

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 531**

**Representative Rogers**

**Cosponsors: Representatives Becker, Brown, Crawley, Crossman, Hicks-Hudson,  
Lepore-Hagan, Lightbody, Patterson, Skindell, Smith, K., Sobecki**

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**A BILL**

To amend sections 117.01, 117.10, 187.01, and 1  
187.04 and to enact section 117.561 of the 2  
Revised Code to establish that JobsOhio must 3  
submit to audits by the Auditor of State, and 4  
that an audit of JobsOhio must include an audit 5  
of the revenues, receipts, and expenditures of 6  
JobsOhio associated with the enterprise 7  
acquisition project. 8

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

**Section 1.** That sections 117.01, 117.10, 187.01, and 9  
187.04 be amended and section 117.561 of the Revised Code be 10  
enacted to read as follows: 11

**Sec. 117.01.** As used in this chapter: 12

(A) "Color of office" means actually, purportedly, or 13  
allegedly done under any law, ordinance, resolution, order, or 14  
other pretension to official right, power, or authority. 15

(B) "Public accountant" means any person who is authorized 16  
by Chapter 4701. of the Revised Code to use the designation of 17

certified public accountant or who was registered prior to 18  
January 1, 1971, as a public accountant. 19

(C) "Public money" means any money received, collected by, 20  
or due a public official under color of office, as well as any 21  
money collected by any individual on behalf of a public office 22  
or as a purported representative or agent of the public office. 23

~~"Public money" does not include either of the following:~~ 24

~~(1) Money or revenue earned by or from a person's~~ 25  
~~ownership, operation, or use of an asset, whether tangible or~~ 26  
~~intangible, that either in whole or in part was sold, was~~ 27  
~~leased, was licensed, was the granting of a franchise, or was~~ 28  
~~otherwise transferred or conveyed by a public office to the~~ 29  
~~person pursuant to an agreement, authorized by law, between the~~ 30  
~~person and the public office in which the public office received~~ 31  
~~consideration from the person for the asset that was sold,~~ 32  
~~leased, licensed, franchised, or otherwise transferred or~~ 33  
~~conveyed;~~ 34

~~(2) With respect to the transfer described in Chapter~~ 35  
~~4313. of the Revised Code and the operation of the enterprise~~ 36  
~~acquisition project, revenues or receipts of or from the~~ 37  
~~enterprise acquisition project in the hands of the nonprofit~~ 38  
~~corporation formed under section 187.01 of the Revised Code or~~ 39  
~~of a nonprofit entity the sole member of which is that nonprofit~~ 40  
~~corporation, but does include any taxes collected on the~~ 41  
~~spirituous liquor sales and then due the department of taxation~~ 42  
~~and amounts then due to the state general revenue fund pursuant~~ 43  
~~to section 4301.12 of the Revised Code. As used in this~~ 44  
~~division, "enterprise acquisition project" has the meaning~~ 45  
~~defined in section 4313.01 of the Revised Code.~~ 46

(D) "Public office" means any state agency, public  
institution, political subdivision, other organized body,  
office, agency, institution, or entity established by the laws  
of this state for the exercise of any function of government.

~~"Public office" does not include the nonprofit corporation  
formed under section 187.01 of the Revised Code.~~

(E) "Public official" means any officer, employee, or duly  
authorized representative or agent of a public office.

(F) "State agency" means every organized body, office,  
agency, institution, or other entity established by the laws of  
the state for the exercise of any function of state government.

(G) "Audit" means any of the following:

(1) Any examination, analysis, or inspection of the  
state's or a public office's financial statements or reports;

(2) Any examination, analysis, or inspection of records,  
documents, books, or any other evidence relating to either of  
the following:

(a) The collection, receipt, accounting, use, or  
expenditure of public money by a public office or by a private  
institution, association, board, or corporation;

(b) The determination by the auditor of state, as required  
by section 117.11 of the Revised Code, of whether a public  
office has complied with all the laws, rules, ordinances, or  
orders pertaining to the public office.

(3) Any other type of examination, analysis, or inspection  
of a public office, or of ~~the specific funds or accounts of a~~  
private institution, association, board, or corporation ~~into~~  
~~which receiving public money has been placed or deposited, that~~

is conducted according to generally accepted or governmental 75  
auditing standards established by rule pursuant to section 76  
117.19 of the Revised Code. 77

(H) "Person" has the meaning defined in section 1.59 of 78  
the Revised Code. 79

**Sec. 117.10.** (A) The auditor of state shall audit all 80  
public offices as provided in this chapter. The auditor of state 81  
also may audit the specific funds or accounts of private 82  
institutions, associations, boards, and corporations ~~into which~~ 83  
~~has been placed or deposited receiving public money from a~~ 84  
~~public office~~ and may require of them annual reports in such 85  
form as the auditor of state prescribes. The auditor of state 86  
may audit some or all of the other funds or accounts of a 87  
private institution, association, board, or corporation that has 88  
received public money from a public office only if one or more 89  
of the following applies: 90

(1) The audit is specifically required or authorized by 91  
the Revised Code; 92

(2) The private institution, association, board, or 93  
corporation requests that the auditor of state audit some or all 94  
of its other funds or accounts; 95

(3) All of the revenue of the private institution, 96  
association, board, or corporation is composed of public money; 97

(4) The private institution, association, board, or 98  
corporation failed to separately and independently account for 99  
the public money in its possession, in violation of section 100  
117.431 of the Revised Code; 101

(5) The auditor of state has a reasonable belief that the 102  
private institution, association, board, or corporation 103

illegally expended, converted, misappropriated, or otherwise 104  
cannot account for the public money it received from a public 105  
office and that it is necessary to audit its other funds or 106  
accounts to make that determination. 107

(B) If the auditor of state performs or contracts for the 108  
performance of an audit, including a special audit, of the 109  
public employees retirement system, school employees retirement 110  
system, state teachers retirement system, state highway patrol 111  
retirement system, or Ohio police and fire pension fund, the 112  
auditor of state shall make a timely report of the results of 113  
the audit to the Ohio retirement study council. 114

(C) The auditor of state may audit the accounts of any 115  
provider as defined in section 5164.01 of the Revised Code. 116

(D) If a public office has been audited by an agency of 117  
the United States government, the auditor of state may, if 118  
satisfied that the federal audit has been conducted according to 119  
principles and procedures not contrary to those of the auditor 120  
of state, use and adopt the federal audit and report in lieu of 121  
an audit by the auditor of state's own office. 122

(E) Within thirty days after the creation or dissolution 123  
or the winding up of the affairs of any public office, that 124  
public office shall notify the auditor of state in writing that 125  
this action has occurred. 126

(F) ~~Nothing in this section precludes the~~ The auditor of 127  
state ~~from issuing~~ may issue to a private institution, 128  
association, board, or corporation a subpoena and compulsory 129  
process for the attendance of witnesses or the production of 130  
records under section 117.18 of the Revised Code if the subpoena 131  
and compulsory process is in furtherance of an audit the auditor 132

of state is authorized by law to perform. 133

**Sec. 117.561.** The auditor of state shall audit JobsOhio, 134  
the nonprofit corporation formed under section 187.01 of the 135  
Revised Code, and of any nonprofit entity the sole member of 136  
which is JobsOhio, each fiscal year in accordance with this 137  
chapter. The auditor may engage an independent certified public 138  
accountant to conduct the audit that may be selected in 139  
consultation with the audit committee established under division 140  
(J) of section 187.01 of the Revised Code. An audit of JobsOhio 141  
or any nonprofit entity the sole member of which is JobsOhio, 142  
shall include, but not be limited to, an audit of revenues, 143  
receipts, and expenditures associated with the enterprise 144  
acquisition project under section 4313.02 of the Revised Code. 145

**Sec. 187.01.** As used in this chapter, "JobsOhio" means the 146  
nonprofit corporation formed under this section, and includes 147  
any subsidiary of that corporation. In any section of law that 148  
refers to the nonprofit corporation formed under this section, 149  
reference to the corporation includes reference to any such 150  
subsidiary unless otherwise specified or clearly appearing from 151  
the context. 152

The governor is hereby authorized to form a nonprofit 153  
corporation, to be named "JobsOhio," with the purposes of 154  
promoting economic development, job creation, job retention, job 155  
training, and the recruitment of business to this state. Except 156  
as otherwise provided in this chapter, the corporation shall be 157  
organized and operated in accordance with Chapter 1702. of the 158  
Revised Code. The governor shall sign and file articles of 159  
incorporation for the corporation with the secretary of state. 160  
The legal existence of the corporation shall begin upon the 161  
filing of the articles. 162

In addition to meeting the requirements for articles of  
incorporation in Chapter 1702. of the Revised Code, the articles  
of incorporation for the nonprofit corporation shall set forth  
the following:

(A) The designation of the name of the corporation as  
JobsOhio;

(B) The creation of a board of directors consisting of  
nine directors, to be appointed by the governor, who satisfy the  
qualifications prescribed by section 187.02 of the Revised Code;

(C) A requirement that the governor make initial  
appointments to the board within sixty days after the filing of  
the articles of incorporation. Of the initial appointments made  
to the board, two shall be for a term ending one year after the  
date the articles were filed, two shall be for a term ending two  
years after the date the articles were filed, and five shall be  
for a term ending four years after the date the articles were  
filed. The articles shall state that, following the initial  
appointments, the governor shall appoint directors to terms of  
office of four years, with each term of office ending on the  
same day of the same month as did the term that it succeeds. If  
any director dies, resigns, or the director's status changes  
such that any of the requirements of division (C) of section  
187.02 of the Revised Code are no longer met, that director's  
seat on the board shall become immediately vacant. The governor  
shall forthwith fill the vacancy by appointment for the  
remainder of the term of office of the vacated seat.

(D) A requirement that the governor appoint one director  
to be chairperson of the board and procedures for electing  
directors to serve as officers of the corporation and members of  
an executive committee;

(E) A provision for the appointment of a chief investment officer of the corporation by the recommendation of the board and approval of the governor. The chief investment officer shall serve at the pleasure of the board and shall have the power to execute contracts, spend corporation funds, and hire employees on behalf of the corporation. If the position of chief investment officer becomes vacant for any reason, the vacancy shall be filled in the same manner as provided in this division.

(F) Provisions requiring the board to do all of the following:

(1) Adopt one or more resolutions providing for compensation of the chief investment officer;

(2) Approve an employee compensation plan recommended by the chief investment officer;

(3) Approve a contract with the director of development services for the corporation to assist the director and the development services agency with providing services or otherwise carrying out the functions or duties of the agency, including the operation and management of programs, offices, divisions, or boards, as may be determined by the director of development services in consultation with the governor;

(4) Approve all major contracts for services recommended by the chief investment officer;

(5) Establish an annual strategic plan and standards of measure to be used in evaluating the corporation's success in executing the plan;

(6) Establish a conflicts of interest policy that, at a minimum, complies with section 187.06 of the Revised Code;



(7) Hold a minimum of four board of directors meetings per 221  
year at which a quorum of the board is physically present, and 222  
such other meetings, at which directors' physical presence is 223  
not required, as may be necessary. Meetings at which a quorum of 224  
the board is required to be physically present are subject to 225  
divisions (C), (D), and (E) of section 187.03 of the Revised 226  
Code. 227

(8) Establish a records retention policy and present the 228  
policy, and any subsequent changes to the policy, at a meeting 229  
of the board of directors at which a quorum of the board is 230  
required to be physically present pursuant to division (F) (7) of 231  
this section; 232

(9) Adopt standards of conduct for the directors. 233

(G) A statement that directors shall not receive any 234  
compensation from the corporation, except that directors may be 235  
reimbursed for actual and necessary expenses incurred in 236  
connection with services performed for the corporation; 237

(H) A provision authorizing the board to amend provisions 238  
of the corporation's articles of incorporation or regulations, 239  
except provisions required by this chapter; 240

(I) Procedures by which the corporation would be dissolved 241  
and by which all corporation rights and assets would be 242  
distributed to the state or to another corporation organized 243  
under this chapter. These procedures shall incorporate any 244  
separate procedures subsequently set forth in this chapter for 245  
the dissolution of the corporation. The articles shall state 246  
that no dissolution shall take effect until the corporation has 247  
made adequate provision for the payment of any outstanding 248  
bonds, notes, or other obligations. 249

(J) A provision establishing an audit committee, to be 250  
comprised of directors, to consult with the auditor of state 251  
under section 117.561 of the Revised Code, and to oversee the 252  
corporation's compliance with division (G) of section 187.04 of 253  
the Revised Code. The articles shall require that the audit 254  
committee hire a firm of independent certified public 255  
accountants, selected in consultation with the auditor of state, 256  
to perform, once each year, a financial audit of the corporation 257  
and of any nonprofit entity the sole member of which is 258  
JobsOhio. The articles also shall require all of the following: 259

~~(1) Commencing with JobsOhio's fiscal year beginning July 260  
1, 2012, the financial statements to be audited are to be 261  
prepared in accordance with accounting principles and standards 262  
set forth in all applicable pronouncements of the governmental 263  
accounting standards board; 264~~

~~(2) The firm of independent certified public accountants 265  
hired is to conduct a supplemental compliance and control review 266  
pursuant to a written agreement by and among the firm, the 267  
auditor of state, JobsOhio, and any nonprofit entity the sole 268  
member of which is JobsOhio; and 269~~

~~(3) A copy of each financial audit report and each report 270  
of the results of the compliance and control review are to be 271  
provided to the governor, the auditor of state, the speaker of 272  
the house of representatives, and the president of the senate. 273~~

(K) A provision authorizing a majority of the 274  
disinterested directors to remove a director for misconduct, as 275  
that term may be defined in the articles or regulations of the 276  
corporation. The removal of a director under this division 277  
creates a vacancy on the board that the governor shall fill by 278  
appointment for the remainder of the term of office of the 279

vacated seat. 280

**Sec. 187.04.** (A) The director of development services, as 281  
soon as practical after February 18, 2011, shall execute a 282  
contract with JobsOhio for the corporation to assist the 283  
director and the development services agency with providing 284  
services or otherwise carrying out the functions or duties of 285  
the agency, including the operation and management of programs, 286  
offices, divisions, or boards, as may be determined by the 287  
director in consultation with the governor. The approval or 288  
disapproval of awards involving public money shall remain 289  
functions of the agency. All contracts for grants, loans, and 290  
tax incentives involving public money shall be between the 291  
agency and the recipient and shall be enforced by the agency. 292  
JobsOhio may not execute contracts obligating the agency for 293  
loans, grants, tax credits, or incentive awards recommended by 294  
JobsOhio to the agency. Prior to execution, all contracts 295  
between the director and JobsOhio entered into under this 296  
section that obligate the agency to pay JobsOhio for services 297  
rendered are subject to controlling board approval. 298

The term of an initial contract entered into under this 299  
section shall not extend beyond June 30, 2013. Thereafter, the 300  
director and JobsOhio may renew the contract for subsequent 301  
fiscal biennia, but at no time shall a particular contract be 302  
effective for longer than a fiscal biennium of the general 303  
assembly. 304

JobsOhio's provision of services to the agency as 305  
described in this section shall be pursuant to a contract 306  
entered into under this section. If at any time the director 307  
determines that the contract with JobsOhio may not be renewed 308  
for the subsequent fiscal biennium, the director shall notify 309

JobsOhio of the director's decision not later than one hundred 310  
twenty days prior to the end of the current fiscal biennium. If 311  
the director does not provide such written notice to JobsOhio 312  
prior to one hundred days before the end of the current fiscal 313  
biennium, the contract shall be renewed upon such terms as the 314  
parties may agree, subject to the requirements of this section. 315

(B) A contract entered into under this section shall 316  
include all of the following: 317

(1) Terms assigning to the corporation the duties of 318  
advising and assisting the director in the director's evaluation 319  
of the agency and the formulation of recommendations under 320  
section 187.05 of the Revised Code; 321

(2) Terms designating records created or received by 322  
JobsOhio that shall be made available to the public under the 323  
same conditions as are public records under section 149.43 of 324  
the Revised Code. Documents designated to be made available to 325  
the public pursuant to the contract shall be kept on file with 326  
the agency. 327

Among records to be designated under this division shall 328  
be the following: 329

(a) The corporation's federal income tax returns; 330

(b) The report of expenditures described in division (B) 331  
(3) of section 187.03 of the Revised Code. The records shall be 332  
filed with the agency at such times and frequency as agreed to 333  
by the corporation and the agency, which shall not be less 334  
frequently than quarterly. 335

(c) The annual total compensation paid to each officer and 336  
employee of the corporation; 337

(d) A copy of the annual financial report ~~for~~ prepared 338  
under division (G) (1) of this section, and the report of each 339  
financial audit of the corporation ~~and of each supplemental~~ 340  
~~compliance and control review of the corporation performed by a~~ 341  
~~firm of independent certified public accountants pursuant to~~ 342  
~~division (J) of section 187.01 of the Revised Code~~ prepared 343  
under section 117.561 of the Revised Code. Information that 344  
appears in the report or audit that identifies a person or 345  
entity described under division (C) (2) of this section that 346  
provided a record to JobsOhio shall be redacted from the report 347  
or audit before the document is made available to the public. 348  
Any redaction shall be redacted from the report or audit before 349  
the document is made available to the public and shall be made 350  
in compliance with division (B) (1) of section 149.43 of the 351  
Revised Code. 352

(e) Records of any fully executed incentive proposals, to 353  
be filed annually; 354

(f) Records pertaining to the monitoring of commitments 355  
made by incentive recipients, to be filed annually; 356

(g) A copy of the minutes of all public meetings described 357  
in division (C) of section 187.03 of the Revised Code not 358  
otherwise closed to the public. 359

(3) The following statement acknowledging that JobsOhio is 360  
not acting as an agent of the state: 361

"JobsOhio shall have no power or authority to bind the 362  
state or to assume or create an obligation or responsibility, 363  
expressed or implied, on behalf of the state or in its name, nor 364  
shall JobsOhio represent to any person that it has any such 365  
power or authority, except as expressly provided in this 366

contract." 367

(C) (1) Records created by JobsOhio are not public records 368  
for the purposes of Chapter 149. of the Revised Code, regardless 369  
of who may have custody of the records, unless the record is 370  
designated to be available to the public by the contract under 371  
division (B) (2) of this section. 372

(2) Records received by JobsOhio from any person or entity 373  
that is not subject to section 149.43 of the Revised Code are 374  
not public records for purposes of Chapter 149. of the Revised 375  
Code, regardless of who may have custody of the records, unless 376  
the record is designated to be available to the public by the 377  
contract under division (B) (2) of this section. 378

(3) Records received by JobsOhio from a public office as 379  
defined in section 149.011 of the Revised Code that are not 380  
public records under section 149.43 of the Revised Code when in 381  
the custody of the public office are not public records for the 382  
purposes of section 149.43 of the Revised Code regardless of who 383  
has custody of the records. 384

~~(4) Division (B) of section 4701.19 of the Revised Code~~ 385  
~~applies to any work papers of the firm of independent certified~~ 386  
~~public accountants engaged to perform the annual financial audit~~ 387  
~~and the supplemental compliance and control review described in~~ 388  
~~division (J) of section 187.01 of the Revised Code, and to the~~ 389  
~~financial audit report and any report of the supplemental~~ 390  
~~compliance and control review, unless the record is designated~~ 391  
~~to be available to the public by the contract under division (B)~~ 392  
~~(2) of this section.~~ 393

(D) Any contract executed under authority of this section 394  
shall not negate, impair, or otherwise adversely affect the 395

obligation of this state to pay debt charges on securities 396  
executed by the director or issued by the treasurer of state, 397  
Ohio public facilities commission, or any other issuing 398  
authority under Chapter 122., 151., 165., or 166. of the Revised 399  
Code to fund economic development programs of the state, or to 400  
abide by any pledge or covenant relating to the payment of those 401  
debt charges made in any related proceedings. As used in this 402  
division, "debt charges," "proceedings," and "securities" have 403  
the same meanings as in section 133.01 of the Revised Code. 404

(E) Nothing in this section, other than the requirement of 405  
controlling board approval, shall prohibit the agency from 406  
contracting with JobsOhio to perform any of the following 407  
functions: 408

- (1) Promoting and advocating for the state; 409
- (2) Making recommendations to the agency; 410
- (3) Performing research for the agency; 411
- (4) Establishing and managing programs or offices on 412  
behalf of the agency, by contract; 413
- (5) Negotiating on behalf of the state. 414

(F) Nothing in this section, other than the requirement of 415  
controlling board approval, shall prohibit the agency from 416  
compensating JobsOhio from funds currently appropriated to the 417  
agency to perform the functions described in division (E) of 418  
this section. 419

(G) (1) JobsOhio shall prepare an annual financial report 420  
under section 117.38 of the Revised Code, that is prepared 421  
according to generally accepted accounting principles, and that 422  
is certified by the board of directors of the corporation or its 423

treasurer or other chief fiscal officer to the best knowledge 424  
and belief of those persons certifying the report. The audited 425  
financial report shall be published on the corporation's web 426  
site, or if the corporation does not have a web site, on the web 427  
site of the county in which the corporation is located. 428

(2) JobsOhio shall submit to audits by the auditor of 429  
state under section 117.561 of the Revised Code. 430

**Section 2.** That existing sections 117.01, 117.10, 187.01, 431  
and 187.04 of the Revised Code are hereby repealed. 432

**Section 3.** Section 117.10 of the Revised Code is presented 433  
in this act as a composite of the section as amended by both Am. 434  
Sub. H.B. 59 and Am. S.B. 67 of the 130th General Assembly. The 435  
General Assembly, applying the principle stated in division (B) 436  
of section 1.52 of the Revised Code that amendments are to be 437  
harmonized if reasonably capable of simultaneous operation, 438  
finds that the composite is the resulting version of the section 439  
in effect prior to the effective date of the section as 440  
presented in this act. 441