

As Introduced

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H. B. No. 163

Representative Brinkman

**Cosponsors: Representatives Seitz, Blessing, Keller, Lipps, Romanchuk, Patton,
Lang, Riedel, Edwards, LaTourette, DeVitis, Becker, Zeltwanger**

A BILL

To amend sections 5747.50, 5747.51, and 5747.53 and 1
to enact sections 9.662, 743.80, and 5747.504 of 2
the Revised Code to create a process for 3
withholding local government funds and state 4
water and sewer assistance from municipal 5
corporations that engage in certain water and 6
sewer practices with respect to extraterritorial 7
service. 8

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

Section 1. That sections 5747.50, 5747.51, and 5747.53 be 9
amended and sections 9.662, 743.80, and 5747.504 of the Revised 10
Code be enacted to read as follows: 11

Sec. 9.662. Upon receipt of a certification from the tax 12
commissioner under division (A)(1) of section 5747.504 of the 13
Revised Code, the director of environmental protection, the 14
director of the Ohio public works commission, the Ohio water 15
development authority, and the director of development services 16
may not award any loan, grant, or other form of financial 17
assistance to the noncompliant municipal corporation identified 18

in the certification for the purpose of improving that municipal 19
corporation's water or sewerage system, except for awards of 20
federal funds required by federal law or guidelines to be 21
awarded to the municipal corporation for that purpose. 22

Upon receipt of a certification from the tax commissioner 23
under division (C) (1) of section 5747.504 of the Revised Code, 24
the director of environmental protection, the director of the 25
Ohio public works commission, the Ohio water development 26
authority, and the director of development services shall cease 27
enforcing this prohibition against that municipal corporation. 28

Sec. 743.80. (A) As used in this section, "customer class" 29
means ratepayers for property that is of the same use or nature, 30
such as residential property or commercial property. 31

(B) A township or municipal corporation may file a civil 32
action to declare as a noncompliant municipal corporation a 33
municipal corporation that provides water or sewer service to 34
property located in that township or municipal corporation and 35
to declare the township or municipal corporation filing the 36
action, or any township or municipal corporation made a party to 37
the action under this division, as an affected subdivision. The 38
action must be filed in the court of common pleas in any county 39
that includes territory of the alleged noncompliant municipal 40
corporation. The alleged noncompliant municipal corporation 41
shall be made the defendant in the action. Upon the filing of 42
such an action, each other township or municipal corporation 43
with property that is provided water or sewer service from the 44
defendant municipal corporation shall be served with a copy of 45
the complaint and, upon filing a request with the court, shall 46
be made a party to the action. 47

(C) The court shall declare the defendant municipal 48

corporation to be a noncompliant municipal corporation if the 49
court determines that any other subdivision that is a party to 50
the action establishes, by a preponderance of the evidence, that 51
the defendant municipal corporation engages in either of the 52
following practices: 53

(1) Charging a customer class for property located in the 54
other subdivision higher rates for water or sewer services than 55
for the same customer class for property located in the 56
defendant municipal corporation, unless the defendant municipal 57
corporation establishes, by a preponderance of the evidence, 58
that those higher rates are calculated pursuant to generally 59
accepted industry practices consistent with the methodology in 60
industry guidance applicable to municipal-owned sewer and water 61
systems. 62

(2) Requiring, as a condition of providing water or sewer 63
services to property located within the subdivision, that the 64
subdivision provide direct payments to the defendant municipal 65
corporation, unless the defendant municipal corporation 66
establishes, by a preponderance of the evidence, that those 67
direct payments are reasonably related to the cost of providing 68
water or sewer services to property within the territory of that 69
subdivision. 70

(D) If the court declares a municipal corporation to be a 71
noncompliant municipal corporation, the court shall also declare 72
which of the townships or municipal corporations that are a 73
party to the action qualify as an affected subdivision. The 74
court shall declare a township or municipal corporation to be an 75
affected subdivision if the court finds that the township or 76
municipal corporation is either required to make a direct 77
payment described in division (C) (2) of this section or has 78

property within its territory, the ratepayer for which is 79
subject to the higher rates described in division (C) (1) of this 80
section. Any party to the action that is not a prevailing party 81
may appeal the action. 82

(E) Not later than one hundred eighty days after the date 83
the time to appeal the declaration described in division (C) of 84
this section has elapsed, any township or municipal corporation 85
declared to be an affected subdivision in that declaration may 86
certify a copy of the court's declaration to the tax 87
commissioner, who shall proceed as provided in section 5747.504 88
of the Revised Code. 89

(F) A municipal corporation that a court has declared to 90
be a noncompliant municipal corporation under division (C) of 91
this section may file a civil action to declare that the 92
municipal corporation no longer qualifies as a noncompliant 93
municipal corporation in the same court of common pleas that 94
made the original declaration. Upon the filing of such an 95
action, each township or municipal corporation declared by the 96
court under division (D) of this section to be an affected 97
subdivision shall be made a defendant to the action. 98

The court shall declare that the noncompliant municipal 99
corporation no longer qualifies as a noncompliant municipal 100
corporation if the municipal corporation establishes, by a 101
preponderance of the evidence, that the municipal corporation 102
does not engage in either of the practices described in 103
divisions (C) (1) and (2) of this section in relation to each 104
affected subdivision. 105

Any party to the action that is not a prevailing party may 106
appeal the action. A declaration by a court under division (F) 107
of this section shall supersede any prior declaration issued 108

under division (C) of this section with respect to the 109
noncompliant municipal corporation. If a court declares that the 110
municipal corporation no longer qualifies as a noncompliant 111
municipal corporation, not later than one hundred eighty days 112
after the date the time to appeal the declaration described in 113
division (F) of this section has elapsed, the municipal 114
corporation that filed the action may certify the court's 115
decision to the tax commissioner, who shall proceed as provided 116
in section 5747.504 of the Revised Code. 117

Sec. 5747.50. (A) As used in this section: 118

(1) "County's proportionate share of the calendar year 119
2007 LGF and LGRAF distributions" means the percentage computed 120
for the county under division (B) (1) (a) of section 5747.501 of 121
the Revised Code. 122

(2) "County's proportionate share of the total amount of 123
the local government fund additional revenue formula" means each 124
county's proportionate share of the state's population as 125
determined for and certified to the county for distributions to 126
be made during the current calendar year under division (B) (2) 127
(a) of section 5747.501 of the Revised Code. If prior to the 128
first day of January of the current calendar year the federal 129
government has issued a revision to the population figures 130
reflected in the estimate produced pursuant to division (B) (2) 131
(a) of section 5747.501 of the Revised Code, such revised 132
population figures shall be used for making the distributions 133
during the current calendar year. 134

(3) "2007 LGF and LGRAF county distribution base available 135
in that month" means the lesser of the amounts described in 136
division (A) (3) (a) and (b) of this section, provided that the 137
amount shall not be less than zero: 138

(a) The total amount available for distribution to	139
counties from the local government fund during the current	140
month.	141
(b) The total amount distributed to counties from the	142
local government fund and the local government revenue	143
assistance fund to counties in calendar year 2007 less the total	144
amount distributed to counties under division (B) (1) of this	145
section during previous months of the current calendar year.	146
(4) "Local government fund additional revenue distribution	147
base available during that month" means the total amount	148
available for distribution to counties during the month from the	149
local government fund, less any amounts to be distributed in	150
that month from the local government fund under division (B) (1)	151
of this section, provided that the local government fund	152
additional revenue distribution base available during that month	153
shall not be less than zero.	154
(5) "Total amount available for distribution to counties"	155
means the total amount available for distribution from the local	156
government fund during the current month less the total amount	157
available for distribution to municipal corporations during the	158
current month under division (C) of this section.	159
(B) On or before the tenth day of each month, the tax	160
commissioner shall provide for payment to each county an amount	161
equal to the sum of:	162
(1) The county's proportionate share of the calendar year	163
2007 LGF and LGRAF distributions multiplied by the 2007 LGF and	164
LGRAF county distribution base available in that month, provided	165
that if the 2007 LGF and LGRAF county distribution base	166
available in that month is zero, no payment shall be made under	167

division (B) (1) of this section for the month or the remainder of the calendar year; and	168 169
(2) The county's proportionate share of the total amount of the local government fund additional revenue formula multiplied by the local government fund additional revenue distribution base available during that month.	170 171 172 173
Money received into the treasury of a county under this division shall be credited to the undivided local government fund in the treasury of the county on or before the fifteenth day of each month. On or before the twentieth day of each month, the county auditor shall issue warrants against all of the undivided local government fund in the county treasury in the respective amounts allowed as provided in section 5747.51 of the Revised Code, and the treasurer shall distribute and pay such sums to the subdivision therein.	174 175 176 177 178 179 180 181 182
(C) (1) As used in division (C) of this section:	183
(a) "Total amount available for distribution to municipalities during the current month" means the difference obtained by subtracting one million dollars from the product obtained by multiplying the total amount available for distribution from the local government fund during the current month by the aggregate municipal share.	184 185 186 187 188 189
(b) "Aggregate municipal share" means the quotient obtained by dividing the total amount distributed directly from the local government fund to municipal corporations during calendar year 2007 by the total distributions from the local government fund and local government revenue assistance fund during calendar year 2007.	190 191 192 193 194 195
(2) On or before the tenth day of each month, the tax	196

commissioner shall provide for payment from the local government 197
fund to each municipal corporation an amount equal to the 198
product derived by multiplying the municipal corporation's 199
percentage of the total amount distributed to all such municipal 200
corporations under this division during calendar year 2007 by 201
the total amount available for distribution to municipal 202
corporations during the current month. 203

(3) Payments received by a municipal corporation under 204
this division shall be paid into its general fund and may be 205
used for any lawful purpose. 206

(4) The amount distributed to municipal corporations under 207
this division during any calendar year shall not exceed the 208
amount distributed directly from the local government fund to 209
municipal corporations during calendar year 2007. If that 210
maximum amount is reached during any month, distributions to 211
municipal corporations in that month shall be as provided in 212
divisions (C) (1) and (2) of this section, but no further 213
distributions shall be made to municipal corporations under 214
division (C) of this section during the remainder of the 215
calendar year. 216

(5) Upon being informed of a municipal corporation's 217
dissolution, the tax commissioner shall cease providing for 218
payments to that municipal corporation under division (C) of 219
this section. The proportionate shares of the total amount 220
available for distribution to each of the remaining municipal 221
corporations under this division shall be increased on a pro 222
rata basis. 223

The tax commissioner shall reduce or cease payments under 224
division (C) of this section to municipal corporations for which 225
~~reduced~~ a reduction or cessation of payments are required under 226

section 5747.502 or 5747.504 of the Revised Code. 227

(D) Each municipal corporation which has in effect a tax 228
imposed under Chapter 718. of the Revised Code shall, no later 229
than the thirty-first day of August of each year, certify to the 230
tax commissioner, on a form prescribed by the commissioner, the 231
amount of income tax revenue collected and refunded by such 232
municipal corporation pursuant to such chapter during the 233
preceding calendar year, arranged, when possible, by the type of 234
income from which the revenue was collected or the refund was 235
issued. The municipal corporation shall also report the amount 236
of income tax revenue collected and refunded on behalf of a 237
joint economic development district or a joint economic 238
development zone that levies an income tax administered by the 239
municipal corporation and the amount of such revenue distributed 240
to contracting parties during the preceding calendar year. The 241
tax commissioner may withhold payment of local government fund 242
moneys pursuant to division (C) of this section from any 243
municipal corporation for failure to comply with this reporting 244
requirement. 245

(E) (1) For the purposes of division (E) of this section: 246

(a) "Eligible taxing district" means a township, township 247
fire district, or joint fire district for which the total 248
taxable value of eligible power plants for tax year 2017 is at 249
least thirty per cent less than the total taxable value of 250
eligible power plants for tax year 2016. 251

(b) "Eligible power plant" means a power plant that is 252
subject to the requirements of 10 C.F.R. part 73. 253

(c) "Total taxable value of eligible power plants" of an 254
eligible taxing district means the total taxable value of the 255

taxable property of eligible power plants apportioned to the 256
district as shown in a preliminary assessment or amended 257
preliminary assessment and listed on the tax list of real and 258
public utility property. 259

(d) "Taxable property" has the same meaning as in section 260
5727.01 of the Revised Code. 261

(e) "Tax rate" of an eligible taxing district means one of 262
the following: 263

(i) For townships, the sum of the rates of levies imposed 264
under section 505.39, 505.51, or division (I), (J), (U), or (JJ) 265
of section 5705.19 of the Revised Code and extended on the tax 266
list of real and public utility property for tax year 2017, 267
excluding any levy imposed at whatever rate is required to raise 268
a fixed sum of money; 269

(ii) For township fire districts and joint fire districts, 270
the sum of the rates of levies extended on the tax list of real 271
and public utility property for tax year 2017, excluding any 272
levy imposed at whatever rate is required to raise a fixed sum 273
of money. 274

(2) Each fiscal year from fiscal year 2018 through fiscal 275
year 2028, the tax commissioner shall compute the following 276
amount for each eligible taxing district: 277

(a) For fiscal years 2018 and 2019, the amount obtained by 278
multiplying the eligible taxing district's tax rate by the 279
difference obtained by subtracting (i) the total taxable value 280
of eligible power plants of the district for tax year 2017 from 281
(ii) the total taxable value of eligible power plants of the 282
district for tax year 2016; 283

(b) For fiscal years 2020 through 2028, ninety per cent of 284

the amount calculated for the district under division (E) (2) (a) 285
or (b) of this section for the preceding fiscal year. 286

The commissioner shall certify the sum of the amounts 287
calculated for all eligible taxing districts under this division 288
for a fiscal year to the director of budget and management who, 289
on or before the seventh day of each month of that fiscal year, 290
shall transfer from the general revenue fund to the local 291
government fund one-twelfth of the amount certified. 292

(3) On or before the tenth day of each month, the tax 293
commissioner shall provide for payment to each county treasury 294
in which an eligible taxing district is located an amount equal 295
to one-twelfth of the amount computed for the district for that 296
fiscal year under division (E) (2) of this section. 297

Money received into the treasury of a county under 298
division (E) of this section shall be credited to the undivided 299
local government fund in the treasury of the county on or before 300
the fifteenth day of each month. On or before the twentieth day 301
of each month, the county auditor shall issue warrants against 302
the undivided local government fund for the amounts attributable 303
to each eligible taxing district, and the treasurer shall 304
distribute and pay such amounts to each eligible taxing 305
district. Money received by a township fire district or joint 306
fire district under this division shall be credited to the 307
district's general fund and may be used for any lawful purpose 308
of the district. Money received by a township under this 309
division shall be credited to the township's general fund and 310
shall be used for the purpose of funding fire, police, emergency 311
medical, or ambulance services. 312

Sec. 5747.504. (A) As used in this section: 313

(1) "Noncompliant municipal corporation" means a municipal corporation that has been declared to be a noncompliant municipal corporation in the certification described in division (E) of section 743.80 of the Revised Code. 314
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(2) "Affected subdivision" means a municipal corporation or township that has been declared to be an affected subdivision in the certification described in division (E) of section 743.80 of the Revised Code. 318
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(B) Upon receiving a certification described in division (E) of section 743.80 of the Revised Code, the tax commissioner shall do all of the following: 322
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(1) Immediately forward a copy of the certification to the director of environmental protection, the director of the Ohio public works commission, the Ohio water development authority, and the director of development services; 325
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(2) Cease providing for payments to the noncompliant municipal corporation under division (C) of section 5747.50 of the Revised Code, beginning with the next required payment, and reduce payments to the appropriate county undivided local government fund under division (B) of section 5747.50 of the Revised Code by an amount equal to the payments the municipal corporation would otherwise receive under section 5747.503, 5747.51, or 5747.53 of the Revised Code, in both cases beginning with the next required payment; 329
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(3) Immediately notify the county auditor and county treasurer that payments to the noncompliant municipal corporation from the county undivided local government fund are to cease until the tax commissioner notifies the auditor and treasurer under division (C) (3) of this section that the 338
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payments are to resume. 343

The county treasurer shall cease providing for payments to 344
the municipal corporation from the undivided local government 345
fund beginning with the payment specified by the tax 346
commissioner. 347

(C) Upon receiving a certification described in division 348
(F) of section 743.80 of the Revised Code, the tax commissioner 349
shall do all of the following: 350

(1) Immediately forward a copy of the certification to the 351
director of environmental protection, the director of the Ohio 352
public works commission, the Ohio water development authority, 353
and the director of development services; 354

(2) Resume payments to the formerly noncompliant municipal 355
corporation under division (C) of section 5747.50 of the Revised 356
Code and resume payments to the county's undivided local 357
government fund to the extent such payments were reduced under 358
division (B) (2) of this section, in both cases beginning with 359
the next required payment; 360

(3) Immediately notify the county auditor and county 361
treasurer that the treasurer is to resume payments from the 362
undivided local government fund to the formerly noncompliant 363
municipal corporation under section 5747.503, 5747.51, or 364
5747.53 of the Revised Code. 365

The county treasurer shall resume payments to the 366
municipal corporation from the undivided local government fund 367
beginning with the payment specified by the tax commissioner. 368

(D) The tax commissioner shall provide for payment of an 369
amount equal to amounts withheld from a noncompliant municipal 370
corporation under division (B) (2) of this section to each 371

township and municipal corporation that is an affected 372
subdivision with respect to the noncompliant municipal 373
corporation. The payment to each such subdivision shall be in 374
the proportion that the population of that subdivision bears to 375
the total population of all affected subdivisions, as determined 376
by the most recent federal decennial census. 377

(E) An affected subdivision shall use money received under 378
division (D) of this section for the current operating expenses 379
of the subdivision. 380

Sec. 5747.51. (A) On or before the twenty-fifth day of 381
July of each year, the tax commissioner shall make and certify 382
to the county auditor of each county an estimate of the amount 383
of the local government fund to be allocated to the undivided 384
local government fund of each county for the ensuing calendar 385
year, adjusting the total as required to account for 386
subdivisions receiving local government funds under section 387
5747.502 of the Revised Code or subdivisions ceasing to receive 388
local government funds under section 5747.504 of the Revised 389
Code. 390

(B) At each annual regular session of the county budget 391
commission convened pursuant to section 5705.27 of the Revised 392
Code, each auditor shall present to the commission the 393
certificate of the commissioner, the annual tax budget and 394
estimates, and the records showing the action of the commission 395
in its last preceding regular session. The commission, after 396
extending to the representatives of each subdivision an 397
opportunity to be heard, under oath administered by any member 398
of the commission, and considering all the facts and information 399
presented to it by the auditor, shall determine the amount of 400
the undivided local government fund needed by and to be 401

apportioned to each subdivision for current operating expenses, 402
as shown in the tax budget of the subdivision. This 403
determination shall be made pursuant to divisions (C) to (I) of 404
this section, unless the commission has provided for a formula 405
pursuant to section 5747.53 of the Revised Code. The 406
commissioner shall reduce or increase the amount of funds from 407
the undivided local government fund to a subdivision required to 408
receive reduced or increased funds under section 5747.502 or 409
5747.504 of the Revised Code. 410

Nothing in this section prevents the budget commission, 411
for the purpose of apportioning the undivided local government 412
fund, from inquiring into the claimed needs of any subdivision 413
as stated in its tax budget, or from adjusting claimed needs to 414
reflect actual needs. For the purposes of this section, "current 415
operating expenses" means the lawful expenditures of a 416
subdivision, except those for permanent improvements and except 417
payments for interest, sinking fund, and retirement of bonds, 418
notes, and certificates of indebtedness of the subdivision. 419

(C) The commission shall determine the combined total of 420
the estimated expenditures, including transfers, from the 421
general fund and any special funds other than special funds 422
established for road and bridge; street construction, 423
maintenance, and repair; state highway improvement; and gas, 424
water, sewer, and electric public utilities operated by a 425
subdivision, as shown in the subdivision's tax budget for the 426
ensuing calendar year. 427

(D) From the combined total of expenditures calculated 428
pursuant to division (C) of this section, the commission shall 429
deduct the following expenditures, if included in these funds in 430
the tax budget: 431

(1) Expenditures for permanent improvements as defined in division (E) of section 5705.01 of the Revised Code;	432 433
(2) In the case of counties and townships, transfers to the road and bridge fund, and in the case of municipalities, transfers to the street construction, maintenance, and repair fund and the state highway improvement fund;	434 435 436 437
(3) Expenditures for the payment of debt charges;	438
(4) Expenditures for the payment of judgments.	439
(E) In addition to the deductions made pursuant to division (D) of this section, revenues accruing to the general fund and any special fund considered under division (C) of this section from the following sources shall be deducted from the combined total of expenditures calculated pursuant to division (C) of this section:	440 441 442 443 444 445
(1) Taxes levied within the ten-mill limitation, as defined in section 5705.02 of the Revised Code;	446 447
(2) The budget commission allocation of estimated county public library fund revenues to be distributed pursuant to section 5747.48 of the Revised Code;	448 449 450
(3) Estimated unencumbered balances as shown on the tax budget as of the thirty-first day of December of the current year in the general fund, but not any estimated balance in any special fund considered in division (C) of this section;	451 452 453 454
(4) Revenue, including transfers, shown in the general fund and any special funds other than special funds established for road and bridge; street construction, maintenance, and repair; state highway improvement; and gas, water, sewer, and electric public utilities, from all other sources except those	455 456 457 458 459

that a subdivision receives from an additional tax or service 460
charge voted by its electorate or receives from special 461
assessment or revenue bond collection. For the purposes of this 462
division, where the charter of a municipal corporation prohibits 463
the levy of an income tax, an income tax levied by the 464
legislative authority of such municipal corporation pursuant to 465
an amendment of the charter of that municipal corporation to 466
authorize such a levy represents an additional tax voted by the 467
electorate of that municipal corporation. For the purposes of 468
this division, any measure adopted by a board of county 469
commissioners pursuant to section 322.02, 4504.02, or 5739.021 470
of the Revised Code, including those measures upheld by the 471
electorate in a referendum conducted pursuant to section 472
322.021, 4504.021, or 5739.022 of the Revised Code, shall not be 473
considered an additional tax voted by the electorate. 474

Subject to division (G) of section 5705.29 of the Revised 475
Code, money in a reserve balance account established by a 476
county, township, or municipal corporation under section 5705.13 477
of the Revised Code shall not be considered an unencumbered 478
balance or revenue under division (E) (3) or (4) of this section. 479
Money in a reserve balance account established by a township 480
under section 5705.132 of the Revised Code shall not be 481
considered an unencumbered balance or revenue under division (E) 482
(3) or (4) of this section. 483

If a county, township, or municipal corporation has 484
created and maintains a nonexpendable trust fund under section 485
5705.131 of the Revised Code, the principal of the fund, and any 486
additions to the principal arising from sources other than the 487
reinvestment of investment earnings arising from such a fund, 488
shall not be considered an unencumbered balance or revenue under 489
division (E) (3) or (4) of this section. Only investment earnings 490

arising from investment of the principal or investment of such 491
additions to principal may be considered an unencumbered balance 492
or revenue under those divisions. 493

(F) The total expenditures calculated pursuant to division 494
(C) of this section, less the deductions authorized in divisions 495
(D) and (E) of this section, shall be known as the "relative 496
need" of the subdivision, for the purposes of this section. 497

(G) The budget commission shall total the relative need of 498
all participating subdivisions in the county, and shall compute 499
a relative need factor by dividing the total estimate of the 500
undivided local government fund by the total relative need of 501
all participating subdivisions. 502

(H) The relative need of each subdivision shall be 503
multiplied by the relative need factor to determine the 504
proportionate share of the subdivision in the undivided local 505
government fund of the county; provided, that the maximum 506
proportionate share of a county shall not exceed the following 507
maximum percentages of the total estimate of the undivided local 508
government fund governed by the relationship of the percentage 509
of the population of the county that resides within municipal 510
corporations within the county to the total population of the 511
county as reported in the reports on population in Ohio by the 512
department of development as of the twentieth day of July of the 513
year in which the tax budget is filed with the budget 514
commission: 515

	Percentage share of	516
Percentage of municipal	the county shall	517
population within the county:	not exceed:	518
Less than forty-one per cent	Sixty per cent	519

Forty-one per cent or more but	Fifty per cent	520
less than eighty-one per cent		521
Eighty-one per cent or more	Thirty per cent	522
Where the proportionate share of the county exceeds the		523
limitations established in this division, the budget commission		524
shall adjust the proportionate shares determined pursuant to		525
this division so that the proportionate share of the county does		526
not exceed these limitations, and it shall increase the		527
proportionate shares of all other subdivisions on a pro rata		528
basis. In counties having a population of less than one hundred		529
thousand, not less than ten per cent shall be distributed to the		530
townships therein.		531
(I) The proportionate share of each subdivision in the		532
undivided local government fund determined pursuant to division		533
(H) of this section for any calendar year shall not be less than		534
the product of the average of the percentages of the undivided		535
local government fund of the county as apportioned to that		536
subdivision for the calendar years 1968, 1969, and 1970,		537
multiplied by the total amount of the undivided local government		538
fund of the county apportioned pursuant to former section		539
5735.23 of the Revised Code for the calendar year 1970. For the		540
purposes of this division, the total apportioned amount for the		541
calendar year 1970 shall be the amount actually allocated to the		542
county in 1970 from the state collected intangible tax as levied		543
by section 5707.03 of the Revised Code and distributed pursuant		544
to section 5725.24 of the Revised Code, plus the amount received		545
by the county in the calendar year 1970 pursuant to division (B)		546
(1) of former section 5739.21 of the Revised Code, and		547
distributed pursuant to former section 5739.22 of the Revised		548
Code. If the total amount of the undivided local government fund		549

for any calendar year is less than the amount of the undivided 550
local government fund apportioned pursuant to former section 551
5739.23 of the Revised Code for the calendar year 1970, the 552
minimum amount guaranteed to each subdivision for that calendar 553
year pursuant to this division shall be reduced on a basis 554
proportionate to the amount by which the amount of the undivided 555
local government fund for that calendar year is less than the 556
amount of the undivided local government fund apportioned for 557
the calendar year 1970. 558

(J) On the basis of such apportionment, the county auditor 559
shall compute the percentage share of each such subdivision in 560
the undivided local government fund and shall at the same time 561
certify to the tax commissioner the percentage share of the 562
county as a subdivision. No payment shall be made from the 563
undivided local government fund, except in accordance with such 564
percentage shares. 565

Within ten days after the budget commission has made its 566
apportionment, whether conducted pursuant to section 5747.51 or 567
5747.53 of the Revised Code, the auditor shall publish a list of 568
the subdivisions and the amount each is to receive from the 569
undivided local government fund and the percentage share of each 570
subdivision, in a newspaper or newspapers of countywide 571
circulation, and send a copy of such allocation to the tax 572
commissioner. 573

The county auditor shall also send a copy of such 574
allocation by ordinary or electronic mail to the fiscal officer 575
of each subdivision entitled to participate in the allocation of 576
the undivided local government fund of the county. This copy 577
shall constitute the official notice of the commission action 578
referred to in section 5705.37 of the Revised Code. 579

All money received into the treasury of a subdivision from 580
the undivided local government fund in a county treasury shall 581
be paid into the general fund and used for the current operating 582
expenses of the subdivision. 583

If a municipal corporation maintains a municipal 584
university, such municipal university, when the board of 585
trustees so requests the legislative authority of the municipal 586
corporation, shall participate in the money apportioned to such 587
municipal corporation from the total local government fund, 588
however created and constituted, in such amount as requested by 589
the board of trustees, provided such sum does not exceed nine 590
per cent of the total amount paid to the municipal corporation. 591

If any public official fails to maintain the records 592
required by sections 5747.50 to 5747.55 of the Revised Code or 593
by the rules issued by the tax commissioner, the auditor of 594
state, or the treasurer of state pursuant to such sections, or 595
fails to comply with any law relating to the enforcement of such 596
sections, the local government fund money allocated to the 597
county may be withheld until such time as the public official 598
has complied with such sections or such law or the rules issued 599
pursuant thereto. 600

Sec. 5747.53. (A) As used in this section: 601

(1) "City, located wholly or partially in the county, with 602
the greatest population" means the city, located wholly or 603
partially in the county, with the greatest population residing 604
in the county; however, if the county budget commission on or 605
before January 1, 1998, adopted an alternative method of 606
apportionment that was approved by the legislative authority of 607
the city, located partially in the county, with the greatest 608
population but not the greatest population residing in the 609

county, "city, located wholly or partially in the county, with 610
the greatest population" means the city, located wholly or 611
partially in the county, with the greatest population whether 612
residing in the county or not, if this alternative meaning is 613
adopted by action of the board of county commissioners and a 614
majority of the boards of township trustees and legislative 615
authorities of municipal corporations located wholly or 616
partially in the county. 617

(2) "Participating political subdivision" means a 618
municipal corporation or township that satisfies all of the 619
following: 620

(a) It is located wholly or partially in the county. 621

(b) It is not the city, located wholly or partially in the 622
county, with the greatest population. 623

(c) Undivided local government fund moneys are apportioned 624
to it under the county's alternative method or formula of 625
apportionment in the current calendar year. 626

(B) In lieu of the method of apportionment of the 627
undivided local government fund of the county provided by 628
section 5747.51 of the Revised Code, the county budget 629
commission may provide for the apportionment of the fund under 630
an alternative method or on a formula basis as authorized by 631
this section. The commissioner shall reduce or increase the 632
amount of funds from the undivided local government fund to a 633
subdivision required to receive reduced or increased funds under 634
section 5747.502 or 5747.504 of the Revised Code. 635

Except as otherwise provided in division (C) of this 636
section, the alternative method of apportionment shall have 637
first been approved by all of the following governmental units: 638

the board of county commissioners; the legislative authority of 639
the city, located wholly or partially in the county, with the 640
greatest population; and a majority of the boards of township 641
trustees and legislative authorities of municipal corporations, 642
located wholly or partially in the county, excluding the 643
legislative authority of the city, located wholly or partially 644
in the county, with the greatest population. In granting or 645
denying approval for an alternative method of apportionment, the 646
board of county commissioners, boards of township trustees, and 647
legislative authorities of municipal corporations shall act by 648
motion. A motion to approve shall be passed upon a majority vote 649
of the members of a board of county commissioners, board of 650
township trustees, or legislative authority of a municipal 651
corporation, shall take effect immediately, and need not be 652
published. 653

Any alternative method of apportionment adopted and 654
approved under this division may be revised, amended, or 655
repealed in the same manner as it may be adopted and approved. 656
If an alternative method of apportionment adopted and approved 657
under this division is repealed, the undivided local government 658
fund of the county shall be apportioned among the subdivisions 659
eligible to participate in the fund, commencing in the ensuing 660
calendar year, under the apportionment provided in section 661
5747.52 of the Revised Code, unless the repeal occurs by 662
operation of division (C) of this section or a new method for 663
apportionment of the fund is provided in the action of repeal. 664

(C) This division applies only in counties in which the 665
city, located wholly or partially in the county, with the 666
greatest population has a population of twenty thousand or less 667
and a population that is less than fifteen per cent of the total 668
population of the county. In such a county, the legislative 669

authorities or boards of township trustees of two or more 670
participating political subdivisions, which together have a 671
population residing in the county that is a majority of the 672
total population of the county, each may adopt a resolution to 673
exclude the approval otherwise required of the legislative 674
authority of the city, located wholly or partially in the 675
county, with the greatest population. All of the resolutions to 676
exclude that approval shall be adopted not later than the first 677
Monday of August of the year preceding the calendar year in 678
which distributions are to be made under an alternative method 679
of apportionment. 680

A motion granting or denying approval of an alternative 681
method of apportionment under this division shall be adopted by 682
a majority vote of the members of the board of county 683
commissioners and by a majority vote of a majority of the boards 684
of township trustees and legislative authorities of the 685
municipal corporations located wholly or partially in the 686
county, other than the city, located wholly or partially in the 687
county, with the greatest population, shall take effect 688
immediately, and need not be published. The alternative method 689
of apportionment under this division shall be adopted and 690
approved annually, not later than the first Monday of August of 691
the year preceding the calendar year in which distributions are 692
to be made under it. A motion granting approval of an 693
alternative method of apportionment under this division repeals 694
any existing alternative method of apportionment, effective with 695
distributions to be made from the fund in the ensuing calendar 696
year. An alternative method of apportionment under this division 697
shall not be revised or amended after the first Monday of August 698
of the year preceding the calendar year in which distributions 699
are to be made under it. 700

(D) In determining an alternative method of apportionment 701
authorized by this section, the county budget commission may 702
include in the method any factor considered to be appropriate 703
and reliable, in the sole discretion of the county budget 704
commission. 705

(E) The limitations set forth in section 5747.51 of the 706
Revised Code, stating the maximum amount that the county may 707
receive from the undivided local government fund and the minimum 708
amount the townships in counties having a population of less 709
than one hundred thousand may receive from the fund, are 710
applicable to any alternative method of apportionment authorized 711
under this section. 712

(F) On the basis of any alternative method of 713
apportionment adopted and approved as authorized by this 714
section, as certified by the auditor to the county treasurer, 715
the county treasurer shall make distribution of the money in the 716
undivided local government fund to each subdivision eligible to 717
participate in the fund, and the auditor, when the amount of 718
those shares is in the custody of the treasurer in the amounts 719
so computed to be due the respective subdivisions, shall at the 720
same time certify to the tax commissioner the percentage share 721
of the county as a subdivision. All money received into the 722
treasury of a subdivision from the undivided local government 723
fund in a county treasury shall be paid into the general fund 724
and used for the current operating expenses of the subdivision. 725
If a municipal corporation maintains a municipal university, the 726
university, when the board of trustees so requests the 727
legislative authority of the municipal corporation, shall 728
participate in the money apportioned to the municipal 729
corporation from the total local government fund, however 730
created and constituted, in the amount requested by the board of 731

trustees, provided that amount does not exceed nine per cent of 732
the total amount paid to the municipal corporation. 733

(G) The actions of the county budget commission taken 734
pursuant to this section are final and may not be appealed to 735
the board of tax appeals, except on the issues of abuse of 736
discretion and failure to comply with the formula. 737

Section 2. That existing sections 5747.50, 5747.51, and 738
5747.53 of the Revised Code are hereby repealed. 739

Section 3. Section 5747.51 of the Revised Code is 740
presented in this act as a composite of the section as amended 741
by both Sub. H.B. 166 and Sub. H.B. 390 of the 131st General 742
Assembly. The General Assembly, applying the principle stated in 743
division (B) of section 1.52 of the Revised Code that amendments 744
are to be harmonized if reasonably capable of simultaneous 745
operation, finds that the composite is the resulting version of 746
the section in effect prior to the effective date of the section 747
as presented in this act. 748