

As Introduced

133rd General Assembly

Regular Session

2019-2020

S. B. No. 293

Senators Manning, Blessing

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
decision-making body of a state agency, institution, or
authority, and any legislative authority or board, commission,

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committee, council, agency, authority, or similar decision- 19
making body of any county, township, municipal corporation, 20
school district, or other political subdivision or local public 21
institution; 22

(b) Any committee or subcommittee of a body described in 23
division (B) (1) (a) of this section; 24

(c) A court of jurisdiction of a sanitary district 25
organized wholly for the purpose of providing a water supply for 26
domestic, municipal, and public use when meeting for the purpose 27
of the appointment, removal, or reappointment of a member of the 28
board of directors of such a district pursuant to section 29
6115.10 of the Revised Code, if applicable, or for any other 30
matter related to such a district other than litigation 31
involving the district. As used in division (B) (1) (c) of this 32
section, "court of jurisdiction" has the same meaning as "court" 33
in section 6115.01 of the Revised Code. 34

(2) "Meeting" means any prearranged discussion of the 35
public business of the public body by a majority of its members. 36

(3) "Regulated individual" means either of the following: 37

(a) A student in a state or local public educational 38
institution; 39

(b) A person who is, voluntarily or involuntarily, an 40
inmate, patient, or resident of a state or local institution 41
because of criminal behavior, mental illness, an intellectual 42
disability, disease, disability, age, or other condition 43
requiring custodial care. 44

(4) "Public office" has the same meaning as in section 45
149.011 of the Revised Code. 46

(C) All meetings of any public body are declared to be 47
public meetings open to the public at all times. A member of a 48
public body shall be present in person at a meeting open to the 49
public to be considered present or to vote at the meeting and 50
for purposes of determining whether a quorum is present at the 51
meeting. 52

The minutes of a regular or special meeting of any public 53
body shall be promptly prepared, filed, and maintained and shall 54
be open to public inspection. The minutes need only reflect the 55
general subject matter of discussions in executive sessions 56
authorized under division (G) or (J) of this section. 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 60
or independent certified public accountants with officials of 61
the public office that is the subject of the audit; 62

(3) The adult parole authority when its hearings are 63
conducted at a correctional institution for the sole purpose of 64
interviewing inmates to determine parole or pardon and the 65
department of rehabilitation and correction when its hearings 66
are conducted at a correctional institution for the sole purpose 67
of making determinations under section 2967.271 of the Revised 68
Code regarding the release or maintained incarceration of an 69
offender to whom that section applies; 70

(4) The organized crime investigations commission 71
established under section 177.01 of the Revised Code; 72

(5) Meetings of a child fatality review board established 73
under section 307.621 of the Revised Code, meetings related to a 74
review conducted pursuant to guidelines established by the 75

director of health under section 3701.70 of the Revised Code, 76
and meetings conducted pursuant to sections 5153.171 to 5153.173 77
of the Revised Code; 78

(6) The state medical board when determining whether to 79
suspend a license or certificate without a prior hearing 80
pursuant to division (G) of either section 4730.25 or 4731.22 of 81
the Revised Code; 82

(7) The board of nursing when determining whether to 83
suspend a license or certificate without a prior hearing 84
pursuant to division (B) of section 4723.281 of the Revised 85
Code; 86

(8) The state board of pharmacy when determining whether 87
to suspend a license without a prior hearing pursuant to 88
division (D) of section 4729.16 of the Revised Code; 89

(9) The state chiropractic board when determining whether 90
to suspend a license without a hearing pursuant to section 91
4734.37 of the Revised Code; 92

(10) The executive committee of the emergency response 93
commission when determining whether to issue an enforcement 94
order or request that a civil action, civil penalty action, or 95
criminal action be brought to enforce Chapter 3750. of the 96
Revised Code; 97

(11) The board of directors of the nonprofit corporation 98
formed under section 187.01 of the Revised Code or any committee 99
thereof, and the board of directors of any subsidiary of that 100
corporation or a committee thereof; 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	136
members of the applicant's immediate family, including, but not	137
limited to, tax records or other similar information not open to	138
public inspection.	139
The vote by the authority or board to accept or reject the	140
application, as well as all proceedings of the authority or	141
board not subject to this division, shall be open to the public	142
and governed by this section.	143
(F) Every public body, by rule, shall establish a	144
reasonable method whereby any person may determine the time and	145
place of all regularly scheduled meetings and the time, place,	146
and purpose of all special meetings. A public body shall not	147
hold a special meeting unless it gives at least twenty-four	148
hours' advance notice to the news media that have requested	149
notification, except in the event of an emergency requiring	150
immediate official action. In the event of an emergency, the	151
member or members calling the meeting shall notify the news	152
media that have requested notification immediately of the time,	153
place, and purpose of the meeting.	154
The rule shall provide that any person, upon request and	155
payment of a reasonable fee, may obtain reasonable advance	156
notification of all meetings at which any specific type of	157
public business is to be discussed. Provisions for advance	158
notification may include, but are not limited to, mailing the	159
agenda of meetings to all subscribers on a mailing list or	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 191

personal, private interest is adverse to the general public 192
interest. No member of a public body shall use division (G) (2) 193
of this section as a subterfuge for providing covert information 194
to prospective buyers or sellers. A purchase or sale of public 195
property is void if the seller or buyer of the public property 196
has received covert information from a member of a public body 197
that has not been disclosed to the general public in sufficient 198
time for other prospective buyers and sellers to prepare and 199
submit offers. 200

If the minutes of the public body show that all meetings 201
and deliberations of the public body have been conducted in 202
compliance with this section, any instrument executed by the 203
public body purporting to convey, lease, or otherwise dispose of 204
any right, title, or interest in any public property shall be 205
conclusively presumed to have been executed in compliance with 206
this section insofar as title or other interest of any bona fide 207
purchasers, lessees, or transferees of the property is 208
concerned. 209

(3) Conferences with an attorney for the public body 210
concerning disputes involving the public body that are the 211
subject of pending or imminent court action; 212

(4) Preparing for, conducting, or reviewing negotiations 213
or bargaining sessions with public employees concerning their 214
compensation or other terms and conditions of their employment; 215

(5) Matters required to be kept confidential by federal 216
law or regulations or state statutes; 217

(6) Details relative to the security arrangements and 218
emergency response protocols for a public body or a public 219
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 278

violation or threatened violation. Upon proof of a violation or 279
threatened violation of this section in an action brought by any 280
person under that division, the court of common pleas shall 281
issue an injunction to compel the members of the public body to 282
comply with its provisions. 283

(2) (a) If the court of common pleas issues an injunction 284
pursuant to division (I) (1) (b) of this section, the court shall 285
order the public body that it enjoins to pay a civil forfeiture 286
of five hundred dollars to the party that sought the injunction 287
and shall award to that party all court costs and, subject to 288
reduction as described in division (I) (2) of this section, 289
reasonable attorney's fees. The court, in its discretion, may 290
reduce an award of attorney's fees to the party that sought the 291
injunction or not award attorney's fees to that party if the 292
court determines both of the following: 293

(i) That, based on the ordinary application of statutory 294
law and case law as it existed at the time of violation or 295
threatened violation that was the basis of the injunction, a 296
well-informed public body reasonably would believe that the 297
public body was not violating or threatening to violate this 298
section; 299

(ii) That a well-informed public body reasonably would 300
believe that the conduct or threatened conduct that was the 301
basis of the injunction would serve the public policy that 302
underlies the authority that is asserted as permitting that 303
conduct or threatened conduct. 304

(b) If the court of common pleas does not issue an 305
injunction pursuant to division (I) (1) (b) of this section and 306
the court determines at that time that the bringing of the 307
action was frivolous conduct, as defined in division (A) of 308

section 2323.51 of the Revised Code, the court shall award to 309
the public body all court costs and reasonable attorney's fees, 310
as determined by the court. 311

(3) Irreparable harm and prejudice to the party that 312
sought the injunction shall be conclusively and irrebuttably 313
presumed upon proof of a violation or threatened violation of 314
this section. 315

(4) A member of a public body who knowingly violates an 316
injunction issued pursuant to division (I)(1)(b) of this section 317
may be removed from office by an action brought in the court of 318
common pleas for that purpose by the prosecuting attorney or the 319
attorney general. 320

(J)(1) Pursuant to division (C) of section 5901.09 of the 321
Revised Code, a veterans service commission shall hold an 322
executive session for one or more of the following purposes 323
unless an applicant requests a public hearing: 324

(a) Interviewing an applicant for financial assistance 325
under sections 5901.01 to 5901.15 of the Revised Code; 326

(b) Discussing applications, statements, and other 327
documents described in division (B) of section 5901.09 of the 328
Revised Code; 329

(c) Reviewing matters relating to an applicant's request 330
for financial assistance under sections 5901.01 to 5901.15 of 331
the Revised Code. 332

(2) A veterans service commission shall not exclude an 333
applicant for, recipient of, or former recipient of financial 334
assistance under sections 5901.01 to 5901.15 of the Revised 335
Code, and shall not exclude representatives selected by the 336
applicant, recipient, or former recipient, from a meeting that 337

the commission conducts as an executive session that pertains to 338
the applicant's, recipient's, or former recipient's application 339
for financial assistance. 340

(3) A veterans service commission shall vote on the grant 341
or denial of financial assistance under sections 5901.01 to 342
5901.15 of the Revised Code only in an open meeting of the 343
commission. The minutes of the meeting shall indicate the name, 344
address, and occupation of the applicant, whether the assistance 345
was granted or denied, the amount of the assistance if 346
assistance is granted, and the votes for and against the 347
granting of assistance. 348

Sec. 2323.52. (A) As used in this section: 349

(1) "Conduct" has the same meaning as in section 2323.51 350
of the Revised Code. 351

(2) "Vexatious conduct" means conduct of a party in a 352
civil action that satisfies any of the following: 353

(a) The conduct obviously serves merely to harass or 354
maliciously injure another party to the civil action. 355

(b) The conduct is not warranted under existing law and 356
cannot be supported by a good faith argument for an extension, 357
modification, or reversal of existing law. 358

(c) The conduct is imposed solely for delay. 359

(3) "Vexatious litigator" means any person who has 360
habitually, persistently, and without reasonable grounds engaged 361
in vexatious conduct in a civil action or actions, whether in 362
the court of claims or in a court of appeals, court of common 363
pleas, municipal court, or county court, whether the person or 364
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 or 2743.76 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 395

is found to be a vexatious litigator, subject to division (D) (2) 396
of this section, the court of common pleas may enter an order 397
prohibiting the vexatious litigator from doing one or more of 398
the following without first obtaining the leave of that court to 399
proceed: 400

(a) Instituting legal proceedings in the court of claims 401
or in a court of common pleas, municipal court, or county court; 402

(b) Continuing any legal proceedings that the vexatious 403
litigator had instituted in any of the courts specified in 404
division (D) (1) (a) of this section prior to the entry of the 405
order; 406

(c) Making any application, other than an application for 407
leave to proceed under division (F) (1) of this section, in any 408
legal proceedings instituted by the vexatious litigator or 409
another person in any of the courts specified in division (D) (1) 410
(a) of this section. 411

(2) If the court of common pleas finds a person who is 412
authorized to practice law in the courts of this state under the 413
Ohio Supreme Court Rules for the Government of the Bar of Ohio 414
to be a vexatious litigator and enters an order described in 415
division (D) (1) of this section in connection with that finding, 416
the order shall apply to the person only insofar as the person 417
would seek to institute proceedings described in division (D) (1) 418
(a) of this section on a pro se basis, continue proceedings 419
described in division (D) (1) (b) of this section on a pro se 420
basis, or make an application described in division (D) (1) (c) of 421
this section on a pro se basis. The order shall not apply to the 422
person insofar as the person represents one or more other 423
persons in the person's capacity as a licensed and registered 424
attorney in a civil or criminal action or proceeding or other 425

matter in a court of common pleas, municipal court, or county 426
court or in the court of claims. Division (D) (2) of this section 427
does not affect any remedy that is available to a court or an 428
adversely affected party under section 2323.51 or another 429
section of the Revised Code, under Civil Rule 11 or another 430
provision of the Ohio Rules of Civil Procedure, or under the 431
common law of this state as a result of frivolous conduct or 432
other inappropriate conduct by an attorney who represents one or 433
more clients in connection with a civil or criminal action or 434
proceeding or other matter in a court of common pleas, municipal 435
court, or county court or in the court of claims. 436

(3) A person who is subject to an order entered pursuant 437
to division (D) (1) of this section may not institute legal 438
proceedings in a court of appeals, continue any legal 439
proceedings that the vexatious litigator had instituted in a 440
court of appeals prior to entry of the order, or make any 441
application, other than the application for leave to proceed 442
allowed by division (F) (2) of this section, in any legal 443
proceedings instituted by the vexatious litigator or another 444
person in a court of appeals without first obtaining leave of 445
the court of appeals to proceed pursuant to division (F) (2) of 446
this section. 447

(E) An order that is entered under division (D) (1) of this 448
section shall remain in force indefinitely unless the order 449
provides for its expiration after a specified period of time. 450

(F) (1) A court of common pleas that entered an order under 451
division (D) (1) of this section shall not grant a person found 452
to be a vexatious litigator leave for the institution or 453
continuance of, or the making of an application in, legal 454
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, 547
division (B) of section 3335.03, and division (C) of section 548
5903.02 of the Revised Code; 549

(b) Under section 2743.75 of the Revised Code to hear 550
complaints alleging a denial of access to public records in 551
violation of division (B) of section 149.43 of the Revised Code, 552
regardless of whether the public office or person responsible 553
for public records is an office or employee of the state or of a 554
political subdivision; 555

(c) Under section 2743.76 of the Revised Code to hear 556
complaints alleging a violation of section 121.22 of the Revised 557
Code by a public body, as defined in section 121.22 of the 558
Revised Code. 559

(B) The court of claims shall sit in Franklin county, its 560
hearings shall be public, and it shall consist of incumbent 561
justices or judges of the supreme court, courts of appeals, or 562
courts of common pleas, or retired justices or judges eligible 563
for active duty pursuant to division (C) of Section 6 of Article 564
IV, Ohio Constitution, sitting by temporary assignment of the 565
chief justice of the supreme court. The chief justice may direct 566
the court to sit in any county for cases on removal upon a 567
showing of substantial hardship and whenever justice dictates. 568

(C) (1) A civil action against the state shall be heard and 569
determined by a single judge. Upon application by the claimant 570
or the state, the chief justice of the supreme court may assign 571
a panel of three judges to hear and determine a civil action 572
presenting novel or complex issues of law or fact. Concurrence 573
of two members of the panel is necessary for any judgment or 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 607
parties. The court may not require that any party deposit with 608
the court cash, bonds, or other security in excess of two 609
hundred dollars to guarantee payment of costs without the prior 610
approval in each case of the chief justice. 611

(4) An appeal from a decision of the attorney general 612
pursuant to sections 2743.51 to 2743.72 of the Revised Code 613
shall be heard and determined by the court of claims. 614

(D) The Rules of Civil Procedure shall govern practice and 615
procedure in all actions in the court of claims, except insofar 616
as inconsistent with this chapter. The supreme court may 617
promulgate rules governing practice and procedure in actions in 618
the court as provided in Section 5 of Article IV, Ohio 619
Constitution. 620

(E) (1) A party who files a counterclaim against the state 621
or makes the state a third-party defendant in an action 622
commenced in any court, other than the court of claims, shall 623
file a petition for removal in the court of claims. The petition 624
shall state the basis for removal, be accompanied by a copy of 625
all process, pleadings, and other papers served upon the 626
petitioner, and shall be signed in accordance with Civil Rule 627
11. A petition for removal based on a counterclaim shall be 628
filed within twenty-eight days after service of the counterclaim 629
of the petitioner. A petition for removal based on third-party 630
practice shall be filed within twenty-eight days after the 631
filing of the third-party complaint of the petitioner. 632

(2) Within seven days after filing a petition for removal, 633
the petitioner shall give written notice to the parties, and 634
shall file a copy of the petition with the clerk of the court in 635
which the action was brought originally. The filing effects the 636

removal of the action to the court of claims, and the clerk of 637
the court where the action was brought shall forward all papers 638
in the case to the court of claims. The court of claims shall 639
adjudicate all civil actions removed. The court may remand a 640
civil action to the court in which it originated upon a finding 641
that the removal petition does not justify removal, or upon a 642
finding that the state is no longer a party. 643

(3) Bonds, undertakings, or security and injunctions, 644
attachments, sequestrations, or other orders issued prior to 645
removal remain in effect until dissolved or modified by the 646
court of claims. 647

Sec. 2743.76. (A) In order to provide for an expeditious 648
and economical procedure that attempts to resolve disputes 649
alleging a violation of section 121.22 of the Revised Code, 650
except for a court that hears an action pursuant to that 651
section, the court of claims shall be the sole and exclusive 652
authority in this state that adjudicates or resolves complaints 653
based on alleged violations of that section. The clerk of the 654
court of claims shall designate one or more current employees or 655
hire one or more individuals to serve as special masters to hear 656
complaints brought under this section. All special masters shall 657
have been engaged in the practice of law in this state for at 658
least four years and be in good standing with the supreme court 659
at the time of designation or hiring. The clerk may assign 660
administrative and clerical work associated with complaints 661
brought under this section to current employees or may hire such 662
additional employees as may be necessary to perform such work. 663

(B) The clerk of the court of common pleas in each county 664
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, the court shall dismiss 679
the complaint without prejudice and direct the allegedly 680
aggrieved person to commence an action in the court of common 681
pleas with appropriate jurisdiction as provided in division (I) 682
(1) (a) (ii) of section 121.22 of the Revised Code. 683

(D) (1) An allegedly aggrieved person who proceeds under 684
this section shall file a complaint, on a form prescribed by the 685
clerk of the court of claims, with the clerk of the court of 686
claims or with the clerk of the court of common pleas of the 687
county in which the public body that allegedly violated section 688
121.22 of the Revised Code is located. The person shall attach 689
to the complaint copies of any documents, written responses, or 690
other communications relating to the alleged violation from the 691
public body or its authorized representative and shall pay a 692
filing fee of twenty-five dollars made payable to the clerk of 693
the court with whom the complaint is filed. The clerk shall 694
serve a copy of the complaint on the public body or its 695
authorized representative in accordance with Civil Rule 4.1 and, 696

if the complaint is filed with the clerk of the court of common
pleas, shall forward the complaint to the clerk of the court of
claims, and to no other court, within three business days after
service is complete.

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

(E) (1) Upon service of a complaint under division (D) (1)
of this section, except as otherwise provided in this division,
the special master assigned by the clerk under division (D) (2)
of this section immediately shall refer the case to mediation
services that the court of claims makes available to persons.
If, in the interest of justice considering the circumstances of
the case or the parties, the special master determines that the
case should not be referred to mediation, the special master
shall notify the court that the case was not referred to
mediation, and the case shall proceed in accordance with
division (F) of this section. If the case is referred to
mediation, any further proceedings under division (F) of this
section shall be stayed until the conclusion of the mediation.
Any mediation proceedings under this division may be conducted
by teleconference, telephone, or other electronic means. If an
agreement is reached during mediation, the court shall dismiss
the complaint. If an agreement is not reached, the special
master shall notify the court that the case was not resolved and

that the mediation has been terminated. 728

(2) Within ten business days after the termination of the 729
mediation or the notification to the court that the case was not 730
referred to mediation under division (E) (1) of this section, the 731
public body or its authorized representative shall file a 732
response, and if applicable, a motion to dismiss the complaint, 733
with the clerk of the court of claims and transmit copies of the 734
pleadings to the allegedly aggrieved party. No further motions 735
or pleadings shall be accepted by the clerk of the court of 736
claims or by the special master assigned by the clerk under 737
division (D) (2) of this section unless the special master 738
directs in writing that a further motion or pleading be filed. 739

(3) All of the following apply prior to the submission of 740
the special master's report and recommendation to the court of 741
claims under division (F) (1) of this section: 742

(a) The special master shall not permit any discovery. 743

(b) The parties may attach supporting affidavits to their 744
respective pleadings. 745

(c) The special master may require either or both of the 746
parties to submit additional information or documentation 747
supported by affidavits. 748

(F) (1) Not later than seven business days after receiving 749
the response, or motion to dismiss the complaint, if applicable, 750
of the public body or its authorized representative, the special 751
master shall submit to the court of claims a report and 752
recommendation based on the ordinary application of statutory 753
law and case law as they existed at the time of the filing of 754
the complaint. For good cause shown, the special master may 755
extend the seven-day period for the submission of the report and 756

recommendation to the court of claims under this division by an
additional seven business days.

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

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(3) If the court of claims determines that the public body
violated section 121.22 of the Revised Code as alleged by the
aggrieved person and if no appeal from the court's final order
is taken under division (G) of this section, both of the
following apply:

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(a) The public body shall comply with the remedy that the 787
court requires in its order. 788

(b) The aggrieved person shall be entitled to recover from 789
the public body the amount of the filing fee of twenty-five 790
dollars and any other costs associated with the action that are 791
incurred by the aggrieved person, but shall not be entitled to 792
recover attorney's fees, except that division (G)(2) of this 793
section applies if an appeal is taken under division (G)(1) of 794
this section. 795

(G)(1) Any appeal from a final order of the court of 796
claims under this section or from an order of the court of 797
claims dismissing the complaint as provided in division (D)(2) 798
of this section shall be taken to the court of appeals of the 799
appellate district where the principal place of business of the 800
public body that is alleged to have violated section 121.22 of 801
the Revised Code is located. However, no appeal may be taken 802
from a final order of the court of claims that adopts the 803
special master's report and recommendation unless a timely 804
objection to that report and recommendation was filed under 805
division (F)(2) of this section. If the court of claims 806
materially modifies the special master's report and 807
recommendation, either party may take an appeal to the court of 808
appeals of the appellate district of the principal place of 809
business where that public body is located but the appeal shall 810
be limited to the issue in the report and recommendation that is 811
materially modified by the court of claims. In order to 812
facilitate the expeditious resolution of disputes over alleged 813
violations of section 121.22 of the Revised Code, the appeal 814
shall be given such precedence over other pending matters as 815
will ensure that the court will reach a decision promptly. 816

(2) If a court of appeals in any appeal taken under 817
division (G)(1) of this section by the public body or its 818
authorized representative determines that the public body 819
violated section 121.22 of the Revised Code as alleged by the 820
aggrieved person and obviously filed the appeal with the intent 821
to either delay compliance with the court of claims' order from 822
which the appeal is taken for no reasonable cause or unduly 823
harass the aggrieved person, the court of appeals may award 824
reasonable attorney's fees to the aggrieved person in accordance 825
with division (I)(2)(a) of section 121.22 of the Revised Code. 826
No discovery may be conducted on the issue of the public body or 827
its authorized representative filing the appeal with the alleged 828
intent to either delay compliance with the court of claims' 829
order for no reasonable cause or unduly harass the aggrieved 830
person. This division shall not be construed as creating a 831
presumption that the public body or its authorized 832
representative filed the appeal with the intent to either delay 833
compliance with the court of claims' order for no reasonable 834
cause or unduly harass the aggrieved person. 835

(H) The powers of the court of claims prescribed in 836
section 2743.05 of the Revised Code apply to the proceedings in 837
that court under this section. 838

(I)(1) All filing fees collected by a clerk of the court 839
of common pleas under division (D)(1) of this section shall be 840
paid to the county treasurer for deposit into the county general 841
revenue fund. All such money collected during a month shall be 842
transmitted on or before the twentieth day of the following 843
month by the clerk of the court of common pleas to the county 844
treasurer. 845

(2) All filing fees collected by the clerk of the court of 846

claims under division (D) (1) of this section shall be kept by 847
the court of claims to assist in paying for its costs to 848
implement this section. Not later than the first day of February 849
of each year, the clerk of the court of claims shall prepare a 850
report accessible to the public that details the fees collected 851
during the preceding calendar year by the clerk of the court of 852
claims and the clerks of the courts of common pleas under this 853
section. 854

(J) Nothing in this section shall be construed to limit 855
the authority of the auditor of state under division (G) of 856
section 109.43 of the Revised Code. 857

Sec. 2746.04. In addition to any applicable fees or costs 858
set forth in sections 2746.01 and 2746.02 of the Revised Code or 859
any other applicable provision of law, a court of common pleas 860
shall tax as costs or otherwise require the payment of fees for 861
the following services rendered or as compensation for the 862
following persons or any other of the following fees that are 863
applicable in a particular case: 864

(A) The fees provided for in section 2303.20 of the 865
Revised Code; 866

(B) Additional fees to computerize the court, make 867
available computerized legal research services, computerize the 868
office of the clerk of the court, provide financial assistance 869
to legal aid societies, support the office of the state public 870
defender, fund shelters for victims of domestic violence, and 871
special projects of the court, as provided in section 2303.201 872
and, for a court that has a domestic relations division, section 873
2301.031 of the Revised Code; 874

(C) Filing for a divorce decree under section 3105.10 or a 875

decree of dissolution under section 3105.65 of the Revised Code, 876
as provided in section 3109.14 of the Revised Code; 877

(D) Filing of a foreign judgment pursuant to section 878
2329.022 of the Revised Code, as provided in section 2329.025 of 879
the Revised Code; 880

(E) Interpreters, as provided in section 2301.14 of the 881
Revised Code; 882

(F) Jurors in civil actions, as provided in section 883
2335.28 of the Revised Code; 884

(G) Reporters, as provided in sections 2301.21 and 2301.24 885
of the Revised Code; 886

(H) In a case involving the operation by a nonresident of 887
a vessel upon the waters in this state, or the operation on the 888
waters in this state of a vessel owned by a nonresident if 889
operated with the nonresident's consent, actual traveling 890
expenses of the defendant, as provided in section 1547.36 of the 891
Revised Code; 892

(I) In a civil case, the expenses of taking a deposition 893
of a person who is imprisoned in a workhouse, juvenile detention 894
facility, jail, or state correctional institution within this 895
state, or who is in the custody of the department of youth 896
services, as provided in section 2317.06 of the Revised Code; 897

(J) In proceedings relating to the examination of a 898
judgment debtor under sections 2333.09 to 2333.27 of the Revised 899
Code, compensation for clerks, sheriffs, referees, receivers, 900
and witnesses, as provided in section 2333.27 of the Revised 901
Code; 902

(K) In an appeal from an order of an agency issued 903

pursuant to an adjudication under section 119.12 of the Revised 904
Code, the expense of preparing and transcribing the record; 905

(L) In a case in which the court issues a protection order 906
upon a petition alleging that the respondent engaged in domestic 907
violence against a family or household member, the cost of 908
supervision of the respondent's exercise of parenting time, 909
visitation, or companionship rights, as provided in section 910
3113.31 of the Revised Code; 911

(M) Upon a petition to have a person involuntarily 912
institutionalized, the costs of appointed counsel for the 913
respondent at a full hearing, as provided in section 5123.76 of 914
the Revised Code; 915

(N) In a case before the domestic relations division of 916
the Hamilton county court of common pleas, the expense of 917
serving a summons, warrant, citation, subpoena, or other writ 918
issued to an officer other than a bailiff, constable, or staff 919
investigator of the division, as provided in section 2301.03 of 920
the Revised Code; 921

(O) The filing fee specified in section 2743.75 of the 922
Revised Code in a case filed with the court of claims that 923
alleges a denial of access to public records in violation of 924
division (B) of section 149.43 of the Revised Code; 925

(P) The filing fee specified in section 2743.76 of the 926
Revised Code in a case filed with the court of claims alleging a 927
violation of section 121.22 of the Revised Code. 928

Section 2. That existing sections 121.22, 2323.52, 929
2743.03, and 2746.04 of the Revised Code are hereby repealed. 930