

## **As Passed by the Senate**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Am. S. B. No. 293**

**Senators Manning, Blessing**

**Cosponsors: Senators Antonio, Brenner, Burke, Craig, Dolan, Eklund, Fedor, Gavarone, Hottinger, Huffman, M., Johnson, Maharath, Obhof, O'Brien, Peterson, Schaffer, Sykes, Thomas, Wilson, Yuko**

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## **A BILL**

To amend sections 121.22, 2323.52, 2743.03, and  
2746.04 and to enact section 2743.76 of the  
Revised Code to create a procedure within the  
Court of Claims to hear complaints alleging a  
violation of the Open Meetings Law.

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

**Section 1.** That sections 121.22, 2323.52, 2743.03, and  
2746.04 be amended and section 2743.76 of the Revised Code be  
enacted to read as follows:

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**Sec. 121.22.** (A) This section shall be liberally construed  
to require public officials to take official action and to  
conduct all deliberations upon official business only in open  
meetings unless the subject matter is specifically excepted by  
law.

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(B) As used in this section:

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(1) "Public body" means any of the following:

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(a) Any board, commission, committee, council, or similar

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decision-making body of a state agency, institution, or  
authority, and any legislative authority or board, commission,  
committee, council, agency, authority, or similar decision-  
making body of any county, township, municipal corporation,  
school district, or other political subdivision or local public  
institution;

(b) Any committee or subcommittee of a body described in  
division (B) (1) (a) of this section;

(c) A court of jurisdiction of a sanitary district  
organized wholly for the purpose of providing a water supply for  
domestic, municipal, and public use when meeting for the purpose  
of the appointment, removal, or reappointment of a member of the  
board of directors of such a district pursuant to section  
6115.10 of the Revised Code, if applicable, or for any other  
matter related to such a district other than litigation  
involving the district. As used in division (B) (1) (c) of this  
section, "court of jurisdiction" has the same meaning as "court"  
in section 6115.01 of the Revised Code.

(2) "Meeting" means any prearranged discussion of the  
public business of the public body by a majority of its members.

(3) "Regulated individual" means either of the following:

(a) A student in a state or local public educational  
institution;

(b) A person who is, voluntarily or involuntarily, an  
inmate, patient, or resident of a state or local institution  
because of criminal behavior, mental illness, an intellectual  
disability, disease, disability, age, or other condition  
requiring custodial care.

(4) "Public office" has the same meaning as in section

149.011 of the Revised Code.	46
(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.	47 48 49 50 51 52
The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.	53 54 55 56 57
(D) This section does not apply to any of the following:	58
(1) A grand jury;	59
(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;	60 61 62
(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon and the department of rehabilitation and correction when its hearings are conducted at a correctional institution for the sole purpose of making determinations under section 2967.271 of the Revised Code regarding the release or maintained incarceration of an offender to whom that section applies;	63 64 65 66 67 68 69 70
(4) The organized crime investigations commission established under section 177.01 of the Revised Code;	71 72
(5) Meetings of a child fatality review board established	73

under section 307.621 of the Revised Code, meetings related to a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;	74 75 76 77 78
(6) The state medical board when determining whether to suspend a license or certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;	79 80 81 82
(7) The board of nursing when determining whether to suspend a license or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;	83 84 85 86
(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;	87 88 89
(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code;	90 91 92
(10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code;	93 94 95 96 97
(11) The board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code or any committee thereof, and the board of directors of any subsidiary of that corporation or a committee thereof;	98 99 100 101
(12) An audit conference conducted by the audit staff of	102

the department of job and family services with officials of the	103
public office that is the subject of that audit under section	104
5101.37 of the Revised Code;	105
(13) The occupational therapy section of the occupational	106
therapy, physical therapy, and athletic trainers board when	107
determining whether to suspend a license or limited permit	108
without a hearing pursuant to division (D) of section 4755.11 of	109
the Revised Code;	110
(14) The physical therapy section of the occupational	111
therapy, physical therapy, and athletic trainers board when	112
determining whether to suspend a license without a hearing	113
pursuant to division (E) of section 4755.47 of the Revised Code;	114
(15) The athletic trainers section of the occupational	115
therapy, physical therapy, and athletic trainers board when	116
determining whether to suspend a license without a hearing	117
pursuant to division (D) of section 4755.64 of the Revised Code;	118
(16) Meetings of the pregnancy-associated mortality review	119
board established under section 3738.01 of the Revised Code;	120
(17) Meetings of a fetal-infant mortality review board	121
established under section 3707.71 of the Revised Code.	122
(E) The controlling board, the tax credit authority, or	123
the minority development financing advisory board, when meeting	124
to consider granting assistance pursuant to Chapter 122. or 166.	125
of the Revised Code, in order to protect the interest of the	126
applicant or the possible investment of public funds, by	127
unanimous vote of all board or authority members present, may	128
close the meeting during consideration of the following	129
information confidentially received by the authority or board	130
from the applicant:	131

(1) Marketing plans;	132
(2) Specific business strategy;	133
(3) Production techniques and trade secrets;	134
(4) Financial projections;	135
(5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.	136 137 138 139
The vote by the authority or board to accept or reject the application, as well as all proceedings of the authority or board not subject to this division, shall be open to the public and governed by this section.	140 141 142 143
(F) Every public body, by rule, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.	144 145 146 147 148 149 150 151 152 153 154
The rule shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or	155 156 157 158 159 160

mailing notices in self-addressed, stamped envelopes provided by 161  
the person. 162

(G) Except as provided in divisions (G) (8) and (J) of this 163  
section, the members of a public body may hold an executive 164  
session only after a majority of a quorum of the public body 165  
determines, by a roll call vote, to hold an executive session 166  
and only at a regular or special meeting for the sole purpose of 167  
the consideration of any of the following matters: 168

(1) To consider the appointment, employment, dismissal, 169  
discipline, promotion, demotion, or compensation of a public 170  
employee or official, or the investigation of charges or 171  
complaints against a public employee, official, licensee, or 172  
regulated individual, unless the public employee, official, 173  
licensee, or regulated individual requests a public hearing. 174  
Except as otherwise provided by law, no public body shall hold 175  
an executive session for the discipline of an elected official 176  
for conduct related to the performance of the elected official's 177  
official duties or for the elected official's removal from 178  
office. If a public body holds an executive session pursuant to 179  
division (G) (1) of this section, the motion and vote to hold 180  
that executive session shall state which one or more of the 181  
approved purposes listed in division (G) (1) of this section are 182  
the purposes for which the executive session is to be held, but 183  
need not include the name of any person to be considered at the 184  
meeting. 185

(2) To consider the purchase of property for public 186  
purposes, the sale of property at competitive bidding, or the 187  
sale or other disposition of unneeded, obsolete, or unfit-for- 188  
use property in accordance with section 505.10 of the Revised 189  
Code, if premature disclosure of information would give an 190

unfair competitive or bargaining advantage to a person whose  
personal, private interest is adverse to the general public  
interest. No member of a public body shall use division (G) (2)  
of this section as a subterfuge for providing covert information  
to prospective buyers or sellers. A purchase or sale of public  
property is void if the seller or buyer of the public property  
has received covert information from a member of a public body  
that has not been disclosed to the general public in sufficient  
time for other prospective buyers and sellers to prepare and  
submit offers.

If the minutes of the public body show that all meetings  
and deliberations of the public body have been conducted in  
compliance with this section, any instrument executed by the  
public body purporting to convey, lease, or otherwise dispose of  
any right, title, or interest in any public property shall be  
conclusively presumed to have been executed in compliance with  
this section insofar as title or other interest of any bona fide  
purchasers, lessees, or transferees of the property is  
concerned.

(3) Conferences with an attorney for the public body  
concerning disputes involving the public body that are the  
subject of pending or imminent court action;

(4) Preparing for, conducting, or reviewing negotiations  
or bargaining sessions with public employees concerning their  
compensation or other terms and conditions of their employment;

(5) Matters required to be kept confidential by federal  
law or regulations or state statutes;

(6) Details relative to the security arrangements and  
emergency response protocols for a public body or a public

office, if disclosure of the matters discussed could reasonably	220
be expected to jeopardize the security of the public body or	221
public office;	222
(7) In the case of a county hospital operated pursuant to	223
Chapter 339. of the Revised Code, a joint township hospital	224
operated pursuant to Chapter 513. of the Revised Code, or a	225
municipal hospital operated pursuant to Chapter 749. of the	226
Revised Code, to consider trade secrets, as defined in section	227
1333.61 of the Revised Code;	228
(8) To consider confidential information related to the	229
marketing plans, specific business strategy, production	230
techniques, trade secrets, or personal financial statements of	231
an applicant for economic development assistance, or to	232
negotiations with other political subdivisions respecting	233
requests for economic development assistance, provided that both	234
of the following conditions apply:	235
(a) The information is directly related to a request for	236
economic development assistance that is to be provided or	237
administered under any provision of Chapter 715., 725., 1724.,	238
or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to	239
5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to	240
5709.81 of the Revised Code, or that involves public	241
infrastructure improvements or the extension of utility services	242
that are directly related to an economic development project.	243
(b) A unanimous quorum of the public body determines, by a	244
roll call vote, that the executive session is necessary to	245
protect the interests of the applicant or the possible	246
investment or expenditure of public funds to be made in	247
connection with the economic development project.	248

If a public body holds an executive session to consider 249  
any of the matters listed in divisions (G) (2) to (8) of this 250  
section, the motion and vote to hold that executive session 251  
shall state which one or more of the approved matters listed in 252  
those divisions are to be considered at the executive session. 253

A public body specified in division (B) (1) (c) of this 254  
section shall not hold an executive session when meeting for the 255  
purposes specified in that division. 256

(H) A resolution, rule, or formal action of any kind is 257  
invalid unless adopted in an open meeting of the public body. A 258  
resolution, rule, or formal action adopted in an open meeting 259  
that results from deliberations in a meeting not open to the 260  
public is invalid unless the deliberations were for a purpose 261  
specifically authorized in division (G) or (J) of this section 262  
and conducted at an executive session held in compliance with 263  
this section. A resolution, rule, or formal action adopted in an 264  
open meeting is invalid if the public body that adopted the 265  
resolution, rule, or formal action violated division (F) of this 266  
section. 267

(I) (1) Any (a) In order to enforce this section, any 268  
~~person may bring an action to enforce this section~~may do only 269  
one of the following, and not both: 270

(i) File a complaint with the clerk of the court of claims 271  
or the clerk of the court of common pleas under section 2743.76 272  
of the Revised Code; 273

(ii) Bring an action for injunction in the court of common 274  
pleas in the county in which the public body involved is 275  
located. 276

(b) An action under division (I) (1) (a) (ii) of this section 277

shall be brought within two years after the date of the alleged  
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violation or threatened violation. Upon proof of a violation or  
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threatened violation of this section in an action brought by any  
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person under that division, the court of common pleas shall  
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issue an injunction to compel the members of the public body to  
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comply with its provisions.  
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(2) (a) If the court of common pleas issues an injunction  
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pursuant to division (I)(1)(b) of this section, the court shall  
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order the public body that it enjoins to pay a civil forfeiture  
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of five hundred dollars to the party that sought the injunction  
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and shall award to that party all court costs and, subject to  
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reduction as described in division (I)(2) of this section,  
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reasonable attorney's fees. The court, in its discretion, may  
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reduce an award of attorney's fees to the party that sought the  
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injunction or not award attorney's fees to that party if the  
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court determines both of the following:  
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(i) That, based on the ordinary application of statutory  
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law and case law as it existed at the time of violation or  
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threatened violation that was the basis of the injunction, a  
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well-informed public body reasonably would believe that the  
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public body was not violating or threatening to violate this  
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section;  
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(ii) That a well-informed public body reasonably would  
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believe that the conduct or threatened conduct that was the  
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basis of the injunction would serve the public policy that  
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underlies the authority that is asserted as permitting that  
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conduct or threatened conduct.  
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(b) If the court of common pleas does not issue an  
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injunction pursuant to division (I)(1)(b) of this section and  
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the court determines at that time that the bringing of the  
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action was frivolous conduct, as defined in division (A) of  
section 2323.51 of the Revised Code, the court shall award to  
the public body all court costs and reasonable attorney's fees,  
as determined by the court.

(3) Irreparable harm and prejudice to the party that  
sought the injunction shall be conclusively and irrebuttably  
presumed upon proof of a violation or threatened violation of  
this section.

(4) A member of a public body who knowingly violates an  
injunction issued pursuant to division (I)(1)(b) of this section  
may be removed from office by an action brought in the court of  
common pleas for that purpose by the prosecuting attorney or the  
attorney general.

(J) (1) Pursuant to division (C) of section 5901.09 of the  
Revised Code, a veterans service commission shall hold an  
executive session for one or more of the following purposes  
unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance  
under sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other  
documents described in division (B) of section 5901.09 of the  
Revised Code;

(c) Reviewing matters relating to an applicant's request  
for financial assistance under sections 5901.01 to 5901.15 of  
the Revised Code.

(2) A veterans service commission shall not exclude an  
applicant for, recipient of, or former recipient of financial  
assistance under sections 5901.01 to 5901.15 of the Revised  
Code, and shall not exclude representatives selected by the

applicant, recipient, or former recipient, from a meeting that  
the commission conducts as an executive session that pertains to  
the applicant's, recipient's, or former recipient's application  
for financial assistance. 337  
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(3) A veterans service commission shall vote on the grant  
or denial of financial assistance under sections 5901.01 to  
5901.15 of the Revised Code only in an open meeting of the  
commission. The minutes of the meeting shall indicate the name,  
address, and occupation of the applicant, whether the assistance  
was granted or denied, the amount of the assistance if  
assistance is granted, and the votes for and against the  
granting of assistance. 341  
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**Sec. 2323.52.** (A) As used in this section: 349

(1) "Conduct" has the same meaning as in section 2323.51  
of the Revised Code. 350  
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(2) "Vexatious conduct" means conduct of a party in a  
civil action that satisfies any of the following: 352  
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(a) The conduct obviously serves merely to harass or  
maliciously injure another party to the civil action. 354  
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(b) The conduct is not warranted under existing law and  
cannot be supported by a good faith argument for an extension,  
modification, or reversal of existing law. 356  
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(c) The conduct is imposed solely for delay. 359

(3) "Vexatious litigator" means any person who has  
habitually, persistently, and without reasonable grounds engaged  
in vexatious conduct in a civil action or actions, whether in  
the court of claims or in a court of appeals, court of common  
pleas, municipal court, or county court, whether the person or  
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another person instituted the civil action or actions, and	365
whether the vexatious conduct was against the same party or	366
against different parties in the civil action or actions.	367
"Vexatious litigator" does not include a person who is	368
authorized to practice law in the courts of this state under the	369
Ohio Supreme Court Rules for the Government of the Bar of Ohio	370
unless that person is representing or has represented self pro	371
se in the civil action or actions. For the purposes of division	372
(A) (3) of this section, "civil action" includes a proceeding	373
under section 2743.75 <u>or 2743.76</u> of the Revised Code.	374
(B) A person, the office of the attorney general, or a	375
prosecuting attorney, city director of law, village solicitor,	376
or similar chief legal officer of a municipal corporation who	377
has defended against habitual and persistent vexatious conduct	378
in the court of claims or in a court of appeals, court of common	379
pleas, municipal court, or county court may commence a civil	380
action in a court of common pleas with jurisdiction over the	381
person who allegedly engaged in the habitual and persistent	382
vexatious conduct to have that person declared a vexatious	383
litigator. The person, office of the attorney general,	384
prosecuting attorney, city director of law, village solicitor,	385
or similar chief legal officer of a municipal corporation may	386
commence this civil action while the civil action or actions in	387
which the habitual and persistent vexatious conduct occurred are	388
still pending or within one year after the termination of the	389
civil action or actions in which the habitual and persistent	390
vexatious conduct occurred.	391
(C) A civil action to have a person declared a vexatious	392
litigator shall proceed as any other civil action, and the Ohio	393
Rules of Civil Procedure apply to the action.	394

(D) (1) If the person alleged to be a vexatious litigator  
is found to be a vexatious litigator, subject to division (D) (2)  
of this section, the court of common pleas may enter an order  
prohibiting the vexatious litigator from doing one or more of  
the following without first obtaining the leave of that court to  
proceed: 395  
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(a) Instituting legal proceedings in the court of claims  
or in a court of common pleas, municipal court, or county court; 401  
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(b) Continuing any legal proceedings that the vexatious  
litigator had instituted in any of the courts specified in  
division (D) (1) (a) of this section prior to the entry of the  
order; 403  
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(c) Making any application, other than an application for  
leave to proceed under division (F)(1) of this section, in any  
legal proceedings instituted by the vexatious litigator or  
another person in any of the courts specified in division (D) (1)  
(a) of this section. 407  
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(2) If the court of common pleas finds a person who is  
authorized to practice law in the courts of this state under the  
Ohio Supreme Court Rules for the Government of the Bar of Ohio  
to be a vexatious litigator and enters an order described in  
division (D) (1) of this section in connection with that finding,  
the order shall apply to the person only insofar as the person  
would seek to institute proceedings described in division (D) (1)  
(a) of this section on a pro se basis, continue proceedings  
described in division (D) (1) (b) of this section on a pro se  
basis, or make an application described in division (D) (1) (c) of  
this section on a pro se basis. The order shall not apply to the  
person insofar as the person represents one or more other  
persons in the person's capacity as a licensed and registered 412  
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attorney in a civil or criminal action or proceeding or other matter in a court of common pleas, municipal court, or county court or in the court of claims. Division (D) (2) of this section does not affect any remedy that is available to a court or an adversely affected party under section 2323.51 or another section of the Revised Code, under Civil Rule 11 or another provision of the Ohio Rules of Civil Procedure, or under the common law of this state as a result of frivolous conduct or other inappropriate conduct by an attorney who represents one or more clients in connection with a civil or criminal action or proceeding or other matter in a court of common pleas, municipal court, or county court or in the court of claims.

(3) A person who is subject to an order entered pursuant to division (D) (1) of this section may not institute legal proceedings in a court of appeals, continue any legal proceedings that the vexatious litigator had instituted in a court of appeals prior to entry of the order, or make any application, other than the application for leave to proceed allowed by division (F) (2) of this section, in any legal proceedings instituted by the vexatious litigator or another person in a court of appeals without first obtaining leave of the court of appeals to proceed pursuant to division (F) (2) of this section.

(E) An order that is entered under division (D) (1) of this section shall remain in force indefinitely unless the order provides for its expiration after a specified period of time.

(F) (1) A court of common pleas that entered an order under division (D) (1) of this section shall not grant a person found to be a vexatious litigator leave for the institution or continuance of, or the making of an application in, legal

proceedings in the court of claims or in a court of common 455  
pleas, municipal court, or county court unless the court of 456  
common pleas that entered that order is satisfied that the 457  
proceedings or application are not an abuse of process of the 458  
court in question and that there are reasonable grounds for the 459  
proceedings or application. If a person who has been found to be 460  
a vexatious litigator under this section requests the court of 461  
common pleas that entered an order under division (D) (1) of this 462  
section to grant the person leave to proceed as described in 463  
division (F) (1) of this section, the period of time commencing 464  
with the filing with that court of an application for the 465  
issuance of an order granting leave to proceed and ending with 466  
the issuance of an order of that nature shall not be computed as 467  
a part of an applicable period of limitations within which the 468  
legal proceedings or application involved generally must be 469  
instituted or made. 470

(2) A person who is subject to an order entered pursuant 471  
to division (D) (1) of this section and who seeks to institute or 472  
continue any legal proceedings in a court of appeals or to make 473  
an application, other than an application for leave to proceed 474  
under division (F) (2) of this section, in any legal proceedings 475  
in a court of appeals shall file an application for leave to 476  
proceed in the court of appeals in which the legal proceedings 477  
would be instituted or are pending. The court of appeals shall 478  
not grant a person found to be a vexatious litigator leave for 479  
the institution or continuance of, or the making of an 480  
application in, legal proceedings in the court of appeals unless 481  
the court of appeals is satisfied that the proceedings or 482  
application are not an abuse of process of the court and that 483  
there are reasonable grounds for the proceedings or application. 484  
If a person who has been found to be a vexatious litigator under 485

this section requests the court of appeals to grant the person 486  
leave to proceed as described in division (F) (2) of this 487  
section, the period of time commencing with the filing with the 488  
court of an application for the issuance of an order granting 489  
leave to proceed and ending with the issuance of an order of 490  
that nature shall not be computed as a part of an applicable 491  
period of limitations within which the legal proceedings or 492  
application involved generally must be instituted or made. 493

(G) During the period of time that the order entered under 494  
division (D) (1) of this section is in force, no appeal by the 495  
person who is the subject of that order shall lie from a 496  
decision of the court of common pleas or court of appeals under 497  
division (F) of this section that denies that person leave for 498  
the institution or continuance of, or the making of an 499  
application in, legal proceedings in the court of claims or in a 500  
court of appeals, court of common pleas, municipal court, or 501  
county court. 502

(H) The clerk of the court of common pleas that enters an 503  
order under division (D) (1) of this section shall send a 504  
certified copy of the order to the supreme court for publication 505  
in a manner that the supreme court determines is appropriate and 506  
that will facilitate the clerk of the court of claims and a 507  
clerk of a court of appeals, court of common pleas, municipal 508  
court, or county court in refusing to accept pleadings or other 509  
papers submitted for filing by persons who have been found to be 510  
a vexatious litigator under this section and who have failed to 511  
obtain leave to proceed under this section. 512

(I) Whenever it appears by suggestion of the parties or 513  
otherwise that a person found to be a vexatious litigator under 514  
this section has instituted, continued, or made an application 515

in legal proceedings without obtaining leave to proceed from the 516  
appropriate court of common pleas or court of appeals to do so 517  
under division (F) of this section, the court in which the legal 518  
proceedings are pending shall dismiss the proceedings or 519  
application of the vexatious litigator. 520

**Sec. 2743.03.** (A) (1) There is hereby created a court of 521  
claims. The court of claims is a court of record and has 522  
exclusive, original jurisdiction of all civil actions against 523  
the state permitted by the waiver of immunity contained in 524  
section 2743.02 of the Revised Code and exclusive jurisdiction 525  
of the causes of action of all parties in civil actions that are 526  
removed to the court of claims. The court shall have full equity 527  
powers in all actions within its jurisdiction and may entertain 528  
and determine all counterclaims, cross-claims, and third-party 529  
claims. 530

(2) If the claimant in a civil action as described in 531  
division (A) (1) of this section also files a claim for a 532  
declaratory judgment, injunctive relief, or other equitable 533  
relief against the state that arises out of the same 534  
circumstances that gave rise to the civil action described in 535  
division (A) (1) of this section, the court of claims has 536  
exclusive, original jurisdiction to hear and determine that 537  
claim in that civil action. This division does not affect, and 538  
shall not be construed as affecting, the original jurisdiction 539  
of another court of this state to hear and determine a civil 540  
action in which the sole relief that the claimant seeks against 541  
the state is a declaratory judgment, injunctive relief, or other 542  
equitable relief. 543

(3) In addition to its exclusive, original jurisdiction as 544  
conferred by divisions (A) (1) and (2) of this section, the court 545

of claims has exclusive, original jurisdiction as follows:	546
(a) As described in division (F) of section 2743.02, division (B) of section 3335.03, and division (C) of section 5903.02 of the Revised Code;	547 548 549
(b) Under section 2743.75 of the Revised Code to hear complaints alleging a denial of access to public records in violation of division (B) of section 149.43 of the Revised Code, regardless of whether the public office or person responsible for public records is an office or employee of the state or of a political subdivision;	550 551 552 553 554 555
(c) <u>Under section 2743.76 of the Revised Code to hear complaints alleging a violation of section 121.22 of the Revised Code by a public body, as defined in section 121.22 of the Revised Code.</u>	556 557 558 559
(B) The court of claims shall sit in Franklin county, its hearings shall be public, and it shall consist of incumbent justices or judges of the supreme court, courts of appeals, or courts of common pleas, or retired justices or judges eligible for active duty pursuant to division (C) of Section 6 of Article IV, Ohio Constitution, sitting by temporary assignment of the chief justice of the supreme court. The chief justice may direct the court to sit in any county for cases on removal upon a showing of substantial hardship and whenever justice dictates.	560 561 562 563 564 565 566 567 568
(C) (1) A civil action against the state shall be heard and determined by a single judge. Upon application by the claimant or the state, the chief justice of the supreme court may assign a panel of three judges to hear and determine a civil action presenting novel or complex issues of law or fact. Concurrence of two members of the panel is necessary for any judgment or	569 570 571 572 573 574

order. 575

(2) Whenever the chief justice of the supreme court 576  
believes an equitable resolution of a case will be expedited, 577  
the chief justice may appoint magistrates in accordance with 578  
Civil Rule 53 to hear the case. 579

(3) When any dispute under division (B) of section 153.12 580  
of the Revised Code is brought to the court of claims, upon 581  
request of either party to the dispute, the chief justice of the 582  
supreme court shall appoint a single referee or a panel of three 583  
referees. The referees need not be attorneys, but shall be 584  
persons knowledgeable about construction contract law, a member 585  
of the construction industry panel of the American arbitration 586  
association, or an individual or individuals deemed qualified by 587  
the chief justice to serve. No person shall serve as a referee 588  
if that person has been employed by an affected state agency or 589  
a contractor or subcontractor involved in the dispute at any 590  
time in the preceding five years. Proceedings governing referees 591  
shall be in accordance with Civil Rule 53, except as modified by 592  
this division. The referee or panel of referees shall submit its 593  
report, which shall include a recommendation and finding of 594  
fact, to the judge assigned to the case by the chief justice, 595  
within thirty days of the conclusion of the hearings. Referees 596  
appointed pursuant to this division shall be compensated on a 597  
per diem basis at the same rate as is paid to judges of the 598  
court and also shall be paid their expenses. If a single referee 599  
is appointed or a panel of three referees is appointed, then, 600  
with respect to one referee of the panel, the compensation and 601  
expenses of the referee shall not be taxed as part of the costs 602  
in the case but shall be included in the budget of the court. If 603  
a panel of three referees is appointed, the compensation and 604  
expenses of the two remaining referees shall be taxed as costs 605

of the case.	606
All costs of a case shall be apportioned among the parties. The court may not require that any party deposit with the court cash, bonds, or other security in excess of two hundred dollars to guarantee payment of costs without the prior approval in each case of the chief justice.	607 608 609 610 611
(4) An appeal from a decision of the attorney general pursuant to sections 2743.51 to 2743.72 of the Revised Code shall be heard and determined by the court of claims.	612 613 614
(D) The Rules of Civil Procedure shall govern practice and procedure in all actions in the court of claims, except insofar as inconsistent with this chapter. The supreme court may promulgate rules governing practice and procedure in actions in the court as provided in Section 5 of Article IV, Ohio Constitution.	615 616 617 618 619 620
(E) (1) A party who files a counterclaim against the state or makes the state a third-party defendant in an action commenced in any court, other than the court of claims, shall file a petition for removal in the court of claims. The petition shall state the basis for removal, be accompanied by a copy of all process, pleadings, and other papers served upon the petitioner, and shall be signed in accordance with Civil Rule 11. A petition for removal based on a counterclaim shall be filed within twenty-eight days after service of the counterclaim of the petitioner. A petition for removal based on third-party practice shall be filed within twenty-eight days after the filing of the third-party complaint of the petitioner.	621 622 623 624 625 626 627 628 629 630 631 632
(2) Within seven days after filing a petition for removal, the petitioner shall give written notice to the parties, and	633 634

shall file a copy of the petition with the clerk of the court in  
which the action was brought originally. The filing effects the  
removal of the action to the court of claims, and the clerk of  
the court where the action was brought shall forward all papers  
in the case to the court of claims. The court of claims shall  
adjudicate all civil actions removed. The court may remand a  
civil action to the court in which it originated upon a finding  
that the removal petition does not justify removal, or upon a  
finding that the state is no longer a party.

(3) Bonds, undertakings, or security and injunctions,  
attachments, sequestrations, or other orders issued prior to  
removal remain in effect until dissolved or modified by the  
court of claims.

Sec. 2743.76. (A) In order to provide for an expeditious  
and economical procedure that attempts to resolve disputes  
alleging a violation of section 121.22 of the Revised Code,  
except for a court that hears an action pursuant to that  
section, the court of claims shall be the sole and exclusive  
authority in this state that adjudicates or resolves complaints  
based on alleged violations of that section. The clerk of the  
court of claims shall designate one or more current employees or  
hire one or more individuals to serve as special masters to hear  
complaints brought under this section. All special masters shall  
have been engaged in the practice of law in this state for at  
least four years and be in good standing with the supreme court  
at the time of designation or hiring. The clerk may assign  
administrative and clerical work associated with complaints  
brought under this section to current employees or may hire such  
additional employees as may be necessary to perform such work.

(B) The clerk of the court of common pleas in each county

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shall act as the clerk of the court of claims for purposes of 665  
accepting those complaints filed with the clerk under division 666  
(D) (1) of this section, accepting filing fees for those 667  
complaints, and serving those complaints. 668

(C) (1) Subject to division (C) (2) of this section, a 669  
person allegedly aggrieved by a violation of section 121.22 of 670  
the Revised Code may seek relief under that section or under 671  
this section, provided, however, that if the allegedly aggrieved 672  
person files a complaint under either section, that person may 673  
not seek relief that pertains to the same allegation in a 674  
complaint filed under the other section. 675

(2) If the allegedly aggrieved person files a complaint 676  
under this section and the court of claims determines that the 677  
complaint constitutes a case of first impression that involves 678  
an issue of substantial public interest or a unique or complex 679  
case that manifestly requires discovery, hearings, or oral 680  
testimony, the court shall dismiss the complaint without 681  
prejudice and direct the allegedly aggrieved person to commence 682  
an action in the court of common pleas with appropriate 683  
jurisdiction as provided in division (I) (1) (a) (ii) of section 684  
121.22 of the Revised Code. 685

(D) (1) An allegedly aggrieved person who proceeds under 686  
this section shall file a complaint, on a form prescribed by the 687  
clerk of the court of claims, with the clerk of the court of 688  
claims or with the clerk of the court of common pleas of the 689  
county in which the public body that allegedly violated section 690  
121.22 of the Revised Code is located. The person shall attach 691  
to the complaint copies of any documents, written responses, or 692  
other communications relating to the alleged violation from the 693  
public body or its authorized representative and shall pay a 694

filing fee of twenty-five dollars made payable to the clerk of 695  
the court with whom the complaint is filed. The clerk shall 696  
serve a copy of the complaint on the public body and its 697  
authorized representative in accordance with Civil Rule 4.1 and, 698  
if the complaint is filed with the clerk of the court of common 699  
pleas, shall forward the complaint to the clerk of the court of 700  
claims, and to no other court, within five business days after 701  
service on the public body and its authorized representative is 702  
complete. 703

(2) Upon receipt of a complaint filed under division (D) 704  
(1) of this section, the clerk of the court of claims shall 705  
assign a case number for the action and a special master to 706  
examine the complaint. Notwithstanding any provision to the 707  
contrary in this section, upon the recommendation of the special 708  
master, the court of claims on its own motion may dismiss the 709  
complaint at any time. The allegedly aggrieved person may 710  
voluntarily dismiss the complaint filed by that person under 711  
division (D) (1) of this section. 712

(E) (1) Upon service of a complaint under division (D) (1) 713  
of this section, except as otherwise provided in this division, 714  
the special master assigned by the clerk under division (D) (2) 715  
of this section immediately shall refer the case to mediation 716  
services that the court of claims makes available to persons. 717  
If, in the interest of justice considering the circumstances of 718  
the case or the parties, the special master determines that the 719  
case should not be referred to mediation, the special master 720  
shall notify the court that the case was not referred to 721  
mediation, and the case shall proceed in accordance with 722  
division (F) of this section. If the case is referred to 723  
mediation, any further proceedings under division (F) of this 724  
section shall be stayed until the conclusion of the mediation. 725

Any mediation proceedings under this division may be conducted 726  
by teleconference, telephone, or other electronic means. If an 727  
agreement is reached during mediation, the court shall dismiss 728  
the complaint. If an agreement is not reached, the special 729  
master shall notify the court that the case was not resolved and 730  
that the mediation has been terminated. 731

(2) Within ten business days after the termination of the 732  
mediation or the notification to the court that the case was not 733  
referred to mediation under division (E) (1) of this section, the 734  
public body or its authorized representative shall file a 735  
response, and if applicable, a motion to dismiss the complaint, 736  
with the clerk of the court of claims and transmit copies of the 737  
pleadings to the allegedly aggrieved party. No further motions 738  
or pleadings shall be accepted by the clerk of the court of 739  
claims or by the special master assigned by the clerk under 740  
division (D) (2) of this section unless the special master 741  
directs in writing that a further motion or pleading be filed. 742

(3) All of the following apply prior to the submission of 743  
the special master's report and recommendation to the court of 744  
claims under division (F) (1) of this section: 745

- (a) The special master shall not permit any discovery. 746
- (b) The parties may attach supporting affidavits to their 747  
respective pleadings. 748
- (c) The special master may require either or both of the 749  
parties to submit additional information or documentation 750  
supported by affidavits. 751
- (F) (1) Not later than thirty business days after receiving 752  
the response, or motion to dismiss the complaint, if applicable, 753  
of the public body or its authorized representative, the special 754

master shall submit to the court of claims a report and 755  
recommendation based on the ordinary application of statutory 756  
law and case law as they existed at the time of the filing of 757  
the complaint. For good cause shown, the special master may 758  
extend the thirty-day period for the submission of the report 759  
and recommendation to the court of claims under this division. 760

(2) Upon submission of the special master's report and 761  
recommendation to the court of claims under division (F)(1) of 762  
this section, the clerk shall send copies of the report and 763  
recommendation to each party by certified mail, return receipt 764  
requested, not later than three business days after the report 765  
and recommendation is filed. Either party may object to the 766  
report and recommendation within seven business days after 767  
receiving the report and recommendation by filing a written 768  
objection with the clerk and sending a copy to the other party 769  
by certified mail, return receipt requested. Any objection to 770  
the report and recommendation shall be specific and state with 771  
particularity all grounds for the objection. If neither party 772  
timely objects, the court of claims shall promptly issue a final 773  
order adopting the report and recommendation, unless it 774  
determines that there is an error of law or other defect evident 775  
on the face of the report and recommendation. If either party 776  
timely objects, the other party may file with the clerk a 777  
response within seven business days after receiving the 778  
objection and send a copy of the response to the objecting party 779  
by certified mail, return receipt requested. The court, within 780  
seven business days after the response to the objection is 781  
filed, shall issue a final order that adopts, modifies, or 782  
rejects the report and recommendation. 783

(3) If the court of claims determines that the public body 784  
violated section 121.22 of the Revised Code as alleged by the 785

aggrieved person and if no appeal from the court's final order 786  
is taken under division (G) of this section, all of the 787  
following apply: 788

(a) The public body shall comply with the remedy that the 789  
court requires in its order. 790

(b) The aggrieved person shall be entitled to recover from 791  
the public body the amount of the filing fee of twenty-five 792  
dollars and any other costs associated with the action that are 793  
incurred by the aggrieved person, but shall not be entitled to 794  
recover attorney's fees, except that division (G) (2) of this 795  
section applies if an appeal is taken under division (G) (1) of 796  
this section. 797

(c) The court of claims shall issue an injunction to 798  
compel the members of the public body to comply with section 799  
121.22 of the Revised Code. 800

(G) (1) Any appeal from a final order of the court of 801  
claims under this section or from an order of the court of 802  
claims dismissing the complaint as provided in division (D) (2) 803  
of this section shall be taken to the court of appeals of the 804  
appellate district where the principal place of business of the 805  
public body that is alleged to have violated section 121.22 of 806  
the Revised Code is located. However, no appeal may be taken 807  
from a final order of the court of claims that adopts the 808  
special master's report and recommendation unless a timely 809  
objection to that report and recommendation was filed under 810  
division (F) (2) of this section. If the court of claims 811  
materially modifies the special master's report and 812  
recommendation, either party may take an appeal to the court of 813  
appeals of the appellate district of the principal place of 814  
business where that public body is located but the appeal shall 815

be limited to the issue in the report and recommendation that is 816  
materially modified by the court of claims. In order to 817  
facilitate the expeditious resolution of disputes over alleged 818  
violations of section 121.22 of the Revised Code, the appeal 819  
shall be given such precedence over other pending matters as 820  
will ensure that the court will reach a decision promptly. 821

(2) If a court of appeals in any appeal taken under 822  
division (G) (1) of this section by the public body or its 823  
authorized representative determines that the public body 824  
violated section 121.22 of the Revised Code as alleged by the 825  
aggrieved person and obviously filed the appeal with the intent 826  
to either delay compliance with the court of claims' order from 827  
which the appeal is taken for no reasonable cause or unduly 828  
harass the aggrieved person, the court of appeals may award 829  
reasonable attorney's fees to the aggrieved person in accordance 830  
with division (I) (2) (a) of section 121.22 of the Revised Code. 831  
No discovery may be conducted on the issue of the public body or 832  
its authorized representative filing the appeal with the alleged 833  
intent to either delay compliance with the court of claims' 834  
order for no reasonable cause or unduly harass the aggrieved 835  
person. This division shall not be construed as creating a 836  
presumption that the public body or its authorized 837  
representative filed the appeal with the intent to either delay 838  
compliance with the court of claims' order for no reasonable 839  
cause or unduly harass the aggrieved person. 840

(H) The powers of the court of claims prescribed in 841  
section 2743.05 of the Revised Code apply to the proceedings in 842  
that court under this section. 843

(I) (1) All filing fees collected by a clerk of the court 844  
of common pleas under division (D) (1) of this section shall be 845

paid to the county treasurer for deposit into the county general revenue fund. All such money collected during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court of common pleas to the county treasurer. 846  
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(2) All filing fees collected by the clerk of the court of claims under division (D) (1) of this section shall be kept by the court of claims to assist in paying for its costs to implement this section. Not later than the first day of February of each year, the clerk of the court of claims shall prepare a report accessible to the public that details the fees collected during the preceding calendar year by the clerk of the court of claims and the clerks of the courts of common pleas under this section. 851  
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(J) Nothing in this section shall be construed to limit the authority of the auditor of state under division (G) of section 109.43 of the Revised Code. 860  
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**Sec. 2746.04.** In addition to any applicable fees or costs set forth in sections 2746.01 and 2746.02 of the Revised Code or any other applicable provision of law, a court of common pleas shall tax as costs or otherwise require the payment of fees for the following services rendered or as compensation for the following persons or any other of the following fees that are applicable in a particular case: 863  
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(A) The fees provided for in section 2303.20 of the Revised Code; 870  
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(B) Additional fees to computerize the court, make available computerized legal research services, computerize the office of the clerk of the court, provide financial assistance 872  
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to legal aid societies, support the office of the state public defender, fund shelters for victims of domestic violence, and special projects of the court, as provided in section 2303.201 and, for a court that has a domestic relations division, section 2301.031 of the Revised Code;	875 876 877 878 879
(C) Filing for a divorce decree under section 3105.10 or a decree of dissolution under section 3105.65 of the Revised Code, as provided in section 3109.14 of the Revised Code;	880 881 882
(D) Filing of a foreign judgment pursuant to section 2329.022 of the Revised Code, as provided in section 2329.025 of the Revised Code;	883 884 885
(E) Interpreters, as provided in section 2301.14 of the Revised Code;	886 887
(F) Jurors in civil actions, as provided in section 2335.28 of the Revised Code;	888 889
(G) Reporters, as provided in sections 2301.21 and 2301.24 of the Revised Code;	890 891
(H) In a case involving the operation by a nonresident of a vessel upon the waters in this state, or the operation on the waters in this state of a vessel owned by a nonresident if operated with the nonresident's consent, actual traveling expenses of the defendant, as provided in section 1547.36 of the Revised Code;	892 893 894 895 896 897
(I) In a civil case, the expenses of taking a deposition of a person who is imprisoned in a workhouse, juvenile detention facility, jail, or state correctional institution within this state, or who is in the custody of the department of youth services, as provided in section 2317.06 of the Revised Code;	898 899 900 901 902

(J) In proceedings relating to the examination of a judgment debtor under sections 2333.09 to 2333.27 of the Revised Code, compensation for clerks, sheriffs, referees, receivers, and witnesses, as provided in section 2333.27 of the Revised Code;	903 904 905 906 907
(K) In an appeal from an order of an agency issued pursuant to an adjudication under section 119.12 of the Revised Code, the expense of preparing and transcribing the record;	908 909 910
(L) In a case in which the court issues a protection order upon a petition alleging that the respondent engaged in domestic violence against a family or household member, the cost of supervision of the respondent's exercise of parenting time, visitation, or companionship rights, as provided in section 3113.31 of the Revised Code;	911 912 913 914 915 916
(M) Upon a petition to have a person involuntarily institutionalized, the costs of appointed counsel for the respondent at a full hearing, as provided in section 5123.76 of the Revised Code;	917 918 919 920
(N) In a case before the domestic relations division of the Hamilton county court of common pleas, the expense of serving a summons, warrant, citation, subpoena, or other writ issued to an officer other than a bailiff, constable, or staff investigator of the division, as provided in section 2301.03 of the Revised Code;	921 922 923 924 925 926
(O) The filing fee specified in section 2743.75 of the Revised Code in a case filed with the court of claims that alleges a denial of access to public records in violation of division (B) of section 149.43 of the Revised Code;	927 928 929 930
<u>(P) The filing fee specified in section 2743.76 of the</u>	931

Revised Code in a case filed with the court of claims alleging a 932  
violation of section 121.22 of the Revised Code. 933

**Section 2.** That existing sections 121.22, 2323.52,  
2743.03, and 2746.04 of the Revised Code are hereby repealed. 934  
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