

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 546**

**Representative DeVitis**

**Cosponsors: Representatives Butler, Boose, Blessing, Patmon, Bishoff**

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**A BILL**

To amend sections 5747.08 and 5747.98 and to enact 1  
sections 3313.94 and 5747.64 of the Revised Code 2  
to authorize a board of education or governing 3  
authority of a school to enter into an agreement 4  
with a volunteer who is a current or retired law 5  
enforcement officer to patrol school premises to 6  
prevent or respond to a mass casualty event, to 7  
generally provide to a board of education or 8  
governing authority of a school and to such a 9  
volunteer immunity from civil liability for 10  
injury, death, or loss arising from the 11  
volunteer's services, and to provide a tax 12  
credit for volunteer service. 13

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

**Section 1.** That sections 5747.08 and 5747.98 be amended 14  
and sections 3313.94 and 5747.64 of the Revised Code be enacted 15  
to read as follows: 16

**Sec. 3313.94.** (A) As used in this section: 17

(1) "Board of education" means the board of education or 18

governing authority of a school. 19

(2) "In good standing" means currently employed, not on 20  
probation, and not the subject of a pending criminal 21  
disciplinary action or of a criminal or disciplinary action 22  
within the past five years that resulted in an adverse judgment 23  
or determination. 24

(3) "Law enforcement officer" means a sheriff, deputy 25  
sheriff, constable, police officer of a township or joint police 26  
district, marshal, deputy marshal, municipal police officer, or 27  
state highway patrol. 28

(4) "Nonpublic school" means a nonpublic school for which 29  
the state board of education has issued a charter pursuant to 30  
section 3301.16 of the Revised Code and prescribes minimum 31  
standards under division (D)(2) of section 3301.07 of the 32  
Revised Code. 33

(5) "Public school" includes schools of a school district, 34  
STEM schools established under Chapter 3326. of the Revised 35  
Code, and community schools established under Chapter 3314. of 36  
the Revised Code. 37

(6) "Retired law enforcement officer" means a person who 38  
served as a law enforcement officer and retired from service 39  
with a law enforcement agency in good standing. 40

(7) "School" means a public or nonpublic school. "School" 41  
excludes home instruction as authorized under section 3321.04 of 42  
the Revised Code. 43

(B) The sheriff of each county shall maintain a list of 44  
persons available to patrol school premises on a volunteer 45  
basis. To qualify for inclusion on the list, a person shall be a 46  
law enforcement officer in good standing or a retired law 47

enforcement officer with a current firearms certification issued 48  
under section 109.77 of the Revised Code and a current concealed 49  
carry license issued under section 2923.125 of the Revised Code. 50  
Before including a person on the list, the sheriff shall verify 51  
that the person is qualified. In the case of a retired law 52  
enforcement officer, verification shall include a criminal 53  
records check of the type required for a school district 54  
employee under section 3319.391 of the Revised Code. The sheriff 55  
shall exclude from the list any person who would be disqualified 56  
from employment under section 3319.391 of the Revised Code. The 57  
prospective volunteer shall pay the cost of the criminal records 58  
check. The sheriff shall require each volunteer on the list who 59  
is not a current law enforcement officer in good standing, as a 60  
condition of remaining on the list, to undergo a criminal 61  
records check every five years. Upon request of a board of 62  
education of a school whose premises are located wholly or 63  
partially within the county, the sheriff shall provide a paper 64  
or electronic copy of the list to the board. 65

(C) A board of education that wishes to use the services 66  
of a volunteer on the list prepared under division (B) of this 67  
section may request a copy of the list from the sheriff. The 68  
board may enter into an agreement with a volunteer to patrol 69  
school premises for the sole purpose of preventing or responding 70  
to a mass casualty event connected with illegal activity. If the 71  
volunteer is currently employed as a law enforcement officer, 72  
the volunteer shall obtain the permission of the volunteer's 73  
employer before entering into an agreement under this division. 74  
An agreement may include provisions relating to additional 75  
training, uniforms, or other matters that the board considers 76  
appropriate. A volunteer shall spend not more than nine hours of 77  
any week engaged in volunteer activities pursuant to this 78

section. The board may reimburse the volunteer for the cost of a 79  
criminal records check. 80

(D) A school district, member of a school district board 81  
of education, governing authority of a school, member of a 82  
governing authority of a school, and volunteer under this 83  
section are not liable in damages in a civil action for injury, 84  
death, or loss to person or property allegedly arising from the 85  
volunteer's performance of services under this section unless 86  
the injury, death, or loss resulted from the volunteer's 87  
reckless or wanton conduct. 88

**Sec. 5747.08.** An annual return with respect to the tax 89  
imposed by section 5747.02 of the Revised Code and each tax 90  
imposed under Chapter 5748. of the Revised Code shall be made by 91  
every taxpayer for any taxable year for which the taxpayer is 92  
liable for the tax imposed by that section or under that 93  
chapter, unless the total credits allowed under divisions (E), 94  
(F), and (G) of section 5747.05 of the Revised Code for the year 95  
are equal to or exceed the tax imposed by section 5747.02 of the 96  
Revised Code, in which case no return shall be required unless 97  
the taxpayer is liable for a tax imposed pursuant to Chapter 98  
5748. of the Revised Code. 99

(A) If an individual is deceased, any return or notice 100  
required of that individual under this chapter shall be made and 101  
filed by that decedent's executor, administrator, or other 102  
person charged with the property of that decedent. 103

(B) If an individual is unable to make a return or notice 104  
required by this chapter, the return or notice required of that 105  
individual shall be made and filed by the individual's duly 106  
authorized agent, guardian, conservator, fiduciary, or other 107  
person charged with the care of the person or property of that 108

individual. 109

(C) Returns or notices required of an estate or a trust 110  
shall be made and filed by the fiduciary of the estate or trust. 111

(D) (1) (a) Except as otherwise provided in division (D) (1) 112  
(b) of this section, any pass-through entity may file a single 113  
return on behalf of one or more of the entity's investors other 114  
than an investor that is a person subject to the tax imposed 115  
under section 5733.06 of the Revised Code. The single return 116  
shall set forth the name, address, and social security number or 117  
other identifying number of each of those pass-through entity 118  
investors and shall indicate the distributive share of each of 119  
those pass-through entity investor's income taxable in this 120  
state in accordance with sections 5747.20 to 5747.231 of the 121  
Revised Code. Such pass-through entity investors for whom the 122  
pass-through entity elects to file a single return are not 123  
entitled to the exemption or credit provided for by sections 124  
5747.02 and 5747.022 of the Revised Code; shall calculate the 125  
tax before business credits at the highest rate of tax set forth 126  
in section 5747.02 of the Revised Code for the taxable year for 127  
which the return is filed; and are entitled to only their 128  
distributive share of the business credits as defined in 129  
division (D) (2) of this section. A single check drawn by the 130  
pass-through entity shall accompany the return in full payment 131  
of the tax due, as shown on the single return, for such 132  
investors, other than investors who are persons subject to the 133  
tax imposed under section 5733.06 of the Revised Code. 134

(b) (i) A pass-through entity shall not include in such a 135  
single return any investor that is a trust to the extent that 136  
any direct or indirect current, future, or contingent 137  
beneficiary of the trust is a person subject to the tax imposed 138

under section 5733.06 of the Revised Code. 139

(ii) A pass-through entity shall not include in such a 140  
single return any investor that is itself a pass-through entity 141  
to the extent that any direct or indirect investor in the second 142  
pass-through entity is a person subject to the tax imposed under 143  
section 5733.06 of the Revised Code. 144

(c) Nothing in division (D) of this section precludes the 145  
tax commissioner from requiring such investors to file the 146  
return and make the payment of taxes and related interest, 147  
penalty, and interest penalty required by this section or 148  
section 5747.02, 5747.09, or 5747.15 of the Revised Code. 149  
Nothing in division (D) of this section precludes such an 150  
investor from filing the annual return under this section, 151  
utilizing the refundable credit equal to the investor's 152  
proportionate share of the tax paid by the pass-through entity 153  
on behalf of the investor under division (I) of this section, 154  
and making the payment of taxes imposed under section 5747.02 of 155  
the Revised Code. Nothing in division (D) of this section shall 156  
be construed to provide to such an investor or pass-through 157  
entity any additional deduction or credit, other than the credit 158  
provided by division (I) of this section, solely on account of 159  
the entity's filing a return in accordance with this section. 160  
Such a pass-through entity also shall make the filing and 161  
payment of estimated taxes on behalf of the pass-through entity 162  
investors other than an investor that is a person subject to the 163  
tax imposed under section 5733.06 of the Revised Code. 164

(2) For the purposes of this section, "business credits" 165  
means the credits listed in section 5747.98 of the Revised Code 166  
excluding the following credits: 167

(a) The retirement credit under division (B) of section 168

5747.055 of the Revised Code;	169
(b) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	170 171
(c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	172 173
(d) The dependent care credit under section 5747.054 of the Revised Code;	174 175
(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	176 177
(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	178 179
(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	180 181
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	182 183
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	184 185
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	186 187
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	188 189
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	190 191
(m) The low-income credit under section 5747.056 of the Revised Code;	192 193
(n) The earned income tax credit under section 5747.71 of	194

the Revised Code;	195
<u>(o) The credit for law enforcement officer school</u>	196
<u>volunteers or retired law enforcement officer school volunteers</u>	197
<u>under section 5747.64 of the Revised Code.</u>	198
(3) The election provided for under division (D) of this	199
section applies only to the taxable year for which the election	200
is made by the pass-through entity. Unless the tax commissioner	201
provides otherwise, this election, once made, is binding and	202
irrevocable for the taxable year for which the election is made.	203
Nothing in this division shall be construed to provide for any	204
deduction or credit that would not be allowable if a nonresident	205
pass-through entity investor were to file an annual return.	206
(4) If a pass-through entity makes the election provided	207
for under division (D) of this section, the pass-through entity	208
shall be liable for any additional taxes, interest, interest	209
penalty, or penalties imposed by this chapter if the tax	210
commissioner finds that the single return does not reflect the	211
correct tax due by the pass-through entity investors covered by	212
that return. Nothing in this division shall be construed to	213
limit or alter the liability, if any, imposed on pass-through	214
entity investors for unpaid or underpaid taxes, interest,	215
interest penalty, or penalties as a result of the pass-through	216
entity's making the election provided for under division (D) of	217
this section. For the purposes of division (D) of this section,	218
"correct tax due" means the tax that would have been paid by the	219
pass-through entity had the single return been filed in a manner	220
reflecting the commissioner's findings. Nothing in division (D)	221
of this section shall be construed to make or hold a pass-	222
through entity liable for tax attributable to a pass-through	223
entity investor's income from a source other than the pass-	224



through entity electing to file the single return. 225

(E) If a husband and wife file a joint federal income tax 226  
return for a taxable year, they shall file a joint return under 227  
this section for that taxable year, and their liabilities are 228  
joint and several, but, if the federal income tax liability of 229  
either spouse is determined on a separate federal income tax 230  
return, they shall file separate returns under this section. 231

If either spouse is not required to file a federal income 232  
tax return and either or both are required to file a return 233  
pursuant to this chapter, they may elect to file separate or 234  
joint returns, and, pursuant to that election, their liabilities 235  
are separate or joint and several. If a husband and wife file 236  
separate returns pursuant to this chapter, each must claim the 237  
taxpayer's own exemption, but not both, as authorized under 238  
section 5747.02 of the Revised Code on the taxpayer's own 239  
return. 240

(F) Each return or notice required to be filed under this 241  
section shall contain the signature of the taxpayer or the 242  
taxpayer's duly authorized agent and of the person who prepared 243  
the return for the taxpayer, and shall include the taxpayer's 244  
social security number. Each return shall be verified by a 245  
declaration under the penalties of perjury. The tax commissioner 246  
shall prescribe the form that the signature and declaration 247  
shall take. 248

(G) Each return or notice required to be filed under this 249  
section shall be made and filed as required by section 5747.04 250  
of the Revised Code, on or before the fifteenth day of April of 251  
each year, on forms that the tax commissioner shall prescribe, 252  
together with remittance made payable to the treasurer of state 253  
in the combined amount of the state and all school district 254

income taxes shown to be due on the form. 255

Upon good cause shown, the commissioner may extend the 256  
period for filing any notice or return required to be filed 257  
under this section and may adopt rules relating to extensions. 258  
If the extension results in an extension of time for the payment 259  
of any state or school district income tax liability with 260  
respect to which the return is filed, the taxpayer shall pay at 261  
the time the tax liability is paid an amount of interest 262  
computed at the rate per annum prescribed by section 5703.47 of 263  
the Revised Code on that liability from the time that payment is 264  
due without extension to the time of actual payment. Except as 265  
provided in section 5747.132 of the Revised Code, in addition to 266  
all other interest charges and penalties, all taxes imposed 267  
under this chapter or Chapter 5748. of the Revised Code and 268  
remaining unpaid after they become due, except combined amounts 269  
due of one dollar or less, bear interest at the rate per annum 270  
prescribed by section 5703.47 of the Revised Code until paid or 271  
until the day an assessment is issued under section 5747.13 of 272  
the Revised Code, whichever occurs first. 273

If the commissioner considers it necessary in order to 274  
ensure the payment of the tax imposed by section 5747.02 of the 275  
Revised Code or any tax imposed under Chapter 5748. of the 276  
Revised Code, the commissioner may require returns and payments 277  
to be made otherwise than as provided in this section. 278

To the extent that any provision in this division 279  
conflicts with any provision in section 5747.026 of the Revised 280  
Code, the provision in that section prevails. 281

(H) The amounts withheld by an employer pursuant to 282  
section 5747.06 of the Revised Code, a casino operator pursuant 283  
to section 5747.063 of the Revised Code, or a lottery sales 284

agent pursuant to section 5747.064 of the Revised Code shall be 285  
allowed to the recipient of the compensation casino winnings, or 286  
lottery prize award as credits against payment of the 287  
appropriate taxes imposed on the recipient by section 5747.02 288  
and under Chapter 5748. of the Revised Code. 289

(I) If a pass-through entity elects to file a single 290  
return under division (D) of this section and if any investor is 291  
required to file the annual return and make the payment of taxes 292  
required by this chapter on account of the investor's other 293  
income that is not included in a single return filed by a pass- 294  
through entity or any other investor elects to file the annual 295  
return, the investor is entitled to a refundable credit equal to 296  
the investor's proportionate share of the tax paid by the pass- 297  
through entity on behalf of the investor. The investor shall 298  
claim the credit for the investor's taxable year in which or 299  
with which ends the taxable year of the pass-through entity. 300  
Nothing in this chapter shall be construed to allow any credit 301  
provided in this chapter to be claimed more than once. For the 302  
purpose of computing any interest, penalty, or interest penalty, 303  
the investor shall be deemed to have paid the refundable credit 304  
provided by this division on the day that the pass-through 305  
entity paid the estimated tax or the tax giving rise to the 306  
credit. 307

(J) The tax commissioner shall ensure that each return 308  
required to be filed under this section includes a box that the 309  
taxpayer may check to authorize a paid tax preparer who prepared 310  
the return to communicate with the department of taxation about 311  
matters pertaining to the return. The return or instructions 312  
accompanying the return shall indicate that by checking the box 313  
the taxpayer authorizes the department of taxation to contact 314  
the preparer concerning questions that arise during the 315

processing of the return and authorizes the preparer only to 316  
provide the department with information that is missing from the 317  
return, to contact the department for information about the 318  
processing of the return or the status of the taxpayer's refund 319  
or payments, and to respond to notices about mathematical 320  
errors, offsets, or return preparation that the taxpayer has 321  
received from the department and has shown to the preparer. 322

(K) The tax commissioner shall permit individual taxpayers 323  
to instruct the department of taxation to cause any refund of 324  
overpaid taxes to be deposited directly into a checking account, 325  
savings account, or an individual retirement account or 326  
individual retirement annuity, or preexisting college savings 327  
plan or program account offered by the Ohio tuition trust 328  
authority under Chapter 3334. of the Revised Code, as designated 329  
by the taxpayer, when the taxpayer files the annual return 330  
required by this section electronically. 331

(L) The tax commissioner may adopt rules to administer 332  
this section. 333

Sec. 5747.64. (A) As used in this section, "law 334  
enforcement officer," "retired law enforcement officer," and 335  
"school" have the same meanings as in section 3313.94 of the 336  
Revised Code. 337

(B) There is hereby allowed a nonrefundable credit against 338  
the tax imposed by section 5747.02 of the Revised Code for a 339  
taxpayer who is a law enforcement officer or retired law 340  
enforcement officer and who provides safety and security 341  
services in a school under section 3313.94 of the Revised Code 342  
without receiving compensation. The amount of the credit equals 343  
two dollars for each hour or part of an hour that the law 344  
enforcement officer or retired law enforcement officer provides 345

such services, but the credit amount claimed by the officer 346  
shall not exceed five hundred dollars for any taxable year, not 347  
including any amount of credit carried forward from a prior 348  
year. 349

The law enforcement officer or retired law enforcement 350  
officer shall claim the credit in the order required by section 351  
5747.98 of the Revised Code for the taxable year in which the 352  
officer provides such services. Any credit amount in excess of 353  
the tax due under section 5747.02 of the Revised Code, after 354  
allowing for any other credits preceding the credit in that 355  
order, may be carried forward for three taxable years, but the 356  
amount of the excess credit allowed in any such year shall be 357  
deducted from the balance carried forward to the next year. 358

The tax commissioner may request that a law enforcement 359  
officer or retired law enforcement officer claiming a credit 360  
under this section furnish information as is necessary to 361  
support the claim for the credit under this section, and no 362  
credit shall be allowed unless the requested information is 363  
provided. 364

**Sec. 5747.98.** (A) To provide a uniform procedure for 365  
calculating the amount of tax due under section 5747.02 of the 366  
Revised Code, a taxpayer shall claim any credits to which the 367  
taxpayer is entitled in the following order: 368

(1) The retirement income credit under division (B) of 369  
section 5747.055 of the Revised Code; 370

(2) The senior citizen credit under division (C) of 371  
section 5747.05 of the Revised Code; 372

(3) The lump sum distribution credit under division (D) of 373  
section 5747.05 of the Revised Code; 374

(4) The dependent care credit under section 5747.054 of the Revised Code;	375 376
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	377 378
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	379 380
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	381 382
(8) The low-income credit under section 5747.056 of the Revised Code;	383 384
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	385 386
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	387 388
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	389 390
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	391 392
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	393 394
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	395 396
(15) The earned income credit under section 5747.71 of the Revised Code;	397 398
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	399 400

(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	401 402
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	403 404
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	405 406
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	407 408
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	409 410 411
(22) The job training credit under section 5747.39 of the Revised Code;	412 413
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	414 415
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	416 417
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	418 419
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	420 421
(27) <u>The nonrefundable credit for law enforcement officer school volunteers or retired law enforcement officer school volunteers under section 5747.64 of the Revised Code;</u>	422 423 424
<u>(28)</u> The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	425 426
<del>(28)</del> <u>(29)</u> The small business investment credit under	427

section 5747.81 of the Revised Code;	428
<del>(29)</del> <u>(30)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	429 430
<del>(30)</del> <u>(31)</u> The research and development credit under section 5747.331 of the Revised Code;	431 432
<del>(31)</del> <u>(32)</u> The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	433 434
<del>(32)</del> <u>(33)</u> The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	435 436
<del>(33)</del> <u>(34)</u> The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	437 438 439
<del>(34)</del> <u>(35)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	440 441 442
<del>(35)</del> <u>(36)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	443 444 445
<del>(36)</del> <u>(37)</u> The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	446 447 448 449
<del>(37)</del> <u>(38)</u> The refundable motion picture production credit under section 5747.66 of the Revised Code;	450 451
<del>(38)</del> <u>(39)</u> The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	452 453 454



(B) For any credit, except the refundable credits 455  
enumerated in this section and the credit granted under division 456  
(H) of section 5747.08 of the Revised Code, the amount of the 457  
credit for a taxable year shall not exceed the tax due after 458  
allowing for any other credit that precedes it in the order 459  
required under this section. Any excess amount of a particular 460  
credit may be carried forward if authorized under the section 461  
creating that credit. Nothing in this chapter shall be construed 462  
to allow a taxpayer to claim, directly or indirectly, a credit 463  
more than once for a taxable year. 464

**Section 2.** That existing sections 5747.08 and 5747.98 of 465  
the Revised Code are hereby repealed. 466