

As Reported by the Senate Finance Committee

133rd General Assembly

Regular Session

2019-2020

Sub. S. B. No. 204

Senators Schuring, Sykes

A BILL

To enact sections 308.20, 308.21, 308.22, 308.23, 1
308.24, 308.25, and 308.26 of the Revised Code 2
to authorize the creation of an airport 3
development district for the purpose of funding 4
public infrastructure improvements and 5
attracting airlines and additional flights to 6
qualifying airports. 7

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

Section 1. That sections 308.20, 308.21, 308.22, 308.23, 8
308.24, 308.25, and 308.26 of the Revised Code be enacted to 9
read as follows: 10

Sec. 308.20. As used in sections 308.20 to 308.26 of the 11
Revised Code: 12

(A) "Qualifying airport" means an airport and any 13
contiguous airport facilities owned, operated, or maintained by 14
any of the following: 15

(1) A regional airport authority under this chapter, 16
provided the airport and facilities include territory located in 17
two counties, one of which has a population greater than five 18
hundred thousand but less than eight hundred thousand based on 19

the most recent federal decennial census; 20

(2) A port authority created under Chapter 4582. of the 21
Revised Code by two counties, each of which having a population 22
greater than two hundred thousand but less than two hundred 23
fifty thousand; 24

(3) A municipal corporation that is the most populous 25
municipal corporation in a county having a population greater 26
than five hundred thousand but less than eight hundred forty 27
thousand. The airport and facilities owned, operated, or 28
maintained by such a municipal corporation may include territory 29
located in two counties. 30

(B) "Church" and "church property" have the same meanings 31
as in section 1710.01 of the Revised Code. 32

(C) "Business owner" or "owner of business" means a 33
partner of a partnership, a member of a limited liability 34
company, a majority shareholder of an S corporation, a person 35
with a majority ownership interest in any other kind of pass- 36
through entity, or any officer, employee, or agent with 37
authority to make decisions legally binding upon a business that 38
operates within an airport development district or a proposed 39
airport development district. 40

(D) "Property owner" or "owner of property" means the 41
person or persons in whose name a parcel, located within an 42
airport development district or proposed airport development 43
district, is listed on the tax list or exempt list compiled by 44
the county auditor under section 319.28 or 5713.08 of the 45
Revised Code. 46

(E) A business "operates within" an airport development 47
district or a proposed airport development district if its 48

profits, gross receipts, or other revenues are or would be used 49
to compute the development charge imposed on one or more parcels 50
of real property located within the district. 51

Sec. 308.21. (A) The board of trustees of a regional 52
airport authority, the board of directors of a port authority, 53
or the legislative authority of a municipal corporation that 54
owns, operates, or maintains a qualifying airport may, by 55
resolution, propose the creation of an airport development 56
district for the purpose of developing and implementing plans 57
for public infrastructure improvements that benefit the 58
qualifying airport and to finance expenditures to attract or 59
retain airlines, increase the number of scheduled flights to and 60
from the qualifying airport, or increase use of the airport by 61
aircraft having greater passenger capacity or greater first- 62
class seating availability. The resolution shall include a 63
development plan for the district that, at minimum, specifies 64
all of the following: 65

(1) The manner in which the nonprofit corporation that is 66
to govern the district will be formed, operated, and organized; 67

(2) A procedure by which territory may be added or removed 68
from the district; 69

(3) The manner in which the board of directors of the 70
nonprofit corporation that is to govern the district are 71
appointed; 72

(4) A plan for the public infrastructure improvements and 73
other expenditures to be financed by the district; 74

(5) A description of the development charge the board of 75
directors of the district is authorized to impose on the 76
property located within the district, including: 77

(a) The amount of the development charge. The development charge may be determined on the basis of the square footage of buildings and other structures located on the property or the profits, gross receipts, or other revenues of a business operating on the property, including rentals received from leases of the property. If the amount of the development charge is determined based on square footage of buildings and other structures, it shall not exceed two dollars per square foot. If the amount of the development charge is determined based on profits, gross receipts, or other revenues, it shall not exceed two per cent of such profits, gross receipts, or other revenues. The amount of the development charge shall be determined in the same manner and at the same rate for all real property located within or all businesses operating in the district. 78
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(b) The termination date of the development charge. The development charge shall not be collected after the expiration or termination of the district. 92
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(c) The terms by which the board of directors of the district shall collect the development charge; 95
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(d) A requirement that the proceeds of the development charge be used exclusively for the purposes of the district. 97
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(B) All territory in an airport development district shall be contiguous and the district shall encompass or be contiguous to a qualifying airport. Additional territory may be added to a district in the manner authorized by the development plan for the district. No district shall include any church property, or property of the federal government or the state or of a county, township, or municipal corporation, unless the church or the county, township, or municipal corporation specifically requests in writing that the property be included within the district. 99
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(C) A resolution proposing the creation of an airport 108
development district shall not go into effect unless the owners 109
of at least sixty per cent of the collective number of (1) 110
parcels of real property located within the proposed district 111
and (2) businesses operating within the proposed district sign a 112
petition supporting the district. The petition shall include the 113
full text of the resolution and shall clearly indicate that, by 114
signing the petition, the property owner or business owner 115
supports creating the district and, in the case of a property 116
owner only, that the property owner consents to the development 117
charge described in the development plan for the district. 118

(D) (1) After obtaining a petition with the number of 119
signatures required under division (C) of this section, the 120
board of trustees of the regional airport authority, board of 121
directors of the port authority, or legislative authority of the 122
municipal corporation shall submit copies of the resolution and 123
the petition supporting it to the director of development 124
services. If the director determines that the requirements of 125
this section have been met, the director shall send notice to 126
the board of trustees, board of directors, or legislative 127
authority approving the creation of the airport development 128
district. The board of trustees, board of directors, or 129
legislative authority shall then notify the property owner and 130
business owner, including those that did not sign the petition 131
in support of the district, that the district has been approved. 132

(2) If the director determines that the requirements of 133
this section have not been met, the director shall send notice 134
to the board of trustees, board of directors, or legislative 135
authority declining to approve the creation of the district and 136
stating the reason or reasons for such determination. The board 137
of trustees, board of directors, or legislative authority may 138

address the reason or reasons that the resolution and petition 139
were declined and resubmit them to the director for approval at 140
any time. 141

(3) Notwithstanding divisions (D) (1) and (2) of this 142
section, the director shall decline to approve any resolution 143
and petition submitted after December 31, 2023. 144

(E) An airport development district is not a political 145
subdivision for any purpose prescribed in the Revised Code. A 146
district shall be considered a public agency under section 147
102.01 of the Revised Code and a public authority under section 148
4115.03 of the Revised Code. Districts are subject to sections 149
121.22 and 121.23 of the Revised Code, but are not subject to 150
sections 121.81 to 121.83 of the Revised Code. 151

Sec. 308.22. (A) An airport development district shall be 152
governed by the board of trustees of a nonprofit corporation 153
which shall be known as the board of directors of the airport 154
development district. The board shall consist of seven 155
directors. Three directors shall be appointed by the board of 156
trustees of the regional airport authority, the board of 157
directors of the port authority, or the legislative authority of 158
the municipal corporation that owns, operates, or maintains the 159
qualifying airport. The remaining four directors shall be 160
appointed by the property owners and business owners in the 161
manner specified in the resolution creating the district. All 162
appointments shall be made in accordance with any applicable 163
rules, regulations, and guidelines of the federal aviation 164
administration. 165

(B) Notice of the time, date, place, and agenda for any 166
meeting of the board of directors of the airport development 167
district shall be by written notice to each director, 168

transmitted by certified mail, personal service, or electronic 169
device before the meeting. If possible, the notice shall be 170
served at least one week before the meeting. The board of 171
directors shall act by a majority vote of those present and 172
authorized to vote at any meeting where proper notice has been 173
served. 174

Before making any expenditure, including those authorized 175
under section 308.25 of the Revised Code, the board of directors 176
of the airport development district shall notify the board of 177
trustees of the regional airport authority, board of directors 178
of the port authority, or legislative authority of the municipal 179
corporation that owns, operates, or maintains the qualifying 180
airport of the proposed expenditure. The expenditure shall not 181
be made unless the board of trustees of the regional airport 182
authority, board of directors of the port authority, or 183
legislative authority of the municipal corporation adopts and 184
certifies a resolution to the board of directors of the airport 185
development district approving the expenditure. 186

(C) The board of directors of the airport development 187
district shall elect a chairperson, vice-chairperson, secretary, 188
and treasurer of the board. These officers shall serve at the 189
board's pleasure. A director may be elected to more than one 190
office, except that the director elected as treasurer shall not 191
be elected to any other office of the board. 192

(D) By the first day of March of each year the treasurer 193
shall submit a report of the district's activities and financial 194
condition for the preceding year to each property owner and 195
business owner and to the board of trustees of the regional 196
airport authority, board of directors of the port authority, or 197
legislative authority of the municipal corporation that owns, 198

operates, or maintains the qualifying airport. 199

(E) Membership on the board of directors of the airport 200
development district shall not be considered holding a public 201
office. Directors and their designees shall be entitled to the 202
immunities provided by Chapter 1702. of the Revised Code and to 203
the same immunity as an employee under division (A) (6) of 204
section 2744.03 of the Revised Code, except that directors and 205
their designees shall not be entitled to the indemnification 206
provided in section 2744.07 of the Revised Code. 207

(F) District officers, directors, and their designees or 208
proxies, and each officer and employee of a district shall be 209
considered a public official or employee under section 102.01 of 210
the Revised Code and a public official and public servant under 211
section 2921.42 of the Revised Code but are not required to file 212
a statement with the Ohio ethics commission under section 102.02 213
of the Revised Code. All records of the district shall be 214
treated as public records under section 149.43 of the Revised 215
Code, except that records of organizations contracting with a 216
district shall not be considered to be public records under that 217
section or section 149.431 of the Revised Code solely by reason 218
of that contract. 219

Sec. 308.23. (A) Except as otherwise provided in this 220
section, the nonprofit corporation that governs an airport 221
development district shall be organized in the manner described 222
in Chapter 1702. of the Revised Code. The nonprofit corporation 223
may do the following: 224

(1) Exercise all powers of nonprofit corporations granted 225
under Chapter 1702. of the Revised Code that do not conflict 226
with this chapter; 227

<u>(2) Develop, adopt, revise, implement, and repeal plans</u>	228
<u>for public infrastructure improvements that benefit the</u>	229
<u>qualifying airport that is encompassed by or contiguous to the</u>	230
<u>district and make expenditures to attract or retain airlines,</u>	231
<u>increase the number of scheduled flights to and from the</u>	232
<u>qualifying airport, or increase use of the airport by aircraft</u>	233
<u>having greater passenger capacity or greater first-class seating</u>	234
<u>availability;</u>	235
<u>(3) Impose a development charge on the owners of real</u>	236
<u>property within the district in accordance with the development</u>	237
<u>plan for the district;</u>	238
<u>(4) Contract with any person, community improvement</u>	239
<u>corporation, or state agency or with a political subdivision as</u>	240
<u>defined in section 2744.01 of the Revised Code to develop,</u>	241
<u>manage, or implement all or part of the development plan for the</u>	242
<u>district;</u>	243
<u>(5) Contract and pay for insurance for the district and</u>	244
<u>for directors, officers, agents, contractors, employees, or</u>	245
<u>members of the district for any consequences of the</u>	246
<u>implementation of any plan adopted by the district or any</u>	247
<u>actions of the district.</u>	248
<u>(B) In addition to meeting the requirements for articles</u>	249
<u>of incorporation set forth in Chapter 1702. of the Revised Code,</u>	250
<u>the articles of incorporation for the nonprofit corporation</u>	251
<u>governing an airport development district shall provide all the</u>	252
<u>following:</u>	253
<u>(1) The name of the district, which shall include the name</u>	254
<u>of the qualifying airport that is encompassed by or contiguous</u>	255
<u>to the district;</u>	256

(2) A description of the territory included within the 257
district that is specific enough to enable property owners to 258
determine if their property is located within the district and 259
business owners to determine if their business operates within 260
the district; 261

(3) The full text of the resolution creating the district, 262
the development plan for the district, and any amendments to 263
that plan that are subsequently adopted by the board of 264
directors of the district; 265

(4) A description of the procedure by which the articles 266
of incorporation and the development plan for the district may 267
be amended, which shall conform to the requirements of division 268
(D) of this section; 269

(5) The reasons for creating the district and an 270
explanation of how the district will be conducive to the public 271
health, safety, peace, convenience, and welfare of the district. 272

(C) The articles of incorporation shall be filed in the 273
secretary of state's office. The articles shall be accompanied 274
by a copy of the notice approving the airport development 275
district sent by the director of development services under 276
section 308.21 of the Revised Code. The secretary of state shall 277
not accept articles that do not meet the requirements of this 278
chapter. 279

(D) Neither the articles of incorporation nor the 280
development plan for the airport development district shall be 281
amended without first obtaining the approval of (1) the majority 282
of the members of the board of directors of the district, (2) 283
the owners of at least sixty per cent of the collective number 284
of (a) parcels of real property located within the district and 285

(b) businesses operating within the proposed district, and (3) 286
the majority of the members of the board of trustees of the 287
regional airport authority, board of directors of the port 288
authority, or legislative authority of the municipal corporation 289
that owns, operates, or maintains the qualifying airport. All 290
amendments to the articles shall be filed with the secretary of 291
state along with documentation sufficient to prove that the 292
requirements of this division have been met. 293

Sec. 308.24. (A) A development charge authorized by the 294
development plan for an airport development district is hereby 295
deemed to be a covenant running with each parcel of land within 296
the district. The covenant is fully binding on behalf of and 297
enforceable by the board of directors of the district against 298
any person that owns the land at the time the district is 299
created, any person who subsequently acquires an interest in the 300
land, and all successors and assigns of such persons. 301

(B) No purchase agreement for real estate or any interest 302
in real estate upon which a development charge is levied shall 303
be enforceable by the seller or binding upon the purchaser 304
unless the purchase agreement specifically refers to the 305
development charge. If a conveyance of such real estate or 306
interest in such real estate is made pursuant to a purchase 307
agreement that does not make such reference, the development 308
charge shall continue to be a covenant running with the land 309
fully binding on behalf of and enforceable by the board of 310
directors of the district against the person accepting the 311
conveyance pursuant to the purchase agreement. 312

(C) Any owner of an interest in real property that is 313
located within a proposed or existing airport development 314
district who enters into a contract to transfer the interest 315

shall give to the transferee of the interest within the 316
specified period of time both of the following: 317

(1) Within five days after entering into the contract, 318
each notice that the owner received under this chapter within 319
ninety days before entering into the contract; 320

(2) Within five days after its receipt, each notice that 321
the owner receives under this chapter after entering into the 322
contract until the contract is completely performed or 323
terminated. 324

(D) If a development charge is not paid when due, the 325
overdue amount shall be collected according to the terms 326
specified in the development plan for the district. If the 327
development plan does not specify a procedure for collecting 328
overdue development charges, the board of directors of the 329
district may certify the charge to the county auditor. The 330
county auditor shall enter the unpaid charge on the tax list 331
opposite the parcel against which it is charged and certify the 332
charge to the county treasurer. The unpaid development charge is 333
a lien on property against which it is charged from the date the 334
charge is entered on the tax list, and shall be collected in the 335
manner provided for the collection of real property taxes. Once 336
the charge is collected, it shall be paid immediately to the 337
board of directors of the district. 338

Sec. 308.25. (A) The expenditures of an airport 339
development district may include the following: 340

(1) The cost of creating and operating the district under 341
this chapter, including creating and operating a nonprofit 342
organization organized under this chapter, hiring employees and 343
professional services, contracting for insurance, and purchasing 344

or leasing office space or office equipment; 345

(2) The cost of planning, designing, and implementing 346
public infrastructure improvements that benefit the qualifying 347
airport, including payment of architectural, engineering, legal, 348
appraisal, insurance, consulting, energy auditing, and planning 349
fees and expenses, and, for public services, the management, 350
protection, and maintenance costs of public or private 351
facilities; 352

(3) The cost of airport advertising, airline recruitment, 353
market research, ticket purchase guarantees, and incentives 354
designed to attract or retain airlines, increase the number of 355
scheduled flights to and from the qualifying airport, or 356
increase use of the airport by aircraft having greater passenger 357
capacity or greater first-class seating availability; 358

(4) Any court costs incurred by the district in 359
implementing the plan outlined in the articles of incorporation; 360
and 361

(5) Any damages resulting from implementing that plan. 362

(B) The expenditures of an airport development district 363
shall not include financing, in whole or in part, the 364
acquisition of any interest in property by a regional airport 365
authority, port authority, or municipal corporation using the 366
power of condemnation or eminent domain pursuant to Section 19 367
of Article I, Ohio Constitution, or any costs associated with 368
such an acquisition. 369

(C) The board of directors of an airport development 370
district is subject to the same competitive bidding and 371
prevailing wage rules and procedures that apply to the board of 372
trustees of the regional airport authority, the board of 373

directors of the port authority, or the legislative authority of 374
the municipal corporation that owns, operates, or maintains the 375
qualifying airport. 376

Sec. 308.26. (A) An airport development district exists 377
until it is dissolved under this section. The process for 378
dissolving an airport development district or repealing a 379
development plan may be initiated by a petition filed with the 380
board of directors of the district and signed by the owners of 381
at least twenty per cent of the collective number of (1) parcels 382
of real property located in the district and (2) businesses 383
operating within the district. 384

(B) The board of directors of the district shall organize 385
and hold a meeting to consider the petition not later than 386
forty-five days after it is filed. The board shall notify each 387
property owner and business owner of the time, place, and 388
subject of the meeting at least two weeks before the meeting is 389
held. Upon the affirmative vote of the owners of at least fifty 390
per cent of the collective number of (1) parcels of real 391
property in the district and (2) businesses operating within the 392
district, the district shall be dissolved, or the plan shall be 393
repealed, as applicable. The dissolution of a district shall not 394
be finalized until all debts and obligations of the district are 395
paid in full. 396

(C) No rights or obligations of any person under any 397
contract shall be affected by the dissolution of the district or 398
the repeal of a development plan, except with the consent of 399
that person or by order of a court with jurisdiction over the 400
matter. Upon dissolution of a district, any assets or rights of 401
the district, after payment of all obligations of the district, 402
shall be returned to the property owners, prorated to reflect 403

the amount of development charges collected on the owner's 404
property in the preceding twelve months. 405

(D) Once the property owners and business owners have 406
approved the repeal of a development plan, all obligations of 407
the district associated with the plan shall be paid. Thereafter, 408
the plan shall be repealed. 409