

As Reported by the House Public Utilities Committee

133rd General Assembly

Regular Session

2019-2020

Sub. H. B. No. 163

Representative Brinkman

**Cosponsors: Representatives Seitz, Blessing, Keller, Lipps, Romanchuk, Patton,
Lang, Riedel, Edwards, LaTourette, DeVitis, Becker, Zeltwanger**

A BILL

To amend sections 5747.50, 5747.51, and 5747.53 and 1
to enact sections 9.662, 743.80, and 5747.504 of 2
the Revised Code to create a process for 3
withholding local government funds and state 4
water and sewer assistance from municipal 5
corporations that engage in certain water and 6
sewer practices with respect to extraterritorial 7
service. 8

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

Section 1. That sections 5747.50, 5747.51, and 5747.53 be 9
amended and sections 9.662, 743.80, and 5747.504 of the Revised 10
Code be enacted to read as follows: 11

Sec. 9.662. Upon receiving the copy of a declaratory 12
judgment forwarded by the tax commissioner under division (B) of 13
section 5747.504 of the Revised Code, the director of 14
environmental protection, the director of the Ohio public works 15
commission, the Ohio water development authority, and the 16
director of development services may not award any loan, grant, 17
or other form of financial assistance to the noncompliant 18

municipal corporation identified in the certification for the 19
purpose of improving that municipal corporation's water or 20
sewerage system, except for awards of federal funds required by 21
federal law or guidelines to be awarded to the municipal 22
corporation for that purpose. 23

Upon receiving the copy of a declaratory judgment 24
forwarded by the tax commissioner under division (C) (1) of 25
section 5747.504 of the Revised Code, the director of 26
environmental protection, the director of the Ohio public works 27
commission, the Ohio water development authority, and the 28
director of development services shall cease enforcing this 29
prohibition against that municipal corporation. 30

Sec. 743.80. (A) As used in this section, "customer class" 31
means ratepayers for property that is of the same use or nature, 32
such as residential property or commercial property. 33

(B) Except as provided under division (G) of this section, 34
a township or municipal corporation may file an action for 35
declaratory judgment as provided in Chapter 2721. of the Revised 36
Code to declare as a noncompliant municipal corporation a 37
municipal corporation that provides water or sewer service to 38
property located in that township or municipal corporation and 39
to declare the township or municipal corporation filing the 40
action, or any township or municipal corporation made a party to 41
the action under this division, as an affected subdivision. The 42
action must be filed in the court of common pleas in any county 43
that includes territory of the alleged noncompliant municipal 44
corporation. The alleged noncompliant municipal corporation 45
shall be made the defendant in the action. Upon the filing of 46
such an action, each other township or municipal corporation 47
with property that is provided water or sewer service from the 48

defendant municipal corporation shall be served with a copy of 49
the complaint and, upon filing a request with the court, shall 50
be made a party to the action. 51

(C) The court shall issue a declaratory judgment declaring 52
the defendant municipal corporation to be a noncompliant 53
municipal corporation if the court determines that any other 54
subdivision that is a party to the action establishes, by a 55
preponderance of the evidence, that the defendant municipal 56
corporation engages in either of the following practices: 57

(1) Charging a customer class for property located in the 58
other subdivision higher rates for water or sewer services than 59
for the same customer class for property located in the 60
defendant municipal corporation, unless the defendant municipal 61
corporation establishes, by a preponderance of the evidence, 62
either of the following: 63

(a) Those higher rates are calculated pursuant to 64
generally accepted industry practices consistent with the 65
methodology in industry guidance applicable to municipal-owned 66
sewer and water systems. 67

(b) Both (i) the higher rates for property located in the 68
other subdivision do not exceed one hundred twenty-five per cent 69
of the rates for the same customer class for property located in 70
the defendant municipal corporation and (ii) the defendant 71
municipal corporation, on the effective date of the enactment of 72
this section, provided water or sewer service to the property 73
and charged that property not more than one hundred twenty-five 74
per cent of the rates for the same customer class for property 75
located in the defendant municipal corporation on that date. 76

(2) Requiring, as a condition of providing water or sewer 77

services to property located within the subdivision, that the 78
subdivision provide direct payments to the defendant municipal 79
corporation, unless the defendant municipal corporation 80
establishes, by a preponderance of the evidence, that those 81
direct payments are reasonably related to the cost of providing 82
water or sewer services to property within the territory of that 83
subdivision. 84

(D) If the court issues a declaratory judgment declaring a 85
municipal corporation to be a noncompliant municipal 86
corporation, the court shall also declare in that declaratory 87
judgment which of the townships or municipal corporations that 88
are a party to the action qualify as an affected subdivision. 89
The court shall declare a township or municipal corporation to 90
be an affected subdivision if the court finds that the township 91
or municipal corporation is either required to make a direct 92
payment described in division (C) (2) of this section or has 93
property within its territory, the ratepayer for which is 94
subject to the higher rates described in division (C) (1) of this 95
section. Any party to the action that is not a prevailing party 96
may appeal the action. 97

(E) Not later than one hundred eighty days after the date 98
the time to appeal the declaratory judgment described in 99
division (C) of this section has elapsed, any township or 100
municipal corporation declared to be an affected subdivision in 101
that declaratory judgment may certify a copy of the declaratory 102
judgment to the tax commissioner, who shall proceed as provided 103
in section 5747.504 of the Revised Code. 104

(F) A municipal corporation that a court has declared in a 105
declaratory judgment issued under division (C) of this section 106
to be a noncompliant municipal corporation may file an action 107

for declaratory judgment as provided in Chapter 2721. of the 108
Revised Code to declare that the municipal corporation no longer 109
qualifies as a noncompliant municipal corporation in the same 110
court of common pleas that issued the declaratory judgment 111
described in division (C) of this section. Upon the filing of 112
such an action, each township or municipal corporation declared 113
by the court under division (D) of this section to be an 114
affected subdivision shall be made a defendant to the action. 115

The court shall issue a declaratory judgment declaring 116
that the noncompliant municipal corporation no longer qualifies 117
as a noncompliant municipal corporation if the municipal 118
corporation establishes, by a preponderance of the evidence, 119
that the municipal corporation does not engage in either of the 120
practices described in divisions (C)(1) and (2) of this section 121
in relation to each affected subdivision. 122

Any party to the action that is not a prevailing party may 123
appeal the action. A declaratory judgment issued by a court 124
under division (F) of this section shall supersede any prior 125
declaratory judgment issued under division (C) of this section 126
with respect to the noncompliant municipal corporation. If a 127
court issues a declaratory judgment declaring that the municipal 128
corporation no longer qualifies as a noncompliant municipal 129
corporation, not later than one hundred eighty days after the 130
date the time to appeal the declaratory judgment described in 131
division (F) of this section has elapsed, the municipal 132
corporation that filed the action may certify the declaratory 133
judgment to the tax commissioner, who shall proceed as provided 134
in section 5747.504 of the Revised Code. 135

(G) No action for declaratory judgment may be filed under 136
division (B) of this section on the basis of either of the 137

following: 138

(1) Water or sewer rates established or prescribed 139
pursuant to a contract in effect on the effective date of the 140
enactment of this section between a municipal corporation 141
supplying water or sewer service and a county, township, or 142
another municipal corporation within which is located property 143
served by water or sewer service from that supplying municipal 144
corporation; 145

(2) Any direct payment required from a township or 146
municipal corporation to another municipal corporation as a 147
condition of the other municipal corporation supplying water or 148
sewer service to property located in that subdivision pursuant 149
to a contract in effect on the effective date of the enactment 150
of this section. 151

Sec. 5747.50. (A) As used in this section: 152

(1) "County's proportionate share of the calendar year 153
2007 LGF and LGRAF distributions" means the percentage computed 154
for the county under division (B) (1) (a) of section 5747.501 of 155
the Revised Code. 156

(2) "County's proportionate share of the total amount of 157
the local government fund additional revenue formula" means each 158
county's proportionate share of the state's population as 159
determined for and certified to the county for distributions to 160
be made during the current calendar year under division (B) (2) 161
(a) of section 5747.501 of the Revised Code. If prior to the 162
first day of January of the current calendar year the federal 163
government has issued a revision to the population figures 164
reflected in the estimate produced pursuant to division (B) (2) 165
(a) of section 5747.501 of the Revised Code, such revised 166

population figures shall be used for making the distributions	167
during the current calendar year.	168
(3) "2007 LGF and LGRAF county distribution base available	169
in that month" means the lesser of the amounts described in	170
division (A)(3)(a) and (b) of this section, provided that the	171
amount shall not be less than zero:	172
(a) The total amount available for distribution to	173
counties from the local government fund during the current	174
month.	175
(b) The total amount distributed to counties from the	176
local government fund and the local government revenue	177
assistance fund to counties in calendar year 2007 less the total	178
amount distributed to counties under division (B)(1) of this	179
section during previous months of the current calendar year.	180
(4) "Local government fund additional revenue distribution	181
base available during that month" means the total amount	182
available for distribution to counties during the month from the	183
local government fund, less any amounts to be distributed in	184
that month from the local government fund under division (B)(1)	185
of this section, provided that the local government fund	186
additional revenue distribution base available during that month	187
shall not be less than zero.	188
(5) "Total amount available for distribution to counties"	189
means the total amount available for distribution from the local	190
government fund during the current month less the total amount	191
available for distribution to municipal corporations during the	192
current month under division (C) of this section.	193
(B) On or before the tenth day of each month, the tax	194
commissioner shall provide for payment to each county an amount	195

equal to the sum of:	196
(1) The county's proportionate share of the calendar year	197
2007 LGF and LGRAF distributions multiplied by the 2007 LGF and	198
LGRAF county distribution base available in that month, provided	199
that if the 2007 LGF and LGRAF county distribution base	200
available in that month is zero, no payment shall be made under	201
division (B) (1) of this section for the month or the remainder	202
of the calendar year; and	203
(2) The county's proportionate share of the total amount	204
of the local government fund additional revenue formula	205
multiplied by the local government fund additional revenue	206
distribution base available during that month.	207
Money received into the treasury of a county under this	208
division shall be credited to the undivided local government	209
fund in the treasury of the county on or before the fifteenth	210
day of each month. On or before the twentieth day of each month,	211
the county auditor shall issue warrants against all of the	212
undivided local government fund in the county treasury in the	213
respective amounts allowed as provided in section 5747.51 of the	214
Revised Code, and the treasurer shall distribute and pay such	215
sums to the subdivision therein.	216
(C) (1) As used in division (C) of this section:	217
(a) "Total amount available for distribution to	218
municipalities during the current month" means the difference	219
obtained by subtracting one million dollars from the product	220
obtained by multiplying the total amount available for	221
distribution from the local government fund during the current	222
month by the aggregate municipal share.	223
(b) "Aggregate municipal share" means the quotient	224

obtained by dividing the total amount distributed directly from 225
the local government fund to municipal corporations during 226
calendar year 2007 by the total distributions from the local 227
government fund and local government revenue assistance fund 228
during calendar year 2007. 229

(2) On or before the tenth day of each month, the tax 230
commissioner shall provide for payment from the local government 231
fund to each municipal corporation an amount equal to the 232
product derived by multiplying the municipal corporation's 233
percentage of the total amount distributed to all such municipal 234
corporations under this division during calendar year 2007 by 235
the total amount available for distribution to municipal 236
corporations during the current month. 237

(3) Payments received by a municipal corporation under 238
this division shall be paid into its general fund and may be 239
used for any lawful purpose. 240

(4) The amount distributed to municipal corporations under 241
this division during any calendar year shall not exceed the 242
amount distributed directly from the local government fund to 243
municipal corporations during calendar year 2007. If that 244
maximum amount is reached during any month, distributions to 245
municipal corporations in that month shall be as provided in 246
divisions (C) (1) and (2) of this section, but no further 247
distributions shall be made to municipal corporations under 248
division (C) of this section during the remainder of the 249
calendar year. 250

(5) Upon being informed of a municipal corporation's 251
dissolution, the tax commissioner shall cease providing for 252
payments to that municipal corporation under division (C) of 253
this section. The proportionate shares of the total amount 254

available for distribution to each of the remaining municipal 255
corporations under this division shall be increased on a pro 256
rata basis. 257

The tax commissioner shall reduce or cease payments under 258
division (C) of this section to municipal corporations for which 259
~~reduced~~ a reduction or cessation of payments are required under 260
section 5747.502 or 5747.504 of the Revised Code. 261

(D) Each municipal corporation which has in effect a tax 262
imposed under Chapter 718. of the Revised Code shall, no later 263
than the thirty-first day of August of each year, certify to the 264
tax commissioner, on a form prescribed by the commissioner, the 265
amount of income tax revenue collected and refunded by such 266
municipal corporation pursuant to such chapter during the 267
preceding calendar year, arranged, when possible, by the type of 268
income from which the revenue was collected or the refund was 269
issued. The municipal corporation shall also report the amount 270
of income tax revenue collected and refunded on behalf of a 271
joint economic development district or a joint economic 272
development zone that levies an income tax administered by the 273
municipal corporation and the amount of such revenue distributed 274
to contracting parties during the preceding calendar year. The 275
tax commissioner may withhold payment of local government fund 276
moneys pursuant to division (C) of this section from any 277
municipal corporation for failure to comply with this reporting 278
requirement. 279

(E) (1) For the purposes of division (E) of this section: 280

(a) "Eligible taxing district" means a township, township 281
fire district, or joint fire district for which the total 282
taxable value of eligible power plants for tax year 2017 is at 283
least thirty per cent less than the total taxable value of 284

eligible power plants for tax year 2016.	285
(b) "Eligible power plant" means a power plant that is	286
subject to the requirements of 10 C.F.R. part 73.	287
(c) "Total taxable value of eligible power plants" of an	288
eligible taxing district means the total taxable value of the	289
taxable property of eligible power plants apportioned to the	290
district as shown in a preliminary assessment or amended	291
preliminary assessment and listed on the tax list of real and	292
public utility property.	293
(d) "Taxable property" has the same meaning as in section	294
5727.01 of the Revised Code.	295
(e) "Tax rate" of an eligible taxing district means one of	296
the following:	297
(i) For townships, the sum of the rates of levies imposed	298
under section 505.39, 505.51, or division (I), (J), (U), or (JJ)	299
of section 5705.19 of the Revised Code and extended on the tax	300
list of real and public utility property for tax year 2017,	301
excluding any levy imposed at whatever rate is required to raise	302
a fixed sum of money;	303
(ii) For township fire districts and joint fire districts,	304
the sum of the rates of levies extended on the tax list of real	305
and public utility property for tax year 2017, excluding any	306
levy imposed at whatever rate is required to raise a fixed sum	307
of money.	308
(2) Each fiscal year from fiscal year 2018 through fiscal	309
year 2028, the tax commissioner shall compute the following	310
amount for each eligible taxing district:	311
(a) For fiscal years 2018 and 2019, the amount obtained by	312

multiplying the eligible taxing district's tax rate by the 313
difference obtained by subtracting (i) the total taxable value 314
of eligible power plants of the district for tax year 2017 from 315
(ii) the total taxable value of eligible power plants of the 316
district for tax year 2016; 317

(b) For fiscal years 2020 through 2028, ninety per cent of 318
the amount calculated for the district under division (E) (2) (a) 319
or (b) of this section for the preceding fiscal year. 320

The commissioner shall certify the sum of the amounts 321
calculated for all eligible taxing districts under this division 322
for a fiscal year to the director of budget and management who, 323
on or before the seventh day of each month of that fiscal year, 324
shall transfer from the general revenue fund to the local 325
government fund one-twelfth of the amount certified. 326

(3) On or before the tenth day of each month, the tax 327
commissioner shall provide for payment to each county treasury 328
in which an eligible taxing district is located an amount equal 329
to one-twelfth of the amount computed for the district for that 330
fiscal year under division (E) (2) of this section. 331

Money received into the treasury of a county under 332
division (E) of this section shall be credited to the undivided 333
local government fund in the treasury of the county on or before 334
the fifteenth day of each month. On or before the twentieth day 335
of each month, the county auditor shall issue warrants against 336
the undivided local government fund for the amounts attributable 337
to each eligible taxing district, and the treasurer shall 338
distribute and pay such amounts to each eligible taxing 339
district. Money received by a township fire district or joint 340
fire district under this division shall be credited to the 341
district's general fund and may be used for any lawful purpose 342

of the district. Money received by a township under this 343
division shall be credited to the township's general fund and 344
shall be used for the purpose of funding fire, police, emergency 345
medical, or ambulance services. 346

Sec. 5747.504. (A) As used in this section: 347

(1) "Noncompliant municipal corporation" means a municipal 348
corporation that has been declared to be a noncompliant 349
municipal corporation in a declaratory judgment certified to the 350
tax commissioner under division (E) of section 743.80 of the 351
Revised Code. 352

(2) "Affected subdivision" means a municipal corporation 353
or township that has been declared to be an affected subdivision 354
in a declaratory judgment certified to the tax commissioner 355
under division (E) of section 743.80 of the Revised Code. 356

(B) Upon receiving a certification of a declaratory 357
judgment under division (E) of section 743.80 of the Revised 358
Code, the tax commissioner shall do all of the following: 359

(1) Immediately forward a copy of the declaratory judgment 360
to the director of environmental protection, the director of the 361
Ohio public works commission, the Ohio water development 362
authority, and the director of development services; 363

(2) Cease providing for payments to the noncompliant 364
municipal corporation under division (C) of section 5747.50 of 365
the Revised Code, beginning with the next required payment, and 366
reduce payments to the appropriate county undivided local 367
government fund under division (B) of section 5747.50 of the 368
Revised Code by an amount equal to the payments the municipal 369
corporation would otherwise receive under section 5747.503, 370
5747.51, or 5747.53 of the Revised Code, in both cases beginning 371

with the next required payment; 372

(3) Immediately notify the county auditor and county 373
treasurer that payments to the noncompliant municipal 374
corporation from the county undivided local government fund are 375
to cease until the tax commissioner notifies the auditor and 376
treasurer under division (C) (3) of this section that the 377
payments are to resume. 378

The county treasurer shall cease providing for payments to 379
the municipal corporation from the undivided local government 380
fund beginning with the payment specified by the tax 381
commissioner. 382

(C) Upon receiving a certification of a declaratory 383
judgment under division (F) of section 743.80 of the Revised 384
Code, the tax commissioner shall do all of the following: 385

(1) Immediately forward a copy of the declaratory judgment 386
to the director of environmental protection, the director of the 387
Ohio public works commission, the Ohio water development 388
authority, and the director of development services; 389

(2) Resume payments to the formerly noncompliant municipal 390
corporation under division (C) of section 5747.50 of the Revised 391
Code and resume payments to the county's undivided local 392
government fund to the extent such payments were reduced under 393
division (B) (2) of this section, in both cases beginning with 394
the next required payment; 395

(3) Immediately notify the county auditor and county 396
treasurer that the treasurer is to resume payments from the 397
undivided local government fund to the formerly noncompliant 398
municipal corporation under section 5747.503, 5747.51, or 399
5747.53 of the Revised Code. 400

The county treasurer shall resume payments to the 401
municipal corporation from the undivided local government fund 402
beginning with the payment specified by the tax commissioner. 403

(D) The tax commissioner shall provide for payment of an 404
amount equal to amounts withheld from a noncompliant municipal 405
corporation under division (B) (2) of this section to each 406
township and municipal corporation that is an affected 407
subdivision with respect to the noncompliant municipal 408
corporation. The payment to each such subdivision shall be in 409
the proportion that the population of that subdivision bears to 410
the total population of all affected subdivisions, as determined 411
by the most recent federal decennial census. 412

(E) An affected subdivision shall use money received under 413
division (D) of this section for the current operating expenses 414
of the subdivision. 415

Sec. 5747.51. (A) On or before the twenty-fifth day of 416
July of each year, the tax commissioner shall make and certify 417
to the county auditor of each county an estimate of the amount 418
of the local government fund to be allocated to the undivided 419
local government fund of each county for the ensuing calendar 420
year, adjusting the total as required to account for 421
subdivisions receiving local government funds under section 422
5747.502 of the Revised Code or subdivisions ceasing to receive 423
local government funds under section 5747.504 of the Revised 424
Code. 425

(B) At each annual regular session of the county budget 426
commission convened pursuant to section 5705.27 of the Revised 427
Code, each auditor shall present to the commission the 428
certificate of the commissioner, the annual tax budget and 429
estimates, and the records showing the action of the commission 430

in its last preceding regular session. The commission, after 431
extending to the representatives of each subdivision an 432
opportunity to be heard, under oath administered by any member 433
of the commission, and considering all the facts and information 434
presented to it by the auditor, shall determine the amount of 435
the undivided local government fund needed by and to be 436
apportioned to each subdivision for current operating expenses, 437
as shown in the tax budget of the subdivision. This 438
determination shall be made pursuant to divisions (C) to (I) of 439
this section, unless the commission has provided for a formula 440
pursuant to section 5747.53 of the Revised Code. The 441
commissioner shall reduce or increase the amount of funds from 442
the undivided local government fund to a subdivision required to 443
receive reduced or increased funds under section 5747.502 or 444
5747.504 of the Revised Code. 445

Nothing in this section prevents the budget commission, 446
for the purpose of apportioning the undivided local government 447
fund, from inquiring into the claimed needs of any subdivision 448
as stated in its tax budget, or from adjusting claimed needs to 449
reflect actual needs. For the purposes of this section, "current 450
operating expenses" means the lawful expenditures of a 451
subdivision, except those for permanent improvements and except 452
payments for interest, sinking fund, and retirement of bonds, 453
notes, and certificates of indebtedness of the subdivision. 454

(C) The commission shall determine the combined total of 455
the estimated expenditures, including transfers, from the 456
general fund and any special funds other than special funds 457
established for road and bridge; street construction, 458
maintenance, and repair; state highway improvement; and gas, 459
water, sewer, and electric public utilities operated by a 460
subdivision, as shown in the subdivision's tax budget for the 461

ensuing calendar year.	462
(D) From the combined total of expenditures calculated pursuant to division (C) of this section, the commission shall deduct the following expenditures, if included in these funds in the tax budget:	463 464 465 466
(1) Expenditures for permanent improvements as defined in division (E) of section 5705.01 of the Revised Code;	467 468
(2) In the case of counties and townships, transfers to the road and bridge fund, and in the case of municipalities, transfers to the street construction, maintenance, and repair fund and the state highway improvement fund;	469 470 471 472
(3) Expenditures for the payment of debt charges;	473
(4) Expenditures for the payment of judgments.	474
(E) In addition to the deductions made pursuant to division (D) of this section, revenues accruing to the general fund and any special fund considered under division (C) of this section from the following sources shall be deducted from the combined total of expenditures calculated pursuant to division (C) of this section:	475 476 477 478 479 480
(1) Taxes levied within the ten-mill limitation, as defined in section 5705.02 of the Revised Code;	481 482
(2) The budget commission allocation of estimated county public library fund revenues to be distributed pursuant to section 5747.48 of the Revised Code;	483 484 485
(3) Estimated unencumbered balances as shown on the tax budget as of the thirty-first day of December of the current year in the general fund, but not any estimated balance in any special fund considered in division (C) of this section;	486 487 488 489

(4) Revenue, including transfers, shown in the general 490
fund and any special funds other than special funds established 491
for road and bridge; street construction, maintenance, and 492
repair; state highway improvement; and gas, water, sewer, and 493
electric public utilities, from all other sources except those 494
that a subdivision receives from an additional tax or service 495
charge voted by its electorate or receives from special 496
assessment or revenue bond collection. For the purposes of this 497
division, where the charter of a municipal corporation prohibits 498
the levy of an income tax, an income tax levied by the 499
legislative authority of such municipal corporation pursuant to 500
an amendment of the charter of that municipal corporation to 501
authorize such a levy represents an additional tax voted by the 502
electorate of that municipal corporation. For the purposes of 503
this division, any measure adopted by a board of county 504
commissioners pursuant to section 322.02, 4504.02, or 5739.021 505
of the Revised Code, including those measures upheld by the 506
electorate in a referendum conducted pursuant to section 507
322.021, 4504.021, or 5739.022 of the Revised Code, shall not be 508
considered an additional tax voted by the electorate. 509

Subject to division (G) of section 5705.29 of the Revised 510
Code, money in a reserve balance account established by a 511
county, township, or municipal corporation under section 5705.13 512
of the Revised Code shall not be considered an unencumbered 513
balance or revenue under division (E) (3) or (4) of this section. 514
Money in a reserve balance account established by a township 515
under section 5705.132 of the Revised Code shall not be 516
considered an unencumbered balance or revenue under division (E) 517
(3) or (4) of this section. 518

If a county, township, or municipal corporation has 519
created and maintains a nonexpendable trust fund under section 520

5705.131 of the Revised Code, the principal of the fund, and any 521
additions to the principal arising from sources other than the 522
reinvestment of investment earnings arising from such a fund, 523
shall not be considered an unencumbered balance or revenue under 524
division (E) (3) or (4) of this section. Only investment earnings 525
arising from investment of the principal or investment of such 526
additions to principal may be considered an unencumbered balance 527
or revenue under those divisions. 528

(F) The total expenditures calculated pursuant to division 529
(C) of this section, less the deductions authorized in divisions 530
(D) and (E) of this section, shall be known as the "relative 531
need" of the subdivision, for the purposes of this section. 532

(G) The budget commission shall total the relative need of 533
all participating subdivisions in the county, and shall compute 534
a relative need factor by dividing the total estimate of the 535
undivided local government fund by the total relative need of 536
all participating subdivisions. 537

(H) The relative need of each subdivision shall be 538
multiplied by the relative need factor to determine the 539
proportionate share of the subdivision in the undivided local 540
government fund of the county; provided, that the maximum 541
proportionate share of a county shall not exceed the following 542
maximum percentages of the total estimate of the undivided local 543
government fund governed by the relationship of the percentage 544
of the population of the county that resides within municipal 545
corporations within the county to the total population of the 546
county as reported in the reports on population in Ohio by the 547
department of development as of the twentieth day of July of the 548
year in which the tax budget is filed with the budget 549
commission: 550

	Percentage share of	551
Percentage of municipal	the county shall	552
population within the county:	not exceed:	553
Less than forty-one per cent	Sixty per cent	554
Forty-one per cent or more but	Fifty per cent	555
less than eighty-one per cent		556
Eighty-one per cent or more	Thirty per cent	557

Where the proportionate share of the county exceeds the 558
limitations established in this division, the budget commission 559
shall adjust the proportionate shares determined pursuant to 560
this division so that the proportionate share of the county does 561
not exceed these limitations, and it shall increase the 562
proportionate shares of all other subdivisions on a pro rata 563
basis. In counties having a population of less than one hundred 564
thousand, not less than ten per cent shall be distributed to the 565
townships therein. 566

(I) The proportionate share of each subdivision in the 567
undivided local government fund determined pursuant to division 568
(H) of this section for any calendar year shall not be less than 569
the product of the average of the percentages of the undivided 570
local government fund of the county as apportioned to that 571
subdivision for the calendar years 1968, 1969, and 1970, 572
multiplied by the total amount of the undivided local government 573
fund of the county apportioned pursuant to former section 574
5735.23 of the Revised Code for the calendar year 1970. For the 575
purposes of this division, the total apportioned amount for the 576
calendar year 1970 shall be the amount actually allocated to the 577
county in 1970 from the state collected intangible tax as levied 578
by section 5707.03 of the Revised Code and distributed pursuant 579

to section 5725.24 of the Revised Code, plus the amount received 580
by the county in the calendar year 1970 pursuant to division (B) 581
(1) of former section 5739.21 of the Revised Code, and 582
distributed pursuant to former section 5739.22 of the Revised 583
Code. If the total amount of the undivided local government fund 584
for any calendar year is less than the amount of the undivided 585
local government fund apportioned pursuant to former section 586
5739.23 of the Revised Code for the calendar year 1970, the 587
minimum amount guaranteed to each subdivision for that calendar 588
year pursuant to this division shall be reduced on a basis 589
proportionate to the amount by which the amount of the undivided 590
local government fund for that calendar year is less than the 591
amount of the undivided local government fund apportioned for 592
the calendar year 1970. 593

(J) On the basis of such apportionment, the county auditor 594
shall compute the percentage share of each such subdivision in 595
the undivided local government fund and shall at the same time 596
certify to the tax commissioner the percentage share of the 597
county as a subdivision. No payment shall be made from the 598
undivided local government fund, except in accordance with such 599
percentage shares. 600

Within ten days after the budget commission has made its 601
apportionment, whether conducted pursuant to section 5747.51 or 602
5747.53 of the Revised Code, the auditor shall publish a list of 603
the subdivisions and the amount each is to receive from the 604
undivided local government fund and the percentage share of each 605
subdivision, in a newspaper or newspapers of countywide 606
circulation, and send a copy of such allocation to the tax 607
commissioner. 608

The county auditor shall also send a copy of such 609

allocation by ordinary or electronic mail to the fiscal officer 610
of each subdivision entitled to participate in the allocation of 611
the undivided local government fund of the county. This copy 612
shall constitute the official notice of the commission action 613
referred to in section 5705.37 of the Revised Code. 614

All money received into the treasury of a subdivision from 615
the undivided local government fund in a county treasury shall 616
be paid into the general fund and used for the current operating 617
expenses of the subdivision. 618

If a municipal corporation maintains a municipal 619
university, such municipal university, when the board of 620
trustees so requests the legislative authority of the municipal 621
corporation, shall participate in the money apportioned to such 622
municipal corporation from the total local government fund, 623
however created and constituted, in such amount as requested by 624
the board of trustees, provided such sum does not exceed nine 625
per cent of the total amount paid to the municipal corporation. 626

If any public official fails to maintain the records 627
required by sections 5747.50 to 5747.55 of the Revised Code or 628
by the rules issued by the tax commissioner, the auditor of 629
state, or the treasurer of state pursuant to such sections, or 630
fails to comply with any law relating to the enforcement of such 631
sections, the local government fund money allocated to the 632
county may be withheld until such time as the public official 633
has complied with such sections or such law or the rules issued 634
pursuant thereto. 635

Sec. 5747.53. (A) As used in this section: 636

(1) "City, located wholly or partially in the county, with 637
the greatest population" means the city, located wholly or 638

partially in the county, with the greatest population residing 639
in the county; however, if the county budget commission on or 640
before January 1, 1998, adopted an alternative method of 641
apportionment that was approved by the legislative authority of 642
the city, located partially in the county, with the greatest 643
population but not the greatest population residing in the 644
county, "city, located wholly or partially in the county, with 645
the greatest population" means the city, located wholly or 646
partially in the county, with the greatest population whether 647
residing in the county or not, if this alternative meaning is 648
adopted by action of the board of county commissioners and a 649
majority of the boards of township trustees and legislative 650
authorities of municipal corporations located wholly or 651
partially in the county. 652

(2) "Participating political subdivision" means a 653
municipal corporation or township that satisfies all of the 654
following: 655

(a) It is located wholly or partially in the county. 656

(b) It is not the city, located wholly or partially in the 657
county, with the greatest population. 658

(c) Undivided local government fund moneys are apportioned 659
to it under the county's alternative method or formula of 660
apportionment in the current calendar year. 661

(B) In lieu of the method of apportionment of the 662
undivided local government fund of the county provided by 663
section 5747.51 of the Revised Code, the county budget 664
commission may provide for the apportionment of the fund under 665
an alternative method or on a formula basis as authorized by 666
this section. The commissioner shall reduce or increase the 667

amount of funds from the undivided local government fund to a 668
subdivision required to receive reduced or increased funds under 669
section 5747.502 or 5747.504 of the Revised Code. 670

Except as otherwise provided in division (C) of this 671
section, the alternative method of apportionment shall have 672
first been approved by all of the following governmental units: 673
the board of county commissioners; the legislative authority of 674
the city, located wholly or partially in the county, with the 675
greatest population; and a majority of the boards of township 676
trustees and legislative authorities of municipal corporations, 677
located wholly or partially in the county, excluding the 678
legislative authority of the city, located wholly or partially 679
in the county, with the greatest population. In granting or 680
denying approval for an alternative method of apportionment, the 681
board of county commissioners, boards of township trustees, and 682
legislative authorities of municipal corporations shall act by 683
motion. A motion to approve shall be passed upon a majority vote 684
of the members of a board of county commissioners, board of 685
township trustees, or legislative authority of a municipal 686
corporation, shall take effect immediately, and need not be 687
published. 688

Any alternative method of apportionment adopted and 689
approved under this division may be revised, amended, or 690
repealed in the same manner as it may be adopted and approved. 691
If an alternative method of apportionment adopted and approved 692
under this division is repealed, the undivided local government 693
fund of the county shall be apportioned among the subdivisions 694
eligible to participate in the fund, commencing in the ensuing 695
calendar year, under the apportionment provided in section 696
5747.52 of the Revised Code, unless the repeal occurs by 697
operation of division (C) of this section or a new method for 698

apportionment of the fund is provided in the action of repeal. 699

(C) This division applies only in counties in which the 700
city, located wholly or partially in the county, with the 701
greatest population has a population of twenty thousand or less 702
and a population that is less than fifteen per cent of the total 703
population of the county. In such a county, the legislative 704
authorities or boards of township trustees of two or more 705
participating political subdivisions, which together have a 706
population residing in the county that is a majority of the 707
total population of the county, each may adopt a resolution to 708
exclude the approval otherwise required of the legislative 709
authority of the city, located wholly or partially in the 710
county, with the greatest population. All of the resolutions to 711
exclude that approval shall be adopted not later than the first 712
Monday of August of the year preceding the calendar year in 713
which distributions are to be made under an alternative method 714
of apportionment. 715

A motion granting or denying approval of an alternative 716
method of apportionment under this division shall be adopted by 717
a majority vote of the members of the board of county 718
commissioners and by a majority vote of a majority of the boards 719
of township trustees and legislative authorities of the 720
municipal corporations located wholly or partially in the 721
county, other than the city, located wholly or partially in the 722
county, with the greatest population, shall take effect 723
immediately, and need not be published. The alternative method 724
of apportionment under this division shall be adopted and 725
approved annually, not later than the first Monday of August of 726
the year preceding the calendar year in which distributions are 727
to be made under it. A motion granting approval of an 728
alternative method of apportionment under this division repeals 729

any existing alternative method of apportionment, effective with 730
distributions to be made from the fund in the ensuing calendar 731
year. An alternative method of apportionment under this division 732
shall not be revised or amended after the first Monday of August 733
of the year preceding the calendar year in which distributions 734
are to be made under it. 735

(D) In determining an alternative method of apportionment 736
authorized by this section, the county budget commission may 737
include in the method any factor considered to be appropriate 738
and reliable, in the sole discretion of the county budget 739
commission. 740

(E) The limitations set forth in section 5747.51 of the 741
Revised Code, stating the maximum amount that the county may 742
receive from the undivided local government fund and the minimum 743
amount the townships in counties having a population of less 744
than one hundred thousand may receive from the fund, are 745
applicable to any alternative method of apportionment authorized 746
under this section. 747

(F) On the basis of any alternative method of 748
apportionment adopted and approved as authorized by this 749
section, as certified by the auditor to the county treasurer, 750
the county treasurer shall make distribution of the money in the 751
undivided local government fund to each subdivision eligible to 752
participate in the fund, and the auditor, when the amount of 753
those shares is in the custody of the treasurer in the amounts 754
so computed to be due the respective subdivisions, shall at the 755
same time certify to the tax commissioner the percentage share 756
of the county as a subdivision. All money received into the 757
treasury of a subdivision from the undivided local government 758
fund in a county treasury shall be paid into the general fund 759

and used for the current operating expenses of the subdivision. 760
If a municipal corporation maintains a municipal university, the 761
university, when the board of trustees so requests the 762
legislative authority of the municipal corporation, shall 763
participate in the money apportioned to the municipal 764
corporation from the total local government fund, however 765
created and constituted, in the amount requested by the board of 766
trustees, provided that amount does not exceed nine per cent of 767
the total amount paid to the municipal corporation. 768

(G) The actions of the county budget commission taken 769
pursuant to this section are final and may not be appealed to 770
the board of tax appeals, except on the issues of abuse of 771
discretion and failure to comply with the formula. 772

Section 2. That existing sections 5747.50, 5747.51, and 773
5747.53 of the Revised Code are hereby repealed. 774

Section 3. Section 5747.51 of the Revised Code is 775
presented in this act as a composite of the section as amended 776
by both Sub. H.B. 166 and Sub. H.B. 390 of the 131st General 777
Assembly. The General Assembly, applying the principle stated in 778
division (B) of section 1.52 of the Revised Code that amendments 779
are to be harmonized if reasonably capable of simultaneous 780
operation, finds that the composite is the resulting version of 781
the section in effect prior to the effective date of the section 782
as presented in this act. 783