

**As Introduced**

**133rd General Assembly  
Regular Session  
2019-2020**

**H. B. No. 218**

**Representative Patton**

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**A BILL**

To enact sections 168.01, 168.02, 168.03, 168.04, 1  
168.05, 168.06, 168.07, 168.08, 168.09, 168.10, 2  
168.11, 168.12, 168.13, 168.14, and 168.15 of 3  
the Revised Code to authorize certain public 4  
entities to enter into public-private 5  
initiatives with a private party through a 6  
public-private agreement regarding public 7  
facilities. 8

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

**Section 1.** That sections 168.01, 168.02, 168.03, 168.04, 9  
168.05, 168.06, 168.07, 168.08, 168.09, 168.10, 168.11, 168.12, 10  
168.13, 168.14, and 168.15 of the Revised Code be enacted to 11  
read as follows: 12

**Sec. 168.01.** "Affected jurisdiction" means any unit of 13  
government within the state in which all or part of a facility 14  
is located or any other public entity directly affected by the 15  
facility. 16

"Contracting authority" means the director or chief 17  
executive officer in the case of a state agency, the board of 18  
trustees in the case of a state institution of higher education, 19

the board of county commissioners in the case of a county, the 20  
board of township trustees in the case of a township, the 21  
legislative authority in the case of a municipal corporation, 22  
the board of library trustees in the case of a library or 23  
library district, the board of directors in the case of a port 24  
authority, the board of education in the case of a school 25  
district, the governing authority in the case of a community 26  
school, the governing body in the case of a STEM school, and the 27  
board of trustees in the case of a college-preparatory boarding 28  
school. 29

"Facility" means any existing or new public building, 30  
public improvement, or public infrastructure, or part of such 31  
building, improvement, or public infrastructure, that is used or 32  
will be used by a public body or the public at large, or is used 33  
in support of a public purpose or for the delivery of services 34  
to the public. 35

"Force majeure" means an uncontrollable force or natural 36  
disaster not within the power of the operator or the public 37  
body. 38

"Maintenance" includes routine maintenance, major 39  
maintenance, and any other categories of maintenance that may be 40  
designated by the public body. 41

"Material default" means any failure of an operator to 42  
perform any duties under a public-private agreement that 43  
jeopardizes delivery of adequate service to the public and 44  
remains unsatisfied after a reasonable period of time and after 45  
the operator has received written notice from the public body of 46  
the failure. 47

"Operate" means any action to maintain, repair, improve, 48

equip, or modify a facility. 49

"Operator" means a private entity that has entered into a 50  
public-private agreement under sections 168.01 to 168.15 of the 51  
Revised Code. 52

"Political subdivision" means a county, township, 53  
municipal corporation, library or library district created under 54  
Chapter 3375. of the Revised Code, or port authority created 55  
under Chapter 4582. of the Revised Code. 56

"Private entity" means any natural person, corporation, 57  
general partnership, limited liability company, limited 58  
partnership, joint venture, business trust, public benefit 59  
corporation, nonprofit entity, or other business entity. 60

"Public body" means a state agency, state institution of 61  
higher education, political subdivision, or public school. 62

"Public-private agreement" means the agreement between a 63  
private entity and the public body that relates to the design, 64  
build, financing, operation, or maintenance of a facility 65  
subject to sections 168.01 to 168.15 of the Revised Code. 66

"Public-private initiative" means an arrangement between 67  
the public body and a private entity, the terms of which are 68  
stated in a public-private agreement, that provides for both of 69  
the following: 70

(A) Sharing of resources and the means of providing a 71  
project or service for a facility; 72

(B) Cooperation in researching, developing, and 73  
implementing projects or services for a facility. 74

"Public school" means a school district created under 75  
Chapter 3311., community school created under Chapter 3314., 76

STEM school created under Chapter 3326., or college-preparatory 77

boarding school created under Chapter 3328. of the Revised Code. 78

"State agency" has the meaning defined in section 1.60 of 79  
the Revised Code but does not include the department of 80  
transportation. 81

"State institution of higher education" has the meaning 82  
defined in section 3345.011 of the Revised Code. 83

"Utility" means a privately, publicly, or cooperatively 84  
owned line, facility, or system for producing, transmitting, or 85  
distributing communications, cable television, power, 86  
electricity, light, heat, gas, oil, crude products, water, 87  
steam, waste, storm water not connected with highway drainage, 88  
alternative or renewable energy sources such as wind or solar, 89  
or any other similar commodity, including a fire or police 90  
signal system or street lighting system that directly or 91  
indirectly serves the public. 92

**Sec. 168.02.** A facility subject to a public-private 93  
agreement under sections 168.01 to 168.15 of the Revised Code 94  
shall be owned by the public body unless the public body, in its 95  
discretion, elects to provide for ownership of the facility by 96  
the private party through a lease agreement that is part of the 97  
public-private agreement. Notwithstanding any provision of the 98  
Revised Code, the lease agreement shall provide for the lease of 99  
all or a portion of the facility to, or ownership by, the 100  
private party for a term of up to forty years. In consideration 101  
therefor, the agreement shall provide for complete reversion of 102  
the facility, in good or better condition, to the public body at 103  
the expiration of the lease. 104

**Sec. 168.03.** (A) A public body may solicit, receive, 105

<u>consider, evaluate, and accept a proposal for a public-private</u>	106
<u>initiative.</u>	107
<u>(B) In soliciting and selecting a private entity with</u>	108
<u>which to enter into a public-private initiative, the public body</u>	109
<u>shall use one or both of the following:</u>	110
<u>(1) Sealed bidding;</u>	111
<u>(2) Selection of proposals, with or without negotiations,</u>	112
<u>based on qualifications, best value, or both.</u>	113
<u>(C) (1) The public body shall consider the following</u>	114
<u>factors in evaluating and selecting a bid or proposal to enter</u>	115
<u>into a public-private initiative:</u>	116
<u>(a) The ability of the facility to serve a public purpose;</u>	117
<u>(b) The proposed cost of and financial plan for the</u>	118
<u>facility;</u>	119
<u>(c) The general reputation, qualifications, industry</u>	120
<u>experience, and financial capacity of the private entity;</u>	121
<u>(d) The proposed design, operation, and feasibility of the</u>	122
<u>facility;</u>	123
<u>(e) Comments from local citizens and affected</u>	124
<u>jurisdictions;</u>	125
<u>(f) Benefits to the public and the affected facility;</u>	126
<u>(g) The safety record of the private entity;</u>	127
<u>(h) The inclusion of a teaming agreement in the bid or</u>	128
<u>proposal that identifies the primary designer of record or</u>	129
<u>design firm representing not less than thirty per cent of the</u>	130
<u>estimated design fee, the primary construction contractor</u>	131
<u>representing not less than thirty per cent of the estimated</u>	132

<u>construction dollar value amount, and the primary financier</u>	133
<u>representing not less than fifty per cent of the total project</u>	134
<u>cost;</u>	135
<u>(i) Any other criteria that the public body considers</u>	136
<u>appropriate.</u>	137
<u>(2) The public body may consider the following factors in</u>	138
<u>evaluating and selecting a bid or proposal to enter into a</u>	139
<u>public-private initiative:</u>	140
<u>(a) The bidder's estimates of capital expenditures and</u>	141
<u>operating expenses for the proposed facility;</u>	142
<u>(b) The schedule for completion of the proposed facility;</u>	143
<u>(c) Whether user fees, lease payments, or other charges</u>	144
<u>will be collected for use of the proposed facility over the term</u>	145
<u>of the public-private agreement;</u>	146
<u>(d) The proposed length of time before ownership of the</u>	147
<u>facility reverts to the public body.</u>	148
<u>(D) The public body shall select a private entity for a</u>	149
<u>public-private initiative on a competitive basis.</u>	150
<u>(E) Any materials or data submitted to, made available to,</u>	151
<u>or received by the contracting authority, to the extent that the</u>	152
<u>materials or data consist of trade secrets, as defined in</u>	153
<u>section 1333.61 of the Revised Code, are confidential and are</u>	154
<u>not public records for the purposes of section 149.43 of the</u>	155
<u>Revised Code. Financial information received by the contracting</u>	156
<u>authority that is related to a proposal is confidential and not</u>	157
<u>a public record for purposes of section 149.43 of the Revised</u>	158
<u>Code until such time as a proposal is selected. Before</u>	159
<u>submission of a solicited proposal, a private entity may request</u>	160

a review by the public body of information that the private 161  
entity has identified as confidential, to determine whether such 162  
information would be subject to disclosure under section 149.43 163  
of the Revised Code. 164

(F) (1) The public body may reimburse a private entity for 165  
a portion of the actual costs the entity incurred in submitting 166  
a proposal for a public-private initiative that was solicited by 167  
the public body under this section. When considering the 168  
reimbursement of such costs, the contracting authority shall 169  
describe in the request for proposals for a specific public- 170  
private initiative the specific terms and conditions for 171  
reimbursing a private entity. The contracting authority may 172  
include in the terms and conditions a requirement that the 173  
private entity execute an agreement to transfer to the public 174  
body the rights to the use of the work product contained in the 175  
proposal in exchange for receiving the reimbursement. 176

(2) The contracting authority shall make all decisions 177  
related to the reimbursement of a specific private entity and 178  
related to the maximum amount of the reimbursement. However, the 179  
public body shall not reimburse a private entity if that entity 180  
enters into the public-private agreement that is the subject of 181  
the solicited proposal, except as set forth in the request for 182  
proposals or in the public-private agreement. The reimbursement 183  
of costs under division (G) of this section is exempt from any 184  
competitive bidding required by law. 185

(3) If the public body, pursuant to division (G) (1) of 186  
this section, includes a reimbursement provision in a request 187  
for proposals and the public body subsequently terminates the 188  
solicitation before the solicitation expiration date, the public 189  
body shall prorate the amount of the reimbursement that is to be 190

paid to each private entity participating in the solicitation on 191  
the date the public body terminates the solicitation. The public 192  
body shall calculate the proration percentage by determining the 193  
number of days from the date the solicitation first was offered 194  
until the date the public body terminated the solicitation and 195  
dividing that number by the number of days of the original 196  
solicitation period. 197

(4) Except as otherwise provided in writing by the public 198  
body, if, pursuant to division (G)(1) of this section, the 199  
public body includes a reimbursement provision in a request for 200  
proposals and subsequently enters into negotiations based on the 201  
selection of a desired proposal and the public body elects to 202  
terminate those negotiations for the convenience of the public 203  
body and through no fault of the proposer, the proposer is 204  
entitled to the full reimbursement amount. 205

**Sec. 168.04.** (A) The public body may receive, consider, 206  
evaluate, and accept or reject an unsolicited proposal for a 207  
public-private initiative if the proposal meets all of the 208  
following: 209

(1) Is independently originated and developed by the 210  
proposer; 211

(2) Benefits the public; 212

(3) Is prepared without public body supervision; 213

(4) Includes sufficient detail and information for the 214  
public body to evaluate the proposal in an objective and timely 215  
manner, including the conceptual design or plan for the proposed 216  
facility, project costs, and a schedule for starting and 217  
completing the facility; 218

(5) Is made by a private entity that is not prohibited 219

from making an unsolicited proposal under section 3517.13 of the 220  
Revised Code. 221

(B) Within ninety days after receiving an unsolicited 222  
proposal, the public body shall undertake a preliminary 223  
evaluation of the unsolicited proposal to determine if the 224  
proposal complies with the requirements of division (A) of this 225  
section. 226

(C) Any materials or data submitted to, made available to, 227  
or received by the contracting authority under this section, to 228  
the extent that the materials or data consist of trade secrets, 229  
as defined in section 1333.61 of the Revised Code, are 230  
confidential and are not public records for the purposes of 231  
section 149.43 of the Revised Code. Financial information 232  
received by the contracting authority that is related to a 233  
proposal is confidential and not a public record for purposes of 234  
section 149.43 of the Revised Code until the public body accepts 235  
or rejects the proposal. Before submission of an unsolicited 236  
proposal or a competing proposal, a private entity may request a 237  
review by the public body of information that the private entity 238  
has identified as confidential to determine whether such 239  
information would be subject to disclosure under section 149.43 240  
of the Revised Code. 241

(D) If the unsolicited proposal does not comply with 242  
division (A) of this section, the public body shall return the 243  
proposal without further action. 244

(E) If the unsolicited proposal complies with division (A) 245  
of this section, the public body may continue to evaluate the 246  
proposal in accordance with this section. 247

(F) (1) If the unsolicited proposal complies with division 248

(A) of this section, the public body shall advertise the 249  
unsolicited proposal for the purpose of receiving competitive 250  
proposals for the proposed facility. 251

(2) The advertisement shall outline the general nature and 252  
scope of the unsolicited proposal, including the location of the 253  
facility and the work to be performed on or in connection with 254  
the facility and shall specify an address to which a competing 255  
proposal may be submitted. 256

(3) The advertisement shall specify a reasonable time 257  
period by which competitors must submit a competing proposal to 258  
the public body. 259

(G) The public body shall charge a reasonable fee to cover 260  
its costs to process, review, and evaluate an unsolicited 261  
proposal and any competing proposals. 262

(H) Upon receipt of any competing proposals, the public 263  
body shall do all of the following: 264

(1) Determine if any competing proposal is comparable in 265  
nature and scope to the original unsolicited proposal; 266

(2) Evaluate the original unsolicited proposal and any 267  
comparable competing proposal; 268

(3) Conduct any good faith discussions and, if necessary, 269  
any negotiations concerning each qualified proposal. 270

(I) The public body shall evaluate an unsolicited proposal 271  
and any comparable competing proposal using the following 272  
factors: 273

(1) Novel methods, approaches, or concepts demonstrated by 274  
the proposal; 275

<u>(2) Scientific, technical, or socioeconomic merits of the proposal;</u>	276 277
<u>(3) Potential contribution of the proposal to the public body's mission;</u>	278 279
<u>(4) Capabilities, related experience, facilities, or techniques of the private entity or unique combinations of these qualities that are integral factors for achieving the proposal objectives;</u>	280 281 282 283
<u>(5) Qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel, who are critical to achieving the proposal objectives;</u>	284 285 286
<u>(6) How the proposal benefits the public;</u>	287
<u>(7) Any other factors appropriate to a particular proposal.</u>	288 289
<u>(J) After evaluating the unsolicited proposal and any competing proposals, the public body may do any of the following:</u>	290 291 292
<u>(1) Accept the unsolicited proposal and reject any competing proposals;</u>	293 294
<u>(2) Reject the unsolicited proposal and accept a comparable competing proposal if the public body determines that the comparable competing proposal is the most advantageous to the jurisdictions served by the public body;</u>	295 296 297 298
<u>(3) Reject the unsolicited proposal and any competing proposals.</u>	299 300
<b><u>Sec. 168.05. (A) After selecting a solicited or unsolicited proposal for a public-private initiative, the public</u></b>	301 302

body shall enter into a public-private agreement for a facility 303  
with the selected private entity. An affected jurisdiction may 304  
be a party to a public-private agreement entered into by the 305  
public body and a selected private entity. 306

(B) (1) A public-private agreement under this section shall 307  
provide for all of the following: 308

(a) Planning, acquisition, financing, development, design, 309  
construction, reconstruction, replacement, improvement, 310  
maintenance, management, repair, leasing, or operation of a 311  
facility; 312

(b) Term of the public-private agreement; 313

(c) Type of property interest, if any, the private entity 314  
will have in the facility; 315

(d) A specific plan to ensure proper maintenance of the 316  
facility throughout the term of the agreement and a return of 317  
the facility to the public body, if applicable, in good 318  
condition and repair; 319

(e) Compliance with applicable federal, state, and local 320  
laws; 321

(f) Grounds for termination of the public-private 322  
agreement by the public body or operator; 323

(g) Disposition of the facility upon completion of the 324  
agreement; 325

(h) Procedures for amendment of the agreement; 326

(i) If the agreement contains a construction services 327  
component, a contract performance bond executed by a surety 328  
authorized by the department of insurance to write surety bonds 329

in an amount specified by the contracting authority, conditioned 330  
upon the private entity or contractor performing the 331  
construction services portion of the work in accordance with the 332  
agreed upon terms, within the time prescribed; 333

(j) If the agreement contains a construction services 334  
component, a payment bond executed by a surety authorized by the 335  
department of insurance to write surety bonds in an amount 336  
specified by the contracting authority, conditioned upon the 337  
payment for all labor, work performed, and materials furnished 338  
in connection with the construction services portion of the 339  
work. 340

(2) As used in divisions (B) (1) (i) and (j) of this 341  
section, "construction services" means design-build, 342  
construction, reconstruction, replacement, improvement, or 343  
repair services. 344

(C) A public-private agreement under this section may 345  
provide for any of the following: 346

(1) Review and approval by the public body of the 347  
operator's plans for the development and operation of the 348  
facility; 349

(2) Inspection by the public body of construction of or 350  
improvements to the facility; 351

(3) Maintenance by the operator of a policy of liability 352  
insurance or self-insurance; 353

(4) Filing by the operator, on a periodic basis, of 354  
appropriate financial statements in a form acceptable to the 355  
public body; 356

(5) Filing by the operator, on a periodic basis, of 357

<u>reports as determined by the public body in a form acceptable to</u>	358
<u>the public body;</u>	359
<u>(6) Financing obligations of the operator and the public</u>	360
<u>body;</u>	361
<u>(7) Apportionment of expenses between the operator and the</u>	362
<u>public body;</u>	363
<u>(8) Rights and duties of the operator, the public body,</u>	364
<u>and other state and local governmental entities with respect to</u>	365
<u>use of the facility;</u>	366
<u>(9) Rights and remedies available in the event of default</u>	367
<u>or delay;</u>	368
<u>(10) Terms and conditions of indemnification of the</u>	369
<u>operator by the public body;</u>	370
<u>(11) Assignment, subcontracting, or other delegation of</u>	371
<u>responsibilities of the operator or the public body under the</u>	372
<u>agreement to third parties, including other private entities and</u>	373
<u>other public bodies;</u>	374
<u>(12) Sale or lease to the operator of private property</u>	375
<u>related to the facility.</u>	376
<u>(D) (1) The contracting authority may include in any</u>	377
<u>public-private agreement under sections 168.01 to 168.15 of the</u>	378
<u>Revised Code a provision authorizing a binding dispute</u>	379
<u>resolution method for any controversy subsequently arising out</u>	380
<u>of the contract. The binding dispute resolution method may</u>	381
<u>proceed only upon agreement of all parties to the controversy.</u>	382
<u>If all parties do not agree to proceed to a binding dispute</u>	383
<u>resolution, a party having a claim against the public body shall</u>	384
<u>exhaust its administrative remedies specified in the public-</u>	385

private agreement before filing any action against the public 386  
body in the court of claims. 387

No appeal from the determination of a technical expert 388  
lies to any court, except that the court of common pleas of 389  
Franklin county may issue an order vacating such a determination 390  
upon the application of any party to the binding dispute 391  
resolution if any of the following applies: 392

(a) The determination was procured by corruption, fraud, 393  
or undue means. 394

(b) There was evidence of partiality or corruption on the 395  
part of the technical expert. 396

(c) The technical expert was guilty of misconduct in 397  
refusing to postpone the hearing, upon sufficient cause shown, 398  
or in refusing to hear evidence pertinent and material to the 399  
controversy, or of any other misbehavior by which the rights of 400  
any party have been prejudiced. 401

(2) As used in this division, "binding dispute resolution" 402  
means a binding determination after review by a technical expert 403  
of all relevant items, which may include documents, and by 404  
interviewing appropriate personnel and visiting the project site 405  
involved in the controversy. "Binding dispute resolution" does 406  
not involve representation by legal counsel or advocacy by any 407  
person on behalf of any party to the controversy. 408

(E) No public-private agreement entered into under this 409  
section shall be construed to transfer to a private entity the 410  
contracting authority's authority to appropriate property under 411  
Chapter 163. of the Revised Code or otherwise provided under the 412  
Revised Code. 413

(F) Money collected by the public body pursuant to an 414

agreement entered into under this section shall be deposited 415  
into a fund created for this purpose or as otherwise determined 416  
by the public body or as specified in the agreement. 417

(G) Any provision of law requiring competitive bidding 418  
does not apply to public-private agreements under sections 419  
168.01 to 168.15 of the Revised Code. 420

**Sec. 168.06.** In the event of termination of the public- 421  
private agreement, the authority and duties of the operator 422  
cease, except for any duties and obligations that extend beyond 423  
the termination as provided in the public-private agreement, and 424  
the facility reverts to the public body and shall be dedicated 425  
to the public body for public use. 426

**Sec. 168.07.** (A) Upon the occurrence and during the 427  
continuation of material default by an operator, not related to 428  
an event of force majeure, the public body may do the following: 429

(1) Elect to take over the facility, including the 430  
succession of all right, title, and interest in the facility, 431  
subject to any liens on revenues previously granted by the 432  
private entity; 433

(2) Terminate the public-private agreement and exercise 434  
any other available rights and remedies. 435

(B) In the event that the public body elects to take over 436  
a facility, the public body shall collect and pay any revenues 437  
that are subject to lien to satisfy any obligation and may do 438  
the following: 439

(1) Develop and operate the facility and comply with any 440  
service contracts; 441

(2) Solicit proposals for the maintenance and operation of 442

the facility under section 168.03 of the Revised Code. 443

Sec. 168.08. A public body having authority to issue 444  
obligations may issue, in accordance with that authority, 445  
obligations for the purpose of providing funds to carry out 446  
sections 168.01 to 168.15 of the Revised Code with respect to 447  
the development or financing of a facility. 448

Sec. 168.09. (A) For the purposes of carrying out sections 449  
168.01 to 168.15 of the Revised Code, the public body may do all 450  
of the following: 451

(1) Accept, subject to applicable terms and conditions, 452  
available funds from the United States or any of its agencies, 453  
whether the funds are made available by grant, loan, or other 454  
financial assistance; 455

(2) Enter into agreements or other arrangements with the 456  
United States or any of its agencies as may be necessary; 457

(3) For the purpose of completing a facility under an 458  
agreement, accept from any source any grant, donation, gift, or 459  
other form of conveyance of land, money, other real or personal 460  
property, or other item of value made to the public body. 461

(B) Any facility may be financed in whole or in part by 462  
contribution of any funds or property made by any private entity 463  
or affected jurisdiction that is party to a public-private 464  
agreement under sections 168.01 to 168.15 of the Revised Code. 465

(C) The public body may use federal, state, local, and 466  
private funds to finance a facility under sections 168.01 to 467  
168.15 of the Revised Code and shall comply with any 468  
requirements and restrictions governing the use of the funds, 469  
including maintaining the funds separately when necessary. 470

Sec. 168.10. A facility and any tangible personal property 471  
used exclusively with a facility that is owned by the public 472  
body and leased, licensed, financed, or otherwise conveyed to an 473  
operator, or that is acquired, constructed, or otherwise 474  
provided by an operator on behalf of the public body, is exempt 475  
from all ad valorem property taxes and special assessments 476  
levied against property by the state or any political 477  
subdivision of the state. Building and construction materials 478  
that will be incorporated into a facility pursuant to a public- 479  
private agreement are exempt from the taxes imposed under 480  
Chapters 5739. and 5741. of the Revised Code. 481

As used in this section, "political subdivision" means a 482  
county, township, municipal corporation, or any other body 483  
corporate and politic that is responsible for government 484  
activities in a geographic area smaller than that of the state. 485

Sec. 168.11. The public body may acquire property, rights- 486  
of-way, or other rights in property for public use in connection 487  
with projects that are part of a public-private initiative in 488  
accordance with Chapter 163. of the Revised Code. If the public 489  
body proposes to acquire property, rights-of-way, or other 490  
rights in property for such public use at the request of a 491  
private entity, the acquisition shall be by the public body, in 492  
accordance with Chapter 163. of the Revised Code, and only if 493  
the contracting authority first makes a finding that the 494  
acquisition is for a public use and serves the public purposes 495  
of sections 168.01 to 168.15 of the Revised Code; the 496  
contracting authority also shall require the private party to 497  
pay the costs of the acquisition. 498

Sec. 168.12. All law enforcement officers of the state and 499  
of an affected local jurisdiction shall have the same powers and 500

jurisdiction within the limits of the facility as they have in 501  
their respective areas of jurisdiction and access to the 502  
facility at any time for the purpose of exercising such powers 503  
and jurisdiction. 504

**Sec. 168.13.** An operator under sections 168.01 to 168.15 505  
of the Revised Code and any utility whose facility is to be 506  
crossed or relocated shall cooperate fully in planning and 507  
arranging the manner of the crossing or relocation of the 508  
utility facility. 509

**Sec. 168.14.** Nothing in sections 168.01 to 168.15 of the 510  
Revised Code shall be construed or deemed to affect any waiver 511  
of the sovereign immunity of the public body or any officer or 512  
employee of the public body with respect to the participation in 513  
or approval of all or any part of the facility or its operation. 514

**Sec. 168.15.** A state agency may adopt rules under Chapter 515  
119. of the Revised Code, a county or township may adopt 516  
resolutions, a municipal corporation may adopt ordinances, a 517  
state institution of higher education may adopt rules, and a 518  
public school may adopt resolutions to carry out sections 168.01 519  
to 168.15 of the Revised Code. 520