## As Reported by the House State and Local Government Committee

# **132nd General Assembly**

Regular Session 2017-2018

Sub. S. B. No. 239

#### **Senator Dolan**

Cosponsors: Senators Lehner, Beagle, Coley, Brown, Hackett, Hoagland, Huffman, O'Brien, Peterson, Schiavoni, Sykes, Wilson Representative Hambley

## A BILL

Го	amend sections 102.01, 167.02, 167.04, 167.07,	1
	715.014, 940.07, and 2744.07 and to enact	2
	sections 3901.82, 5534.403, 5534.811, and	3
	5534.911 of the Revised Code to modify the law	4
	concerning regional councils of governments to	5
	clarify that a municipal corporation eligible to	6
	designate a tourism development district may	7
	designate more than one district, to specify	8
	that the American Law Institute's approved	9
	"Restatement of the Law, Liability Insurance"	10
	does not constitute the public policy of Ohio,	11
	to designate a portion of U.S. Route 33 in Meigs	12
	County as the "Steve Story Memorial Highway," to	13
	designate a portion of Interstate Route 270 in	14
	Franklin County as the "Officers Anthony Morelli	15
	and Eric Joering Memorial Highway," and to	16
	designate the portion of U.S. Route 24 in Henry	17
	County as the "Henry County Veterans Highway."	18

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

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<pre>following:</pre>	48
(a) A department, division, institution, board,	49
commission, authority, or other instrumentality of the state or	50
a county, municipal corporation, township, or other governmental	51
entity that functions exclusively for cultural, educational,	52
historical, humanitarian, advisory, or research purposes; that	53
does not expend more than ten thousand dollars per calendar	54
year, excluding salaries and wages of employees; and whose	55
members are uncompensated. "Public agency" does not include the	56
<u>i</u>	57
(b) The nonprofit corporation formed under section 187.01	58
of the Revised Code.	59
(D) "Immediate family" means a spouse residing in the	60
person's household and any dependent child.	61
(E) "Income" includes gross income as defined and used in	62
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.	63
1, as amended, interest and dividends on obligations or	64
securities of any state or of any political subdivision or	65
authority of any state or political subdivision, and interest or	66
dividends on obligations of any authority, commission, or	67
instrumentality of the United States.	68
(F) Except as otherwise provided in division (A) of	69
section 102.08 of the Revised Code, "appropriate ethics	70
commission" means:	71
(1) For matters relating to members of the general	72
assembly, employees of the general assembly, employees of the	73
legislative service commission, and candidates for the office of	74
member of the general assembly, the joint legislative ethics	75
committee;	76

(2) For matters relating to judicial officers and	77
employees, and candidates for judicial office, the board of	78
commissioners on grievances and discipline of the supreme court;	79
(3) For matters relating to all other persons, the Ohio	80
ethics commission.	81
(G) "Anything of value" has the same meaning as provided	82
in section 1.03 of the Revised Code and includes, but is not	83
limited to, a contribution as defined in section 3517.01 of the	84
Revised Code.	85
(H) "Honorarium" means any payment made in consideration	86
for any speech given, article published, or attendance at any	87
public or private conference, convention, meeting, social event,	88
meal, or similar gathering. "Honorarium" does not include	89
ceremonial gifts or awards that have insignificant monetary	90
value; unsolicited gifts of nominal value or trivial items of	91
informational value; or earned income from any person, other	92
than a legislative agent, for personal services that are	93
customarily provided in connection with the practice of a bona	94
fide business, if that business initially began before the	95
public official or employee conducting that business was elected	96
or appointed to the public official's or employee's office or	97
position of employment.	98
(I) "Employer" means any person who, directly or	99
indirectly, engages an executive agency lobbyist or legislative	100
agent.	101
(J) "Executive agency decision," "executive agency	102
lobbyist," and "executive agency lobbying activity" have the	103
same meanings as in section 121.60 of the Revised Code.	104

(K) "Legislation," "legislative agent," "financial

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regional council of governments and holding an office of the

council does not constitute the holding of a public office or

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employment within the meaning of any section of the Revised	195
Code. Membership	196
(2) A regional council of governments is considered a	197
public agency for purposes of Chapter 102. and is considered a	198
political subdivision for purposes of Chapter 2921. of the	199
Revised Code.	200
(B) Membership on the council and holding an office of the	201
council shall not constitute an interest, either direct or	202
indirect, in a contract or expenditure of money by any municipal	203
corporation, township, special district, school district,	204
county, or other political subdivision other than the council	205
<u>itself</u> . No-	206
(C) No member or officer of the council shall be	207
disqualified from holding any public office or employment, nor	208
shall such member or officer forfeit any such office or	209
employment, by reason of his position serving as an officer or	210
member of the council, notwithstanding any law to the contrary.	211
Sec. 715.014. (A) As used in this section:	212
(1) "Tourism development district" means a district	213
designated by a municipal corporation under this section.	214
(2) "Territory of a tourism development district" means	215
all of the area included within the territorial boundaries of a	216
tourism development district.	217
(3) "Business" and "owner" have the same meanings as in	218
section 503.56 of the Revised Code.	219
(4) "Eligible municipal corporation" means a municipal	220
corporation wholly or partly located in a county having a	221
population greater than three hundred seventy-five thousand but	222

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section shall include an explanation of the taxes and charges 251 that may be levied or imposed in the proposed district. 252

- (3) The legislative authority shall certify the resolution 253 or ordinance to the tax commissioner within five days after its 254 adoption, along with a description of the boundaries of the 255 district authorized in the resolution. That description shall 256 include sufficient information for the commissioner to determine 257 if the address of a vendor is within the boundaries of the 258 district.
- (4) Subject to the limitations of divisions (B)(1)(a) and 260 (b) of this section, the legislative authority of an eligible 261 municipal corporation may enlarge the territory of an existing 262 tourism development district in the manner prescribed for the 263 creation of a district under divisions (B)(1) to (3) of this 264 section, except that the petition described in division (B) (1) 265 (d) of this section must be signed by every record owner of a 266 parcel of real property located in the area proposed to be added 267 to the district and the owner of every business that operates in 268 the area proposed to be added to the district. 269
- (C) For the purpose of fostering and developing tourism in 270 a tourism development district, a lessor leasing real property 271 in a tourism development district may impose and collect a 272 uniform fee on each parcel of real property leased by the 273 lessor, to be paid by each of the person's lessees. A lessee is 274 subject to such a fee only if the lease separately states the 275 amount of the fee. Before a lessor may impose and collect such a 276 fee, the lessor shall file a copy of such lease with the fiscal 277 officer. A lessor that imposes such a fee shall remit all 278 collections of the fee to the municipal corporation in which the 279 real property is located. 280

The legislative authority of that municipal corporation 281 shall establish all regulations necessary to provide for the 282 administration and remittance of such fees. The regulations may 283 prescribe the time for payment of the fee, and may provide for 284 the imposition of a penalty or interest, or both, for late 285 remittances, provided that the penalty does not exceed ten per 286 cent of the amount of fee due, and the rate at which interest 287 accrues does not exceed the rate per annum prescribed pursuant 288 to section 5703.47 of the Revised Code. The regulations shall 289 provide, after deducting the real and actual costs of 290 administering the fee, that the revenue be used exclusively for 291 fostering and developing tourism within the tourism development 292 district. 293

- (D) The legislative authority of an eligible municipal 294 corporation that has designated a tourism development district 295 may levy the tax authorized under section 5739.101 of the 296 Revised Code. Nothing in this section limits the power of the 297 legislative authority of a municipal corporation to levy a tax 298 on the basis of admissions in a tourism development district 299 pursuant to its powers of local self-government conferred by 300 Section 3 of Article XVIII, Ohio Constitution. 301
- (E) On or before the first day of each January and July,

  beginning after the designation of the a tourism development

  district, the fiscal officer shall certify a list of vendors

  located within the tourism development district to the tax

  commissioner, which shall include the name, address, and

  vendor's license number for each vendor.

Sec. 940.07. (A) As used in this section:

(1) "Judgment" includes a consent judgment.

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(2) "Tort action" means a civil action for damages for	310
injury, death, or loss to person or property, other than a civil	311
action for damages for a breach of contract or another agreement	312
between persons.	313
(B) Except as provided in divisions (C) and (D) of this	314
section, the provisions of Chapter 2744. of the Revised Code	315
apply to soil and water conservation districts as political	316
subdivisions of the state and to their supervisors and other	317
officers, employees, and agents as employees of political	318
subdivisions of the state.	319
(C)(1) The attorney general, an assistant attorney	320
general, or special counsel appointed by the attorney general	321
shall defend a soil and water conservation district in any tort	322
action that is commenced against the district as a political	323
subdivision of the state under or pursuant to Chapter 2744. of	324
the Revised Code, if a written request for the legal	325
representation is submitted to the attorney general by the Ohio	326
soil and water conservation commission. If a request is so	327
submitted, the prosecuting attorney of the county associated	328
with the district does not have legal representation duties in	329
connection with the tort action under section 940.13 of the	330
Revised Code.	331
(2) The attorney general, an assistant attorney general,	332
or special counsel appointed by the attorney general shall	333
defend a supervisor or other officer, employee, or agent of a	334
soil and water conservation district in any tort action that is	335
commenced against that person and based upon an action or	336

omission allegedly associated with that person's employment or

official responsibilities for the district, if both of the

following apply:

(a) At the time of the action or omission, the person was	340
not acting manifestly outside the scope of the person's	341
employment or official responsibilities for the district or	342
acting with malicious purpose, in bad faith, or in a wanton or	343
reckless manner;	344
(b) A written request for the legal representation is	345
submitted to the attorney general by the Ohio soil and water	346
conservation commission.	347
(3) If a request for legal representation is submitted to	348
the attorney general pursuant to division (C)(2) of this	349
section, divisions (A) $\frac{(C)}{(D)}$ of section 2744.07 of the	350
Revised Code do not apply to the soil and water conservation	351
district and the defense of its supervisor or other officer,	352
employee, or agent.	353
(D)(1) The state shall indemnify and hold harmless a soil	354
and water conservation district as follows:	355
and water conservation district as forlows.	333
(a) In the amount of any judgment that is rendered against	356
the district in a tort action that is commenced under or	357
pursuant to Chapter 2744. of the Revised Code;	358
(b) In the amount of any settlement of a tort action	359
against the district as described in division (D)(1)(a) of this	360
section, or of a claim for damages for injury, death, or loss to	361
person or property that could become a basis of a tort action	362
against the district as described in division (D)(1)(a) of this	363
section.	364
(2) The state shall indemnify and hold harmless a	365
supervisor or other officer, employee, or agent of a soil and	366
water conservation district as follows:	367

(a) Subject to the limitations specified in division (D)

(3) of this section, in the amount of any judgment that is	369
rendered against that person in a tort action based upon an	370
action or omission allegedly associated with the person's	371
employment or official responsibilities for the district;	372
(b) Subject to the limitations specified in division (D)	373
(3) of this section, in the amount of any settlement of a tort	374
action as described in division (D)(2)(a) of this section or of	375
any settlement of a claim for damages for injury, death, or loss	376
to person or property that could become a basis of a tort action	377
as described in division (D)(2)(a) of this section.	378
(3)(a) The maximum aggregate amount of indemnification	379
paid directly from state funds to or on behalf of any supervisor	380
or other officer, employee, or agent of a soil and water	381
conservation district pursuant to divisions (D)(2)(a) and (b) of	382
this section shall be one million dollars per occurrence,	383
regardless of the number of persons who suffer injury, death, or	384
loss to person or property as a result of the action or omission	385
of that person.	386
(b) An indemnification may be made pursuant to division	387
(D)(2)(a) or (b) of this section only if, at the time of the	388
action or omission, the supervisor or other officer, employee,	389
or agent of a soil and water conservation district was not	390
acting manifestly outside the scope of the supervisor's or other	391
officer's, employee's, or agent's employment or official	392
responsibilities for the district or acting with malicious	393
purpose, in bad faith, or in a wanton or reckless manner.	394
(c) An indemnification shall not be made pursuant to	395
division (D)(2)(a) or (b) of this section for any portion of a	396
consent judgment or settlement that is unreasonable or for any	397

portion of a judgment that represents punitive or exemplary

damages.	399
(4) Division $\frac{(A)}{(2)}$ of section 2744.07 of the Revised	400
Code does not apply to a soil and water conservation district,	401
or to any of its supervisors or other officers, employees, or	402
agents, to the extent that division (D) of this section requires	403
the state to indemnify and hold harmless a supervisor or other	404
officer, employee, or agent of that district.	405
Sec. 2744.07. (A) (1) Except as otherwise provided in this	406
division (A)(2) of this section, a political subdivision shall	407
provide for the defense of an employee, in any state or federal	408
court, in any civil action or proceeding which contains an	409
allegation for damages for injury, death, or loss to person or	410
property caused by an act or omission of the employee in	411
connection with a governmental or proprietary function. The	412
political subdivision has the duty to defend the employee if the	413
act or omission occurred while the employee was acting both in	414
good faith and not manifestly outside the scope of employment or	415
official responsibilities. Amounts expended by a political	416
subdivision in the defense of its employees shall be from funds	417
appropriated for this purpose or from proceeds of insurance. The	418
duty to provide for the defense of an employee specified in this	419
division does not apply in a civil action or proceeding that is	420
commenced by or on behalf of a political subdivision.	421
(2) A political subdivision does not have the duty to	422
provide for the defense of an employee under division (A)(1) of	423
this section if any of the following apply:	424
(a) The act or omission occurred while the employee was	425
not acting in good faith.	426

(b) The act or omission occurred while the employee was

acting manifestly outside the scope of the employee's employment	428
or official responsibilities.	429
(c) The civil action or proceeding is commenced by or on	430
behalf of a political subdivision.	431
(d) The employee is an employee of a regional council of	432
governments established under Chapter 167. of the Revised Code	433
and both of the following apply:	434
(i) The employee is not also an employee of a political	435
subdivision that is a member of the council.	436
(ii) The act or omission, if proven, would constitute a	437
violation of Chapter 102. or Chapter 2921. of the Revised Code.	438
(B)(1) Except as otherwise provided in this division (B)	439
(2) of this section, a political subdivision shall indemnify and	440
hold harmless an employee in the amount of any judgment, other	441
than a judgment for punitive or exemplary damages, that is	442
obtained against the employee in a state or federal court or as	443
a result of a law of a foreign jurisdiction and that is for	444
damages for injury, death, or loss to person or property caused	445
by an act or omission in connection with a governmental or	446
proprietary function, if at the time of the act or omission the	447
employee was acting in good faith and within the scope of	448
employment or official responsibilities.	449
(2) A political subdivision is not required to indemnify	450
and hold harmless an employee under division (B)(1) of this	451
section if any of the following apply:	452
(a) At the time of the act or omission, the employee was	453
not acting in good faith.	454
(b) At the time of the act or omission, the employee was	455

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file the motion within thirty days of the close of discovery in	485
the action. After the motion is filed, the employee shall have	486
not less than thirty days to respond to the motion.	487
At the request of the political subdivision or the	488
employee, the court shall order the motion to be heard at an	489
oral hearing. At the hearing on the motion, the court shall	490
consider all evidence and arguments submitted by the parties. <del>In</del>	491
determining whether a political subdivision has a duty to defend	492
the employee in the action, the The court shall determine	493
whether the employee was acting both in good faith and not-	494
manifestly outside the scope of employment or official	495
responsibilities political subdivision has the duty to defend	496
the employee under division (A) of this section. The pleadings	497
shall not be determinative of whether the employee acted in good	498
faith or was manifestly outside the scope of employment or	499
official responsibilities.	500
If the court determines that the employee was acting both	501
in good faith and not manifestly outside the scope of employment	502
or official responsibilities political subdivision has the duty	503
to defend the employee under division (A) of this section, the	504
court shall order the political subdivision to defend the	505
employee in the action.	506
Sec. 3901.82. The "Restatement of the Law, Liability	507
Insurance" that was approved at the 2018 annual meeting of the	508
American law institute does not constitute the public policy of	509
this state and is not an appropriate subject of notice.	510
Sec. 5534.403. In addition to any other name prescribed in	511
the Revised Code or otherwise, the eastbound and westbound lanes	512
of interstate route number two hundred seventy, commencing at	513
the interchange of that route and state route number three and	514

extending in a westerly direction to the intersection of	515
interstate route number two hundred seventy and Cleveland	516
avenue, in Franklin County, shall be known as the "Officers	517
Anthony Morelli and Eric Joering Memorial Highway."	518
The director of transportation may erect suitable markers	519
along the highway indicating its name.	520
Sec. 5534.811. In addition to any other name prescribed in	521
the Revised Code or otherwise, the eastbound and westbound lanes	522
of United States route number twenty-four between the eastern	523
border of Henry county and the western border of Henry county,	524
shall be known as the "Henry County Veterans Highway."	525
The director of transportation may erect suitable markers	526
along the highway indicating its name.	527
Sec. 5534.911. In addition to any other name prescribed by	528
the Revised Code or otherwise, the southbound and northbound	529
lanes of the road known as United States route number thirty-	530
three, between the intersection of that route and the northern	531
border of Meigs county and the intersection of that route and	532
state route number six hundred eighty-one, in Meigs county,	533
shall be known as the "Steve Story Memorial Highway."	534
The director of transportation may erect suitable markers	535
along the highway indicating its name.	536
Section 2. That existing sections 102.01, 167.02, 167.04,	537
167.07, 715.014, 940.07, and 2744.07 of the Revised Code are	538
hereby repealed.	539

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