
LOCAL GOVERNMENT

City health districts

- Generally requires each city with a population less than 50,000 served by a board of health of a city health district to complete a study evaluating the efficiency and effectiveness of merging with the general health district that includes the city for the administration of health affairs in the merged general health district.
- Exempts a city with a population less than 50,000 whose city health district is accredited or in the process of applying for accreditation.
- Requires the Director of Health to develop criteria to be used in determining whether a merger is advisable and requires the city to conduct its evaluation using the developed criteria.
- Requires the city's chief executive, if the study indicates that a merger is advisable, to enter into a contract with the District Advisory Council for the general health district that includes the city for the administration of health affairs in the merged general health district, unless the applicable Advisory Council delays the merger for good cause.

Auxiliary containers

- Makes permanent all of the following provisions enacted in H.B. 242 of the 133rd General Assembly, which otherwise would have expired on January 15, 2022:
 - Prohibits local governments from imposing a tax, fee, assessment, or other charge on auxiliary containers (for example, a plastic or paper bag), the sale, use, or consumption of auxiliary containers, or on the basis of receipts received from the sale of auxiliary containers;
 - Authorizes a person to use an auxiliary container for commerce purposes or otherwise;
 - Clarifies that continuing law prohibiting the improper deposit of litter applies to auxiliary containers under the state anti-littering law.

Tourism development districts (TDDs)

- Clarifies that a municipality or township may enlarge the territory of an existing tourism development district (TDD) after December 31, 2020 – the deadline under continuing law for creating a new TDD.

Local workforce development board meetings

- Allows local workforce development boards to hold meetings by interactive video conference or teleconference (states a preference for interactive video conference).
- Requires a board that wishes to hold meetings by video conference or teleconference to adopt rules that require the meetings to be conducted in a certain manner and establish

a minimum number of members who must be physically present at the primary meeting location.

Municipal fiscal officer continuing education

- Requires an *appointed* municipal fiscal officer to complete 18 hours of continuing education during the first term of office and 12 hours in each subsequent term of office.

Unpaid municipal trash charges

- Allows a municipal corporation to place as a lien on property unpaid garbage/trash collection charges when the unpaid amount is equal to or greater than the annual charge for the services.

Township fiscal officer assistant compensation

- Allows township fiscal officers to set the compensation of their hired assistants without prior approval from the board of township trustees.

New community authorities

- Specifies that a person controlling land pursuant to certain 99-year renewable leases qualifies as a developer eligible to form a new community authority.

Medical marijuana businesses

- Prohibits local governments from imposing a tax or fee on medical marijuana businesses that is based on the business's gross receipts or is the same as or similar to a state tax or fee.

Agreements with animal shelters

- Expands the facilities with which a board of county commissioners may enter into an agreement to operate as a dog pound on behalf of the county to include *any* animal shelter for dogs.

Shoreline improvement district project expansion

- Allows a special improvement district to fund projects, including by assessing property within the district, to abate erosion along waters within a watershed district.
- Specifies that an existing qualified nonprofit corporation may create a special improvement district to implement a shoreline improvement project even if the corporation (1) does not have an established police department and (2) is not organized for purposes that include the acquisition of real property.

Discriminatory restrictive covenants – void

- Declares void discriminatory restrictive covenants in deeds limiting the transfer or lease of real property to individuals against whom discrimination is prohibited under the Ohio Civil Rights Law.

- Allows attorneys preparing new deeds to omit discriminatory restrictive covenants that are contained in prior deeds.
- Provides that omission of a discriminatory restrictive covenant from a new deed does not affect that validity of the deed and prohibits county recorders from refusing to record a deed due to such omission.

Free library photocopies of identification

- Requires public libraries to provide an individual with a photocopy of that individual's driver's license, driver's permit, or state identification free of charge upon request.

Park district eminent domain for recreational trails

- Until July 1, 2026, prohibits park districts in counties with 220,000 to 240,000 residents from using eminent domain to appropriate property for recreational trails.

Soil and water conservation districts: acceptance of credit cards

- Establishes procedures by which a soil and water conservation district may accept credit cards for payment of certain goods and services.

Regional councils of governments

- Authorizes a regional council of governments, having an educational service center as its fiscal agent and established to provide health care benefits, to acquire, establish, manage, or operate a separate business entity, and utilize its unencumbered reserve funds in the acquisition, establishment, or operation, to cover costs of those benefits.
- Specifies if a business entity described above operates or provides services that is engaging in the business of insurance or is subject to Ohio insurance laws, it must comply with and is not exempt from laws that apply to self-insurance programs for health care benefits provided by political subdivisions and county boards.

Transportation improvement district board

- Reauthorizes the President of the Senate and the Speaker of the House to appoint a nonvoting member to serve on a transportation improvement district board of trustees.

City health districts

(R.C. 3709.012, 3709.052, 3709.06, and 3709.07)

The act directs each city with a population less than 50,000 that is represented by a board of health of a city health district to complete a study examining the efficiency and effectiveness of the city health district merging with the county's general health district. The study must be completed within 18 months after the official announcement of the result of a federal decennial census, including the 2020 census. As part of the study, the city must compare the merger's efficiency and effectiveness with that of remaining as a separate health district.

The Director of Health must develop criteria to be used by a city in determining whether a merger with the general health district is advisable. The criteria may include accreditation standards promulgated by the Public Health Accreditation Board, a nonprofit organization that assists local public health entities in obtaining accreditation. The Director also must provide technical and financial assistance to cities and oversee any efficiency and effectiveness study conducted.

Should a study indicate that a merger would be efficient and effective, the act directs the city's chief executive to enter into a contract with the District Advisory Council for the general health district for the administration of health affairs in the former city health district and the merged general health district. If a merger is required by the act, it must be completed not later than 30 months after the result of a federal decennial census is announced, unless either of the following acts for good cause to delay the merger:

1. In a single-county general health district, the district's District Advisory Council; or
2. In a multi-county general health district resulting from a union of general health districts, the District Advisory Council representing the county having a majority of the population to be served by the merged district.

Exception for accredited health districts

The act exempts from the study and merger requirements a city with a population less than 50,000 whose city health district meets either of the following conditions:

1. The district is accredited by an accreditation body approved by the Director of Health and maintains its accreditation;
2. The district is in the process of applying for accreditation on September 30, 2021 (the act's 90-day effective date), receives accreditation not later than December 31, 2025, and maintains its accreditation.

Auxiliary containers

(R.C. 301.30, 504.04, 715.013, 3736.01, and 3736.021)

The act modifies the law governing "auxiliary containers," which are single-use or reusable packaging such as bags, cans, bottles, or other containers. These containers may be made of materials such as plastic, glass, metal, or cardboard and are designed for transporting food, beverages, or other merchandise from or at a restaurant, grocery store, or other retail establishment. In particular, the act permanently does all of the following, which are provisions enacted in [H.B. 242 of the 133rd General Assembly](#) that otherwise would have expired on January 15, 2022:

1. Prohibits local governments with some home rule taxing or fee imposing authority – municipal corporations, charter counties, i.e., Cuyahoga and Summit counties, and limited home rule townships – from imposing a tax, fee, assessment, or other charge on auxiliary containers, the sale, use, or consumption of the containers, or on the basis of receipts received from the sale of the containers, except for a general county sales and use tax. Municipal corporations and charter counties are endowed with home rule authority pursuant to the Ohio

Constitution, while a limited home rule township has statutorily granted home rule authority that nevertheless prohibits the township from levying taxes not authorized under state law.¹⁶¹ (A township with a township administrator, a population of at least 2,500 in its unincorporated territory, and a budget of at least \$3.5 million may elect to form a limited home rule township.)

2. Authorizes a person to use an auxiliary container for any purpose. (It is unclear how this authorization impacts a ban on auxiliary containers that has been or will be enacted by a municipal corporation or charter county under its home rule authority).¹⁶² The act specifies that, despite this authorization, nothing in the act may be construed to prohibit or limit the authority of a county, municipal corporation, or solid waste management district to implement a voluntary recycling program; and

3. Clarifies that the state anti-littering law prohibiting the improper deposit of litter applies to auxiliary containers. Thus, the act prohibits a person from improperly depositing an auxiliary container on public property, private property not owned by the person, or in or on waters of the state. A violation is a third degree misdemeanor and a sentencing court may require the violator to remove litter from property or the waters of the state.¹⁶³

Tourism development districts (TDDs)

(R.C. 503.56 and 715.014; Section 803.120)

Under continuing law, a township or municipal corporation located in a county with a population between 375,000 and 400,000 that levied a county sales tax rate of 0.50% or less in September 2015 (i.e., Stark County) may designate a special district within which the municipal corporation or township may raise revenue to fund tourism promotion and development by levying sales taxes, business taxes, lodging taxes, admissions taxes, and certain fees on activities occurring in the district. Such a district is referred to as a “tourism development district” or a TDD.

Continuing law prohibits the creation of a new TDD after December 31, 2020, but was ambiguous as to whether a municipality or township may enlarge the territory of an existing TDD after that date. The act clarifies that enlarging the territory of an existing TDD after that date is permissible, and specifies that the change is intended to clarify the law as it existed before the act’s clarification.

¹⁶¹ Ohio Constitution, Article XIII, Section 6 and Article XVIII, Section 13; R.C. Chapter 504.

¹⁶² Ohio Constitution, Article X, Section 3 and Article XVIII, Section 3, and see *Canton v. State*, 95 Ohio St.3d 149, 2002-Ohio-2005, 766 N.E.2d 963.

¹⁶³ See [LSC’s Final Analysis of H.B. 242 of the 133rd General Assembly](#) for a detailed discussion of the home rule implications of the prohibition and authorization extended by the act.

Local workforce development board meetings

(R.C. 6301.06)

The act creates an exception to the Open Meetings Law by allowing a local workforce development board to hold a meeting by interactive video conference or teleconference. A board member who attends a meeting by interactive video conference or teleconference is considered present in person at the meeting, may vote, and is counted for purposes of determining whether a quorum is present if the board holds a meeting in the following manner:

1. The board establishes a primary meeting location that is open and accessible to the public;
2. Meeting-related materials that are available before the meeting are sent via email, facsimile, hand-delivery, or U.S. postal service to each board member;
3. In the case of an interactive video conference, the board causes a clear video and audio connection to be established that enables all meeting participants at the primary meeting location to see and hear each board member;
4. In the case of a teleconference, the board causes a clear audio connection to be established that enables all meeting participants at the primary meeting location to hear each board member;
5. All board members have the capability to receive meeting-related materials that are distributed during the board meeting;
6. A roll call voice vote is recorded for each vote taken; and
7. The board meeting minutes identify which board members remotely attended the meeting by interactive video conference or teleconference.

If the board holds a meeting by interactive video conference or teleconference, use of an interactive video conference is preferred, but nothing prohibits the board from conducting its meetings by teleconference or by a combination of interactive video conference and teleconference at the same meeting.

A board must adopt rules that are necessary to implement the board's authority to hold a meeting by interactive video conference or teleconference, including rules that do all of the following:

1. Authorize board members to remotely attend a board meeting by interactive video conference or teleconference, or by a combination of them, in lieu of attending the meeting in person;
2. Establish a minimum number of board members that must be physically present in person at the primary meeting location if the board conducts a meeting by interactive video conference or teleconference;
3. Require that not more than one board member remotely attending a board meeting by teleconference is permitted to be physically present at the same remote location;

4. Establish geographic restrictions for participation in meetings by interactive video conference and by teleconference;

5. Establish a policy for distributing and circulating meeting-related materials to board members, the public, and the media in advance of or during a meeting at which board members are permitted to attend by interactive video conference or teleconference; and

6. Establish a method for verifying the identity of a board member who remotely attends a meeting by teleconference.

Generally, under continuing law, the Open Meetings Law requires a public body to take official action and conduct all deliberations on official business only in open meetings where the public may attend and observe. Members of a public body must attend meetings in person to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.¹⁶⁴

Municipal fiscal officer continuing education

(R.C. 733.81)

The act requires an *appointed* municipal fiscal officer to complete 18 hours of continuing education during the first term of office and 12 hours in each subsequent term of office. This is the continuing requirement for *elected* municipal fiscal officers. Also under ongoing law unchanged by the act, both newly appointed and newly elected municipal fiscal officers must take six hours of initial education programs before serving, or during their first year.

Unpaid municipal trash charges

(R.C. 701.10)

Under continuing law, when a municipal corporation collects charges for garage/trash collection services, but an individual has not paid, the municipal corporation can certify the unpaid amount as a lien against the property. Prior law allowed a lien only once the unpaid amount reached \$250. The act retains this, and also allows a municipal corporation to certify a lien on property when the unpaid amount is equal to or greater than the annual charge for the services. For instance, if the annual rate is \$200 and an individual is behind by \$215, the municipal corporation could not have certified the \$215 as a lien under prior law, but can under the act.

The act specifies that these limitations do not apply to a municipal corporation that has collected, since on or before October 17, 2019,¹⁶⁵ *all* garbage/trash charges in the same manner

¹⁶⁴ R.C. 121.22.

¹⁶⁵ This date is when previous amendments to this law, made by H.B. 166 of the 133rd General Assembly, took effect. Those amendments: (1) expanded the provision to apply to all municipal corporations, not only municipal corporations located in a charter county, and (2) implemented the \$250 limitation.

as other taxes (not only unpaid amounts). The limitations only relate to unpaid amounts that are owed to the municipal corporation, that the municipal corporation certifies as a lien to collect.

Township fiscal officer assistant compensation

(R.C. 507.021)

The act allows township fiscal officers to set the compensation of their hired assistants without prior approval from the board of township trustees, which was required under prior law.

New community authorities

(R.C. 349.01)

Continuing law allows for the creation and implementation of “new community development programs,” which aim to develop new properties in relation to existing communities while incorporating planning concepts that promote utility, open space, and supportive facilities for industrial, commercial, residential, cultural, educational, and recreational activities. The resulting “new community districts,” each of which is governed by a body referred to as a new community authority (NCA), are intended to be characterized by well-balanced and diversified land-use patterns.

Under continuing law, a developer that controls or owns the land to be included in the proposed new community district may petition the appropriate county or, in some cases, municipality to create an NCA. Once created, the NCA, which is governed by a board of trustees, may develop land in the district, provide services in the district, and raise revenue by levying community development charges in the district in conjunction with the developer.

While continuing law allows a developer that controls property pursuant to a lease of at least a 75-year term to create an NCA, the act specifies that a developer controlling property pursuant to a renewable, 99-year lease is eligible to form an NCA, provided each of the following requirements are met:

- The developer’s proposed NCA consists of at least five such leases;
- The leases are subject to forfeiture for the tenant’s failure to pay property taxes or certain fees or to manage the upkeep of the leased premises;
- The NCA is established before the end of 2021.

Medical marijuana businesses

(R.C. 3796.31)

The act prohibits local governments from levying any tax or fee on medical marijuana cultivators, processors, or dispensaries that is either: (1) based on gross receipts, or (2) the same as, or similar to a state tax or fee. Continuing law includes no express statutory

authorization for a local government to impose a tax or fee on medical marijuana businesses. However, a municipal corporation or charter county may levy a tax or fee without express state authorization under its home rule authority.¹⁶⁶ Similarly, a limited home rule township, which has been granted limited home rule powers pursuant to state law, may levy fees (but not taxes) without state authorization.¹⁶⁷ Noncharter counties and townships that have not formed a limited home rule government possess only those powers expressly delegated to them by state law (or necessarily implied from those powers) and, therefore, cannot levy such a tax or fee.¹⁶⁸

Local tax prohibition

The Ohio Constitution allows the General Assembly to enact laws limiting the power of municipal corporations to levy taxes and assessments.¹⁶⁹ Indeed, state law prohibits municipalities from levying several types of taxes, including gross receipts taxes.¹⁷⁰ The two counties in Ohio that have adopted charters – Cuyahoga and Summit – both specifically disclaim the power to levy any tax other than the taxes permitted under state law for noncharter counties.¹⁷¹ Therefore, the act’s local tax prohibition is almost certainly permissible, but it probably does not have an operative effect under continuing constitutional and statutory law. It does not appear that any local government was able to levy a tax on medical marijuana businesses before the act’s effective date, other than local sales taxes, which are preserved by the act.

Local fee prohibition

Municipal corporations, charter counties, and limited home rule townships, pursuant to their constitutional or statutory home rule authority, may all impose fees on medical marijuana businesses – so the act’s prohibition seems to invalidate any such local fee. However, it is unclear whether the Ohio Constitution authorizes the General Assembly to limit the fees a municipal corporation or charter county might impose for regulatory or other public welfare

¹⁶⁶ Ohio Constitution, Article XVIII, Section 3 and Article X, Section 3; *Gesler v. City of Worthington Income Tax Bd. of Appeals*, 138 Ohio St.3d 76; 2013-Ohio-4986; 3 N.E.3d 1177.

¹⁶⁷ R.C. 504.04(A)(1), not in the act.

¹⁶⁸ See *Geauga County Bd. of Commrs. v. Munn Rd. Sand & Gravel*, 67 Ohio St.3d 579, 621 N.E.2d 696 (1993); *State ex rel. Kuntz v. Zangerle*, 130 Ohio St. 84 (1935), syllabus, paragraph 1; *State ex rel. Schramm v. Ayres*, 158 Ohio St. 30, 106 N.E.2d 630 (1952); and *Drees Co. v. Hamilton Twp.*, 132 Ohio St.3d 186, 2012-Ohio-2370, 970 N.E.2d 916.

¹⁶⁹ Ohio Constitution, Article XIII, Section 6 and Article XVIII, Section 13.

¹⁷⁰ R.C. 715.013, not in the act.

¹⁷¹ Article I, Section 1.02, Charter of Cuyahoga County, available at: <http://council.cuyahogacounty.us/en-US/Charter-CuyahogaCounty.aspx>, and Article I, Section 1.02, Charter of Summit County, available at: <http://council.summitoh.net/files/18486/file/summitcountycharter.pdf>.

purposes since those subdivisions have constitutional home rule authority.¹⁷² Conversely, since the home rule powers of a limited home rule township are authorized by statute as opposed to the Ohio Constitution, the General Assembly is authorized to limit the fees such a township may impose.

Agreements with animal shelters

(R.C. 955.15)

The act expands the facilities with which a board of county commissioners may enter into a written agreement to operate as a dog pound on behalf of the county. Under prior law, the county could deliver seized dogs to a county humane society, without written agreement, provided that the society had devices for humanely destroying dogs. Under the act, the county may deliver seized dogs to *any* animal shelter for dogs (which includes county humane societies and also other facilities that keep, house, and maintain dogs, including nonprofits devoted to humane treatment of dogs). It specifies that to qualify to enter into an agreement, an animal shelter for dogs must be:

1. Suitable to operate as a dog pound; and
2. Able to adopt out, transfer out, or humanely destroy dogs in accordance with Ohio law. (The act eliminates the requirement that a humane society have devices for humanely destroying dogs and instead replaces it with this requirement.)

It also requires a county dog pound or animal shelter for dogs, to which a dog has been delivered, to deal with the dog in accordance with Ohio law, including the maintenance of any public records pertaining to the intake and disposition of the dog.

Under prior law, a county had to make compensation payments *solely* from the county's dog and kennel fund to facilities that take a dog on behalf of the county. The act expands the funding sources from which the county may pay these compensation payments by allowing the county to make compensation payments from the county's general revenue fund.

Shoreline improvement districts

(R.C. 1710.01)

The act allows a special improvement district to fund shoreline improvement projects to abate erosion along water resources within a *watershed district*. The special improvement district may assess property within the district to fund the project. Watershed districts do not have independent authority to assess property for district projects.

Under continuing law, a special improvement district may fund shoreline improvement projects to abate erosion along the Lake Erie shoreline only.

¹⁷² See *Drees Co. v. Hamilton Twp.*, 132 Ohio St.3d 186, 2012-Ohio-2370, 970 N.E.2d 916, for a discussion of the legal distinction between taxes and fees.

Additionally, the act specifies that an existing qualified nonprofit corporation may create a special improvement district to implement a shoreline improvement project even if the corporation (1) does not have an established police department, and (2) is not organized for purposes that include the acquisition of real property. Under continuing law, these two elements (along with other specified elements) are required for a nonprofit corporation to create a special improvement district.

Discriminatory restrictive covenants – void

(R.C. 5301.05)

The act provides that restrictive covenants in deeds limiting sale or lease of real property to individuals protected against housing discrimination by Ohio's Civil Rights Law are void. The act also allows attorneys preparing new deeds to omit void discriminatory covenants contained in prior deeds with immunity from civil liability. Finally, the act establishes that omission of a discriminatory restrictive covenant under its new provisions does not affect the validity of deeds and prohibits county recorders from refusing to record deeds because void covenants are omitted.

Free library photocopies of identification

(R.C. 3375.011)

The act requires public libraries to provide an individual with a photocopy of that individual's driver's license, driver's permit, or state identification free of charge upon request.

Park district eminent domain for recreational trails

(Section 715.05)

Until July 1, 2026, the act prohibits park districts created under state law and located in counties with 220,000 to 240,000 residents from using eminent domain to appropriate property for recreational trails. A “**recreational trail**” is a public trail used for hiking, bicycling, horseback riding, ski touring, canoeing, or other nonmotorized forms of recreational travel. Based on [2010 Census statistics](#), this prohibition applies to Lake and Mahoning counties. The Ohio Department of Development [estimates](#) that 2020 Census figures likewise could place Warren County under the prohibition.

Soil and water conservation districts: acceptance of credit cards

(R.C. 940.111)

The act allows a board of supervisors of a soil and water conservation district to adopt a resolution allowing payments to be made to the district by financial transaction device. It also establishes procedures for their use. A financial transaction device includes:

1. A credit card, debit card, charge card, or prepaid or stored value card; and
2. An automated clearinghouse network credit, debit, or e-check entry that includes accounts receivable and internet-initiated, point of purchase, and telephone-initiated applications or any other device or method for making an electronic payment or transfer of funds.

Continuing law allows the state and other political subdivisions to accept payments by financial transaction device. Those political subdivisions include township and county governments.

Regional councils of governments

(R.C. 167.03)

The act authorizes a regional council of governments, having an educational service center as its fiscal agent and that is established to provide health care benefits, to acquire, establish, manage, or operate a separate business entity, and use its unencumbered reserve funds in that acquisition, establishment, or operation, to cover potential costs of health care benefits. The unencumbered reserve funds can only be used for the above purposes to the extent approved by the council's governing board and so long as the council remains sufficiently reserved, in the exercise of sound and prudent actuarial judgment, to cover the potential cost of health care benefits for the council's members' officers, employees, and their dependents.

Additionally, the act specifies that if a business entity that is acquired, established, managed, or operated by a regional council of governments, with an educational service center as its fiscal agent, operates or provides services that is engaging in the business of insurance or is subject to Ohio insurance laws, it must comply with the insurance law and laws that apply to corporations and other business entities, as well as any other sections of the Revised Code and the Administrative Code, and is not exempt from laws that apply to self-insurance programs for health care benefits provided by political subdivisions and county boards.

Under continuing law, the governing bodies of any two or more counties, municipal corporations, townships, special districts, school districts, or other political subdivisions may enter into an agreement with each other, or of another state to the extent permissible by the other state, to establish a regional council of governments.

Transportation improvement district board

(R.C. 5540.02)

Before June 30, 2021, a transportation improvement district (TID) board of trustees was structured in one of two ways. In the first structure, the members of the General Assembly whose districts were a part of the TID were automatically included on the board as nonvoting, ex officio members. In the second structure, the President of the Senate and the Speaker of the House each appointed a member from their chamber to serve as a nonvoting member on the TID board. H.B. 74 of the 134th General Assembly (the transportation budget – effective June 30, 2021) eliminated the authority of the President and the Speaker to appoint members to a TID board of trustees.

The act reauthorizes the President of the Senate and the Speaker of the House to each appoint a person to serve as a nonvoting member on the TID board of trustees. However, unlike under prior law, the appointed member does not need to be a member of the General Assembly. Additionally, the authorization is entirely permissive and at the discretion of the President and the Speaker.