's, EMT's, or investigator of the bureau of criminal 242
identification and investigation's compensation unless the 243
amount of the deduction is required by state or federal law; 244

(f) The name, the residential address, the name of the 245

employer, the address of the employer, the social security 246
number, the residential telephone number, any bank account, 247
debit card, charge card, or credit card number, or the emergency 248
telephone number of the spouse, a former spouse, or any child of 249
a peace officer, parole officer, probation officer, bailiff, 250
prosecuting attorney, assistant prosecuting attorney, 251
correctional employee, community-based correctional facility 252
employee, youth services employee, firefighter, EMT, or 253
investigator of the bureau of criminal identification and 254
investigation; 255

(g) A photograph of a peace officer who holds a position 256
or has an assignment that may include undercover or plain 257
clothes positions or assignments as determined by the peace 258
officer's appointing authority. 259

As used in divisions (A) (7) and (B) (9) of this section, 260
"peace officer" has the same meaning as in section 109.71 of the 261
Revised Code and also includes the superintendent and troopers 262
of the state highway patrol; it does not include the sheriff of 263
a county or a supervisory employee who, in the absence of the 264
sheriff, is authorized to stand in for, exercise the authority 265
of, and perform the duties of the sheriff. 266

As used in divisions (A) (7) and (B) (9) of this section, 267
"correctional employee" means any employee of the department of 268
rehabilitation and correction who in the course of performing 269
the employee's job duties has or has had contact with inmates 270
and persons under supervision. 271

As used in divisions (A) (7) and (B) (9) of this section, 272
"youth services employee" means any employee of the department 273
of youth services who in the course of performing the employee's 274
job duties has or has had contact with children committed to the 275

| | |
|--|-----|
| custody of the department of youth services. | 276 |
| As used in divisions (A) (7) and (B) (9) of this section, | 277 |
| "firefighter" means any regular, paid or volunteer, member of a | 278 |
| lawfully constituted fire department of a municipal corporation, | 279 |
| township, fire district, or village. | 280 |
| As used in divisions (A) (7) and (B) (9) of this section, | 281 |
| "EMT" means EMTs-basic, EMTs-I, and paramedics that provide | 282 |
| emergency medical services for a public emergency medical | 283 |
| service organization. "Emergency medical service organization," | 284 |
| "EMT-basic," "EMT-I," and "paramedic" have the same meanings as | 285 |
| in section 4765.01 of the Revised Code. | 286 |
| As used in divisions (A) (7) and (B) (9) of this section, | 287 |
| "investigator of the bureau of criminal identification and | 288 |
| investigation" has the meaning defined in section 2903.11 of the | 289 |
| Revised Code. | 290 |
| (8) "Information pertaining to the recreational activities | 291 |
| of a person under the age of eighteen" means information that is | 292 |
| kept in the ordinary course of business by a public office, that | 293 |
| pertains to the recreational activities of a person under the | 294 |
| age of eighteen years, and that discloses any of the following: | 295 |
| (a) The address or telephone number of a person under the | 296 |
| age of eighteen or the address or telephone number of that | 297 |
| person's parent, guardian, custodian, or emergency contact | 298 |
| person; | 299 |
| (b) The social security number, birth date, or | 300 |
| photographic image of a person under the age of eighteen; | 301 |
| (c) Any medical record, history, or information pertaining | 302 |
| to a person under the age of eighteen; | 303 |

(d) Any additional information sought or required about a 304
person under the age of eighteen for the purpose of allowing 305
that person to participate in any recreational activity 306
conducted or sponsored by a public office or to use or obtain 307
admission privileges to any recreational facility owned or 308
operated by a public office. 309

(9) "Community control sanction" has the same meaning as 310
in section 2929.01 of the Revised Code. 311

(10) "Post-release control sanction" has the same meaning 312
as in section 2967.01 of the Revised Code. 313

(11) "Redaction" means obscuring or deleting any 314
information that is exempt from the duty to permit public 315
inspection or copying from an item that otherwise meets the 316
definition of a "record" in section 149.011 of the Revised Code. 317

(12) "Designee" and "elected official" have the same 318
meanings as in section 109.43 of the Revised Code. 319

(B) (1) Upon request and subject to division (B) (8) of this 320
section, all public records responsive to the request shall be 321
promptly prepared and made available for inspection to any 322
person at all reasonable times during regular business hours. 323
Subject to division (B) (8) of this section, upon request, a 324
public office or person responsible for public records shall 325
make copies of the requested public record available at cost and 326
within a reasonable period of time. If a public record contains 327
information that is exempt from the duty to permit public 328
inspection or to copy the public record, the public office or 329
the person responsible for the public record shall make 330
available all of the information within the public record that 331
is not exempt. When making that public record available for 332

public inspection or copying that public record, the public 333
office or the person responsible for the public record shall 334
notify the requester of any redaction or make the redaction 335
plainly visible. A redaction shall be deemed a denial of a 336
request to inspect or copy the redacted information, except if 337
federal or state law authorizes or requires a public office to 338
make the redaction. 339

(2) To facilitate broader access to public records, a 340
public office or the person responsible for public records shall 341
organize and maintain public records in a manner that they can 342
be made available for inspection or copying in accordance with 343
division (B) of this section. A public office also shall have 344
available a copy of its current records retention schedule at a 345
location readily available to the public. If a requester makes 346
an ambiguous or overly broad request or has difficulty in making 347
a request for copies or inspection of public records under this 348
section such that the public office or the person responsible 349
for the requested public record cannot reasonably identify what 350
public records are being requested, the public office or the 351
person responsible for the requested public record may deny the 352
request but shall provide the requester with an opportunity to 353
revise the request by informing the requester of the manner in 354
which records are maintained by the public office and accessed 355
in the ordinary course of the public office's or person's 356
duties. 357

(3) If a request is ultimately denied, in part or in 358
whole, the public office or the person responsible for the 359
requested public record shall provide the requester with an 360
explanation, including legal authority, setting forth why the 361
request was denied. If the initial request was provided in 362
writing, the explanation also shall be provided to the requester 363

in writing. The explanation shall not preclude the public office 364
or the person responsible for the requested public record from 365
relying upon additional reasons or legal authority in defending 366
an action commenced under division (C) of this section. 367

(4) Unless specifically required or authorized by state or 368
federal law or in accordance with division (B) of this section, 369
no public office or person responsible for public records may 370
limit or condition the availability of public records by 371
requiring disclosure of the requester's identity or the intended 372
use of the requested public record. Any requirement that the 373
requester disclose the requestor's identity or the intended use 374
of the requested public record constitutes a denial of the 375
request. 376

(5) A public office or person responsible for public 377
records may ask a requester to make the request in writing, may 378
ask for the requester's identity, and may inquire about the 379
intended use of the information requested, but may do so only 380
after disclosing to the requester that a written request is not 381
mandatory and that the requester may decline to reveal the 382
requester's identity or the intended use and when a written 383
request or disclosure of the identity or intended use would 384
benefit the requester by enhancing the ability of the public 385
office or person responsible for public records to identify, 386
locate, or deliver the public records sought by the requester. 387

(6) If any person chooses to obtain a copy of a public 388
record in accordance with division (B) of this section, the 389
public office or person responsible for the public record may 390
require that person to pay in advance the cost involved in 391
providing the copy of the public record in accordance with the 392
choice made by the person seeking the copy under this division. 393

The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

(7) Upon a request made in accordance with division (B) of this section and subject to division (B) (6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by

United States mail or by any other means of delivery or 425
transmission pursuant to this division. A public office that 426
adopts a policy and procedures under this division shall comply 427
with them in performing its duties under this division. 428

In any policy and procedures adopted under this division, 429
a public office may limit the number of records requested by a 430
person that the office will transmit by United States mail to 431
ten per month, unless the person certifies to the office in 432
writing that the person does not intend to use or forward the 433
requested records, or the information contained in them, for 434
commercial purposes. For purposes of this division, "commercial" 435
shall be narrowly construed and does not include reporting or 436
gathering news, reporting or gathering information to assist 437
citizen oversight or understanding of the operation or 438
activities of government, or nonprofit educational research. 439

(8) A public office or person responsible for public 440
records is not required to permit a person who is incarcerated 441
pursuant to a criminal conviction or a juvenile adjudication to 442
inspect or to obtain a copy of any public record concerning a 443
criminal investigation or prosecution or concerning what would 444
be a criminal investigation or prosecution if the subject of the 445
investigation or prosecution were an adult, unless the request 446
to inspect or to obtain a copy of the record is for the purpose 447
of acquiring information that is subject to release as a public 448
record under this section and the judge who imposed the sentence 449
or made the adjudication with respect to the person, or the 450
judge's successor in office, finds that the information sought 451
in the public record is necessary to support what appears to be 452
a justiciable claim of the person. 453

(9) (a) Upon written request made and signed by a 454

journalist on or after December 16, 1999, a public office, or 455
person responsible for public records, having custody of the 456
records of the agency employing a specified peace officer, 457
parole officer, probation officer, bailiff, prosecuting 458
attorney, assistant prosecuting attorney, correctional employee, 459
community-based correctional facility employee, youth services 460
employee, firefighter, EMT, or investigator of the bureau of 461
criminal identification and investigation shall disclose to the 462
journalist the address of the actual personal residence of the 463
peace officer, parole officer, probation officer, bailiff, 464
prosecuting attorney, assistant prosecuting attorney, 465
correctional employee, community-based correctional facility 466
employee, youth services employee, firefighter, EMT, or 467
investigator of the bureau of criminal identification and 468
investigation and, if the peace officer's, parole officer's, 469
probation officer's, bailiff's, prosecuting attorney's, 470
assistant prosecuting attorney's, correctional employee's, 471
community-based correctional facility employee's, youth services 472
employee's, firefighter's, EMT's, or investigator of the bureau 473
of criminal identification and investigation's spouse, former 474
spouse, or child is employed by a public office, the name and 475
address of the employer of the peace officer's, parole 476
officer's, probation officer's, bailiff's, prosecuting 477
attorney's, assistant prosecuting attorney's, correctional 478
employee's, community-based correctional facility employee's, 479
youth services employee's, firefighter's, EMT's, or investigator 480
of the bureau of criminal identification and investigation's 481
spouse, former spouse, or child. The request shall include the 482
journalist's name and title and the name and address of the 483
journalist's employer and shall state that disclosure of the 484
information sought would be in the public interest. 485

(b) Division (B) (9) (a) of this section also applies to 486
journalist requests for customer information maintained by a 487
municipally owned or operated public utility, other than social 488
security numbers and any private financial information such as 489
credit reports, payment methods, credit card numbers, and bank 490
account information. 491

(c) As used in division (B) (9) of this section, 492
"journalist" means a person engaged in, connected with, or 493
employed by any news medium, including a newspaper, magazine, 494
press association, news agency, or wire service, a radio or 495
television station, or a similar medium, for the purpose of 496
gathering, processing, transmitting, compiling, editing, or 497
disseminating information for the general public. 498

(C) (1) If a person allegedly is aggrieved by the failure 499
of a public office or the person responsible for public records 500
to promptly prepare a public record and to make it available to 501
the person for inspection in accordance with division (B) of 502
this section or by any other failure of a public office or the 503
person responsible for public records to comply with an 504
obligation in accordance with division (B) of this section, the 505
person allegedly aggrieved may commence a mandamus action to 506
obtain a judgment that orders the public office or the person 507
responsible for the public record to comply with division (B) of 508
this section, that awards court costs and reasonable attorney's 509
fees to the person that instituted the mandamus action, and, if 510
applicable, that includes an order fixing statutory damages 511
under division (C) (1) of this section. The mandamus action may 512
be commenced in the court of common pleas of the county in which 513
division (B) of this section allegedly was not complied with, in 514
the supreme court pursuant to its original jurisdiction under 515
Section 2 of Article IV, Ohio Constitution, or in the court of 516

appeals for the appellate district in which division (B) of this 517
section allegedly was not complied with pursuant to its original 518
jurisdiction under Section 3 of Article IV, Ohio Constitution. 519

If a requestor transmits a written request by hand 520
delivery or certified mail to inspect or receive copies of any 521
public record in a manner that fairly describes the public 522
record or class of public records to the public office or person 523
responsible for the requested public records, except as 524
otherwise provided in this section, the requestor shall be 525
entitled to recover the amount of statutory damages set forth in 526
this division if a court determines that the public office or 527
the person responsible for public records failed to comply with 528
an obligation in accordance with division (B) of this section. 529

The amount of statutory damages shall be fixed at one 530
hundred dollars for each business day during which the public 531
office or person responsible for the requested public records 532
failed to comply with an obligation in accordance with division 533
(B) of this section, beginning with the day on which the 534
requester files a mandamus action to recover statutory damages, 535
up to a maximum of one thousand dollars. The award of statutory 536
damages shall not be construed as a penalty, but as compensation 537
for injury arising from lost use of the requested information. 538
The existence of this injury shall be conclusively presumed. The 539
award of statutory damages shall be in addition to all other 540
remedies authorized by this section. 541

The court may reduce an award of statutory damages or not 542
award statutory damages if the court determines both of the 543
following: 544

(a) That, based on the ordinary application of statutory 545
law and case law as it existed at the time of the conduct or 546

threatened conduct of the public office or person responsible 547
for the requested public records that allegedly constitutes a 548
failure to comply with an obligation in accordance with division 549
(B) of this section and that was the basis of the mandamus 550
action, a well-informed public office or person responsible for 551
the requested public records reasonably would believe that the 552
conduct or threatened conduct of the public office or person 553
responsible for the requested public records did not constitute 554
a failure to comply with an obligation in accordance with 555
division (B) of this section; 556

(b) That a well-informed public office or person 557
responsible for the requested public records reasonably would 558
believe that the conduct or threatened conduct of the public 559
office or person responsible for the requested public records 560
would serve the public policy that underlies the authority that 561
is asserted as permitting that conduct or threatened conduct. 562

(2) (a) If the court issues a writ of mandamus that orders 563
the public office or the person responsible for the public 564
record to comply with division (B) of this section and 565
determines that the circumstances described in division (C) (1) 566
of this section exist, the court shall determine and award to 567
the relator all court costs. 568

(b) If the court renders a judgment that orders the public 569
office or the person responsible for the public record to comply 570
with division (B) of this section, the court may award 571
reasonable attorney's fees subject to reduction as described in 572
division (C) (2) (c) of this section. The court shall award 573
reasonable attorney's fees, subject to reduction as described in 574
division (C) (2) (c) of this section when either of the following 575
applies: 576

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(c) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person

responsible for the requested public records reasonably would 607
believe that the conduct or threatened conduct of the public 608
office or person responsible for the requested public records as 609
described in division (C) (2) (c) (i) of this section would serve 610
the public policy that underlies the authority that is asserted 611
as permitting that conduct or threatened conduct. 612

(D) Chapter 1347. of the Revised Code does not limit the 613
provisions of this section. 614

(E) (1) To ensure that all employees of public offices are 615
appropriately educated about a public office's obligations under 616
division (B) of this section, all elected officials or their 617
appropriate designees shall attend training approved by the 618
attorney general as provided in section 109.43 of the Revised 619
Code. In addition, all public offices shall adopt a public 620
records policy in compliance with this section for responding to 621
public records requests. In adopting a public records policy 622
under this division, a public office may obtain guidance from 623
the model public records policy developed and provided to the 624
public office by the attorney general under section 109.43 of 625
the Revised Code. Except as otherwise provided in this section, 626
the policy may not limit the number of public records that the 627
public office will make available to a single person, may not 628
limit the number of public records that it will make available 629
during a fixed period of time, and may not establish a fixed 630
period of time before it will respond to a request for 631
inspection or copying of public records, unless that period is 632
less than eight hours. 633

(2) The public office shall distribute the public records 634
policy adopted by the public office under division (E) (1) of 635
this section to the employee of the public office who is the 636

records custodian or records manager or otherwise has custody of 637
the records of that office. The public office shall require that 638
employee to acknowledge receipt of the copy of the public 639
records policy. The public office shall create a poster that 640
describes its public records policy and shall post the poster in 641
a conspicuous place in the public office and in all locations 642
where the public office has branch offices. The public office 643
may post its public records policy on the internet web site of 644
the public office if the public office maintains an internet web 645
site. A public office that has established a manual or handbook 646
of its general policies and procedures for all employees of the 647
public office shall include the public records policy of the 648
public office in the manual or handbook. 649

(F) (1) The bureau of motor vehicles may adopt rules 650
pursuant to Chapter 119. of the Revised Code to reasonably limit 651
the number of bulk commercial special extraction requests made 652
by a person for the same records or for updated records during a 653
calendar year. The rules may include provisions for charges to 654
be made for bulk commercial special extraction requests for the 655
actual cost of the bureau, plus special extraction costs, plus 656
ten per cent. The bureau may charge for expenses for redacting 657
information, the release of which is prohibited by law. 658

(2) As used in division (F) (1) of this section: 659

(a) "Actual cost" means the cost of depleted supplies, 660
records storage media costs, actual mailing and alternative 661
delivery costs, or other transmitting costs, and any direct 662
equipment operating and maintenance costs, including actual 663
costs paid to private contractors for copying services. 664

(b) "Bulk commercial special extraction request" means a 665
request for copies of a record for information in a format other 666

than the format already available, or information that cannot be 667
extracted without examination of all items in a records series, 668
class of records, or database by a person who intends to use or 669
forward the copies for surveys, marketing, solicitation, or 670
resale for commercial purposes. "Bulk commercial special 671
extraction request" does not include a request by a person who 672
gives assurance to the bureau that the person making the request 673
does not intend to use or forward the requested copies for 674
surveys, marketing, solicitation, or resale for commercial 675
purposes. 676

(c) "Commercial" means profit-seeking production, buying, 677
or selling of any good, service, or other product. 678

(d) "Special extraction costs" means the cost of the time 679
spent by the lowest paid employee competent to perform the task, 680
the actual amount paid to outside private contractors employed 681
by the bureau, or the actual cost incurred to create computer 682
programs to make the special extraction. "Special extraction 683
costs" include any charges paid to a public agency for computer 684
or records services. 685

(3) For purposes of divisions (F) (1) and (2) of this 686
section, "surveys, marketing, solicitation, or resale for 687
commercial purposes" shall be narrowly construed and does not 688
include reporting or gathering news, reporting or gathering 689
information to assist citizen oversight or understanding of the 690
operation or activities of government, or nonprofit educational 691
research. 692

(G) (1) A public office that posts a public record on its 693
web site, or on a public web site maintained or authorized by 694
the state, shall make its best efforts to post the public record 695
in an open format so that the public record, or the data 696

contained in the public record, is capable of being searched, 697
viewed, and downloaded by the public, and is in a format that is 698
machine readable. 699

(2) A public office that opts in to posting public records 700
online in an open format shall include in the public office's 701
public records policy a statement indicating which public 702
records the public office posts in accordance with the 703
requirements of division (G) (1) of this section, and shall make 704
its best effort to continue to post public records online in an 705
open format in accordance with its public records policy. A 706
public office shall submit to the DataOhio board, not later than 707
thirty days after amending its public records policy regarding 708
public records posted in accordance with the requirements of 709
division (G) (1) of this section, the portion of its public 710
records policy that states which public records are posted. 711

(3) Nothing in this section requires a public office to 712
post public records to a web site or prohibits a public office 713
from opting out of posting public records online after opting 714
in. A public office's decision regarding which public records to 715
post in accordance with the requirements of division (G) (1) of 716
this section, if any, is solely within the discretion of the 717
public office. A public office's decision in this regard is 718
final and may not be modified except by action of the public 719
office. 720

Sec. 149.60. (A) As used in this section: 721

(1) "Metropolitan planning organization" means a 722
metropolitan planning organization designated under 23 U.S.C. 723
134, as amended. 724

(2) "Public record" has the meaning defined in section 725

149.43 of the Revised Code. 726

(B) There is hereby established the local government 727
information exchange grant program. The program shall be 728
administered by the state librarian. The state librarian shall 729
adopt rules under Chapter 119. of the Revised Code as are 730
necessary to administer the program. The rules shall include all 731
of the following: 732

(1) Grant eligibility criteria, which shall include a 733
requirement that a grantee be a county, township, municipal 734
corporation, or public library, or a regional planning 735
commission, metropolitan planning organization, or regional 736
council of governments, which may apply for a grant on behalf of 737
a county, township, municipal corporation, or public library or 738
group thereof, to assist them in meeting the requirements of 739
this section; 740

(2) Specifications for what data sets of public records 741
must be included by a county, township, municipal corporation, 742
or public library in order for the county, township, municipal 743
corporation, or public library to be eligible for a grant; 744

(3) A requirement that data satisfying the grant criteria 745
be posted on the internet by the county, township, municipal 746
corporation, or public library, in an open format that is 747
capable of being searched, viewed, and downloaded by the public; 748

(4) Specifications for consistent formatting and 749
technology standards for data satisfying the grant eligibility 750
criteria; 751

(5) Specifications for accounting standards for data 752
provided by a county, township, municipal corporation, or public 753
library; and 754

(6) A requirement that the data provided by a grantee be 755
provided in a format that is compatible with, and able to be 756
published by the treasurer of state as part of, the Ohio online 757
checkbook or a similar program. 758

Required data may be different for counties, townships, 759
municipal corporations, or public libraries. 760

(C) The state librarian shall disburse a grant of ten 761
thousand dollars to each county, township, municipal 762
corporation, or public library that meets the grant eligibility 763
criteria established by the state librarian, or to a regional 764
planning commission, metropolitan planning organization, or 765
regional council of governments for each county, township, 766
municipal corporation, or public library applied for that meets 767
the grant eligibility criteria established by the state 768
librarian. Grants shall be awarded in the order in which the 769
counties, townships, municipal corporations, or public libraries 770
have met the eligibility criteria. The total amount of grants 771
awarded shall not exceed the amount that can be funded with 772
appropriations made by the general assembly for this purpose. 773

(D) Nothing in this section prohibits a grantee who 774
received a grant under this section from pooling the grant with 775
other grants received under this section by other grantees, to 776
assist them in meeting the requirements of this section or to 777
comply with division (G) of section 149.43 of the Revised Code. 778

Sec. 149.62. (A) As used in this section: 779

(1) "Local government" means bodies corporate and politic 780
responsible for governmental activities only in geographical 781
areas smaller than that of the state. 782

(2) "Open format" has the meaning defined contextually in 783

| | |
|--|-----|
| <u>division (G) (1) of section 149.43 of the Revised Code.</u> | 784 |
| <u>(3) "Public record" has the meaning defined in section 149.43 of the Revised Code.</u> | 785 |
| <u>(B) The general assembly recognizes that public-use data from public offices offers an avenue toward open and transparent government, stimulates business innovation, and can help public offices become more effective. It is the intent of the general assembly to facilitate the ability of the public easily to find, download, and use public records and data sets of public records that are generated and held by public offices. With these goals in mind, the general assembly creates the DataOhio board to do all of the following:</u> | 787 |
| <u>(1) Recommend categories of public records that public offices should make available to the public online in an open format;</u> | 788 |
| <u>(2) Recommend technology standards for open data use in the state that reflect the most current standards used nationally and in other states;</u> | 789 |
| <u>(3) Recommend accounting standards for financial data of public offices to facilitate comparison across public offices and services;</u> | 790 |
| <u>(4) Recommend metadata definitional standards for nonfinancial data of public offices to facilitate comparison and use of this data across public offices; and</u> | 791 |
| <u>(5) Consider creation by the state of data.Ohio.gov, an online catalog of public records and data sets of public records made available by state agencies and local governments, as well as collaboration with efforts underway at the federal and state levels.</u> | 792 |
| | 793 |
| | 794 |
| | 795 |
| | 796 |
| | 797 |
| | 798 |
| | 799 |
| | 800 |
| | 801 |
| | 802 |
| | 803 |
| | 804 |
| | 805 |
| | 806 |
| | 807 |
| | 808 |
| | 809 |
| | 810 |
| | 811 |
| | 812 |

The board shall deliver a report of its findings and 813
recommendations to the general assembly not later than one year 814
after the effective date of this section, and thereafter shall 815
deliver a report of its findings and recommendations by the 816
thirty-first day of March each year. 817

(C) The DataOhio board shall consist of the following 818
members or their designees: 819

(1) The governor; 820

(2) The attorney general; 821

(3) The auditor of state; 822

(4) The secretary of state; 823

(5) The treasurer of state; 824

(6) The speaker of the house of representatives; 825

(7) The president of the senate; 826

(8) One member who represents newspapers, to be appointed 827
by the Ohio newspaper association; 828

(9) One member who represents businesses that use data 829
sets of public records, to be appointed by the chairperson after 830
the chairperson is selected; 831

(10) The chancellor of the Ohio board of regents; 832

(11) The state librarian; 833

(12) One member who represents data consumers, to be 834
appointed by the chairperson after the chairperson is selected; 835

(13) One member who is an officer of a municipal 836
corporation, to be appointed by the Ohio municipal league; 837

(14) One member who is an officer of a township, to be 838
appointed by the Ohio township association; 839

(15) One member who is an officer of a county, to be 840
appointed by the county commissioners association of Ohio; 841

(16) One member who represents non-profit think tanks that 842
use data sets of public records, to be appointed by the 843
chairperson after the chairperson is selected; and 844

(17) One member who represents national organizations that 845
encourage open government records, to be appointed by the 846
chairperson after the chairperson is selected. 847

The board also shall consist of one or more ex officio, 848
nonvoting members or their designees appointed by the 849
chairperson after the chairperson is selected. 850

At its initial meeting, the board shall select a 851
chairperson from among its members. The chairperson shall select 852
a member of the board to serve as the board's secretary. 853

Members of the board shall serve without compensation but 854
shall be reimbursed for their actual and necessary expenses 855
incurred in the performance of their duties. 856

(D) The state library of Ohio shall provide necessary 857
meeting facilities to the board. 858

The initial meeting of the board shall be held at the call 859
of the state librarian and not later than thirty days after the 860
effective date of this section. The board shall meet at least 861
ten times per year at the call of the chairperson and shall 862
provide reasonable notice to the public before each meeting. At 863
each meeting, the board shall designate a portion to be devoted 864
to inviting suggestions from the public regarding the provision 865

of data sets by state agencies and local governments. 866

(E) The presence of a majority of the members of the board 867
constitutes a quorum for the conduct of its business. The 868
concurrence of at least a majority of the members of the board 869
is necessary for any action to be taken by the board. 870

Sec. 149.65. (A) As used in this section, "public record" 871
has the meaning defined in section 149.43 of the Revised Code. 872

(B) (1) The auditor of state shall establish, administer, 873
and operate a web site to function as a portal and catalog where 874
public records and data sets of public records created by public 875
offices can be located and accessed by the public online. The 876
web site shall be registered as data.Ohio.gov. The web site 877
shall offer access to public records or data sets of public 878
records posted online by public offices by providing web links 879
to web sites of public offices that contain such information. 880
The web site may post original data or data sets that contain 881
original content or summarized content of data sets obtained 882
from public offices. 883

(2) The auditor of state shall consult with the state 884
librarian regarding the collection, aggregation, presentation, 885
and accessibility of data in relation to the web site. 886

(C) The DataOhio board shall consider participation and 887
affiliation of data.Ohio.gov with data.gov, the official online 888
data catalog of the United States government. 889

(D) The auditor of state shall adopt rules under Chapter 890
119. of the Revised Code that specify policies and procedures 891
for the administration and operation of data.Ohio.gov. The rules 892
shall include a requirement that the auditor of state may not 893
charge a fee in relation to data.Ohio.gov. The auditor of state 894

shall make every effort to ensure that data provided online at 895
data.Ohio.gov via web link or posted as original data is open 896
format and machine readable. 897

Section 2. That existing section 149.43 of the Revised 898
Code is hereby repealed. 899

Section 3. All items in this section are hereby 900
appropriated as designated out of any moneys in the state 901
treasury to the credit of the General Revenue Fund. For all 902
appropriations made in this act, those in the first column are 903
for fiscal year 2016 and those in the second column are for 904
fiscal year 2017. The appropriations made in this act are in 905
addition to any other appropriations made for the FY 2016-FY 906
2017 biennium. 907

AUD AUDITOR OF STATE 908

| | | | | |
|------------|--------------------|-----|-----------|-----|
| GRF 070321 | Operating Expenses | \$0 | \$350,000 | 909 |
|------------|--------------------|-----|-----------|-----|

| | | | | |
|--------------------------------|--|-----|-----------|-----|
| Total GRF General Revenue Fund | | \$0 | \$350,000 | 910 |
|--------------------------------|--|-----|-----------|-----|

| | | | | |
|------------------------------|--|-----|-----------|-----|
| TOTAL ALL BUDGET FUND GROUPS | | \$0 | \$350,000 | 911 |
|------------------------------|--|-----|-----------|-----|

DATAOHIO CHART OF ACCOUNTS 912

Of the foregoing appropriation item 070321, Operating 913
Expenses, up to \$350,000 in fiscal year 2017 shall be used to 914
develop a uniform charts of accounts, establish uniform 915
accounting procedures, and adopt rules for their implementation 916
by all public offices. 917

Within the limits set forth in this act, the Director of 918
Budget and Management shall establish accounts indicating the 919
source and amount of funds for each appropriation made in this 920
act, and shall determine the form and manner in which 921
appropriation accounts shall be maintained. Expenditures from 922

| | |
|---|-----|
| the appropriations contained in this act shall be accounted for | 923 |
| as though made in the main operating appropriations act of the | 924 |
| 131st General Assembly. The appropriations made in this act are | 925 |
| subject to all provisions of the main operating appropriations | 926 |
| act of the 131st General Assembly that are generally applicable | 927 |
| to such appropriations. | 928 |