

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**H. B. No. 211**

**Representative Gross**

**Cosponsors: Representatives Hillyer, Wiggam, Dean, Lear, Hall, Ferguson, Fowler  
Arthur, Click**

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**A BILL**

To amend section 121.22 of the Revised Code to name 1  
this act the Free to Speak Act and to require a 2  
public body to permit members of the public to 3  
comment or testify about matters of public 4  
concern before the public body at its public 5  
meeting. 6

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

**Section 1.** That section 121.22 of the Revised Code be 7  
amended to read as follows: 8

**Sec. 121.22.** (A) This section shall be liberally construed 9  
to require public officials to take official action and to 10  
conduct all deliberations upon official business only in open 11  
meetings unless the subject matter is specifically excepted by 12  
law. 13

(B) As used in this section: 14

(1) "Public body" means any of the following: 15

(a) Any board, commission, committee, council, or similar 16

decision-making body of a state agency, institution, or 17  
authority, and any legislative authority or board, commission, 18  
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 do either of the following: 88

(a) Suspend a license, certification, or registration 89  
without a prior hearing, including during meetings conducted by 90  
telephone conference, pursuant to Chapters 3719., 3796., 4729., 91  
and 4752. of the Revised Code and rules adopted thereunder; or 92

(b) Restrict a person from obtaining further information 93  
from the drug database established in section 4729.75 of the 94  
Revised Code without a prior hearing pursuant to division (C) of 95  
section 4729.86 of the Revised Code. 96

(9) The state chiropractic board when determining whether 97  
to suspend a license without a hearing pursuant to section 98  
4734.37 of the Revised Code; 99

(10) The executive committee of the emergency response 100  
commission when determining whether to issue an enforcement 101  
order or request that a civil action, civil penalty action, or 102

criminal action be brought to enforce Chapter 3750. of the	103
Revised Code;	104
(11) The board of directors of the nonprofit corporation	105
formed under section 187.01 of the Revised Code or any committee	106
thereof, and the board of directors of any subsidiary of that	107
corporation or a committee thereof;	108
(12) An audit conference conducted by the audit staff of	109
the department of job and family services with officials of the	110
public office that is the subject of that audit under section	111
5101.37 of the Revised Code;	112
(13) The occupational therapy section of the occupational	113
therapy, physical therapy, and athletic trainers board when	114
determining whether to suspend a license without a hearing	115
pursuant to division (E) of section 4755.11 of the Revised Code;	116
(14) The physical therapy section of the occupational	117
therapy, physical therapy, and athletic trainers board when	118
determining whether to suspend a license without a hearing	119
pursuant to division (F) of section 4755.47 of the Revised Code;	120
(15) The athletic trainers section of the occupational	121
therapy, physical therapy, and athletic trainers board when	122
determining whether to suspend a license without a hearing	123
pursuant to division (E) of section 4755.64 of the Revised Code;	124
(16) Meetings of the pregnancy-associated mortality review	125
board established under section 3738.01 of the Revised Code;	126
(17) Meetings of a fetal-infant mortality review board	127
established under section 3707.71 of the Revised Code;	128
(18) Meetings of a drug overdose fatality review committee	129
described in section 307.631 of the Revised Code;	130

(19) Meetings of a suicide fatality review committee	131
described in section 307.641 of the Revised Code;	132
(20) Meetings of the officers, members, or directors of an	133
existing qualified nonprofit corporation that creates a special	134
improvement district under Chapter 1710. of the Revised Code, at	135
which the public business of the corporation pertaining to a	136
purpose for which the district is created is not discussed;	137
(21) Meetings of a domestic violence fatality review board	138
established under section 307.651 of the Revised Code.	139
(E) The controlling board, the tax credit authority, or	140
the minority development financing advisory board, when meeting	141
to consider granting assistance pursuant to Chapter 122. or 166.	142
of the Revised Code, in order to protect the interest of the	143
applicant or the possible investment of public funds, by	144
unanimous vote of all board or authority members present, may	145
close the meeting during consideration of the following	146
information confidentially received by the authority or board	147
from the applicant:	148
(1) Marketing plans;	149
(2) Specific business strategy;	150
(3) Production techniques and trade secrets;	151
(4) Financial projections;	152
(5) Personal financial statements of the applicant or	153
members of the applicant's immediate family, including, but not	154
limited to, tax records or other similar information not open to	155
public inspection.	156
The vote by the authority or board to accept or reject the	157
application, as well as all proceedings of the authority or	158

board not subject to this division, shall be open to the public 159  
and governed by this section. 160

(F) Every public body, by rule, shall establish a 161  
reasonable method whereby any person may determine the time and 162  
place of all regularly scheduled meetings and the time, place, 163  
and purpose of all special meetings. A public body shall not 164  
hold a special meeting unless it gives at least twenty-four 165  
hours' advance notice to the news media that have requested 166  
notification, except in the event of an emergency requiring 167  
immediate official action. In the event of an emergency, the 168  
member or members calling the meeting shall notify the news 169  
media that have requested notification immediately of the time, 170  
place, and purpose of the meeting. 171

The rule shall provide that any person, upon request and 172  
payment of a reasonable fee, may obtain reasonable advance 173  
notification of all meetings at which any specific type of 174  
public business is to be discussed. Provisions for advance 175  
notification may include, but are not limited to, mailing the 176  
agenda of meetings to all subscribers on a mailing list or 177  
mailing notices in self-addressed, stamped envelopes provided by 178  
the person. 179

Every public body shall permit members of the public to 180  
comment or testify about matters of public concern before the 181  
public body at public meetings held by the public body. Every 182  
public body, by rule, shall establish reasonable methods by 183  
which a member of the public may so comment or testify and may 184  
establish reasonable restrictions regarding time limits on the 185  
comment or testimony. 186

(G) Except as provided in divisions (G) (8) and (J) of this 187  
section, the members of a public body may hold an executive 188

session only after a majority of a quorum of the public body 189  
determines, by a roll call vote, to hold an executive session 190  
and only at a regular or special meeting for the sole purpose of 191  
the consideration of any of the following matters: 192

(1) To consider the appointment, employment, dismissal, 193  
discipline, promotion, demotion, or compensation of a public 194  
employee or official, or the investigation of charges or 195  
complaints against a public employee, official, licensee, or 196  
regulated individual, unless the public employee, official, 197  
licensee, or regulated individual requests a public hearing. 198  
Except as otherwise provided by law, no public body shall hold 199  
an executive session for the discipline of an elected official 200  
for conduct related to the performance of the elected official's 201  
official duties or for the elected official's removal from 202  
office. If a public body holds an executive session pursuant to 203  
division (G)(1) of this section, the motion and vote to hold 204  
that executive session shall state which one or more of the 205  
approved purposes listed in division (G)(1) of this section are 206  
the purposes for which the executive session is to be held, but 207  
need not include the name of any person to be considered at the 208  
meeting. 209

(2) To consider the purchase of property for public 210  
purposes, the sale of property at competitive bidding, or the 211  
sale or other disposition of unneeded, obsolete, or unfit-for- 212  
use property in accordance with section 505.10 of the Revised 213  
Code, if premature disclosure of information would give an 214  
unfair competitive or bargaining advantage to a person whose 215  
personal, private interest is adverse to the general public 216  
interest. No member of a public body shall use division (G)(2) 217  
of this section as a subterfuge for providing covert information 218  
to prospective buyers or sellers. A purchase or sale of public 219



property is void if the seller or buyer of the public property 220  
has received covert information from a member of a public body 221  
that has not been disclosed to the general public in sufficient 222  
time for other prospective buyers and sellers to prepare and 223  
submit offers. 224

If the minutes of the public body show that all meetings 225  
and deliberations of the public body have been conducted in 226  
compliance with this section, any instrument executed by the 227  
public body purporting to convey, lease, or otherwise dispose of 228  
any right, title, or interest in any public property shall be 229  
conclusively presumed to have been executed in compliance with 230  
this section insofar as title or other interest of any bona fide 231  
purchasers, lessees, or transferees of the property is 232  
concerned. 233

(3) Conferences with an attorney for the public body 234  
concerning disputes involving the public body that are the 235  
subject of pending or imminent court action; 236

(4) Preparing for, conducting, or reviewing negotiations 237  
or bargaining sessions with public employees concerning their 238  
compensation or other terms and conditions of their employment; 239

(5) Matters required to be kept confidential by federal 240  
law or regulations or state statutes; 241

(6) Details relative to the security arrangements and 242  
emergency response protocols for a public body or a public 243  
office, if disclosure of the matters discussed could reasonably 244  
be expected to jeopardize the security of the public body or 245  
public office; 246

(7) In the case of a county hospital operated pursuant to 247  
Chapter 339. of the Revised Code, a joint township hospital 248

operated pursuant to Chapter 513. of the Revised Code, or a 249  
municipal hospital operated pursuant to Chapter 749. of the 250  
Revised Code, to consider trade secrets, as defined in section 251  
1333.61 of the Revised Code; 252

(8) To consider confidential information related to the 253  
marketing plans, specific business strategy, production 254  
techniques, trade secrets, or personal financial statements of 255  
an applicant for economic development assistance, or to 256  
negotiations with other political subdivisions respecting 257  
requests for economic development assistance, provided that both 258  
of the following conditions apply: 259

(a) The information is directly related to a request for 260  
economic development assistance that is to be provided or 261  
administered under any provision of Chapter 715., 725., 1724., 262  
or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 263  
5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 264  
5709.81 of the Revised Code, or that involves public 265  
infrastructure improvements or the extension of utility services 266  
that are directly related to an economic development project. 267

(b) A unanimous quorum of the public body determines, by a 268  
roll call vote, that the executive session is necessary to 269  
protect the interests of the applicant or the possible 270  
investment or expenditure of public funds to be made in 271  
connection with the economic development project. 272

If a public body holds an executive session to consider 273  
any of the matters listed in divisions (G) (2) to (8) of this 274  
section, the motion and vote to hold that executive session 275  
shall state which one or more of the approved matters listed in 276  
those divisions are to be considered at the executive session. 277

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

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

(I)(1) Any person may bring an action to enforce this section. An action under division (I)(1) of this section shall be brought within two years after the date of the alleged violation or threatened violation. Upon proof of a violation or threatened violation of this section in an action brought by any person, the court of common pleas shall issue an injunction to compel the members of the public body to comply with its provisions.

(2)(a) If the court of common pleas issues an injunction pursuant to division (I)(1) of this section, the court shall order the public body that it enjoins to pay a civil forfeiture of five hundred dollars to the party that sought the injunction and shall award to that party all court costs and, subject to reduction as described in division (I)(2) of this section, reasonable attorney's fees. The court, in its discretion, may reduce an award of attorney's fees to the party that sought the

injunction or not award attorney's fees to that party if the 308  
court determines both of the following: 309

(i) That, based on the ordinary application of statutory 310  
law and case law as it existed at the time of violation or 311  
threatened violation that was the basis of the injunction, a 312  
well-informed public body reasonably would believe that the 313  
public body was not violating or threatening to violate this 314  
section; 315

(ii) That a well-informed public body reasonably would 316  
believe that the conduct or threatened conduct that was the 317  
basis of the injunction would serve the public policy that 318  
underlies the authority that is asserted as permitting that 319  
conduct or threatened conduct. 320

(b) If the court of common pleas does not issue an 321  
injunction pursuant to division (I)(1) of this section and the 322  
court determines at that time that the bringing of the action 323  
was frivolous conduct, as defined in division (A) of section 324  
2323.51 of the Revised Code, the court shall award to the public 325  
body all court costs and reasonable attorney's fees, as 326  
determined by the court. 327

(3) Irreparable harm and prejudice to the party that 328  
sought the injunction shall be conclusively and irrebuttably 329  
presumed upon proof of a violation or threatened violation of 330  
this section. 331

(4) A member of a public body who knowingly violates an 332  
injunction issued pursuant to division (I)(1) of this section 333  
may be removed from office by an action brought in the court of 334  
common pleas for that purpose by the prosecuting attorney or the 335  
attorney general. 336

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

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

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

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

(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.

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

**Section 2.** That existing section 121.22 of the Revised

Code is hereby repealed.	366
<b>Section 3.</b> This act shall be known as the Free to Speak	367
Act.	368
<b>Section 4.</b> Section 121.22 of the Revised Code is presented	369
in this act as a composite of the section as amended by both	370
H.B. 45 and H.B. 254 of the 134th General Assembly. The General	371
Assembly, applying the principle stated in division (B) of	372
section 1.52 of the Revised Code that amendments are to be	373
harmonized and reconciled if reasonably capable of simultaneous	374
operation, finds that the composite is the resulting version of	375
the section in effect prior to the effective date of the section	376
as presented in this act.	377