



## Legislation Text

---

**File #:** O-605-19, **Version:** 1

---

TMC Chapter 1905  
Finance-Taxation  
Thomas Skrobola (x1648)  
(Revised)

**Repealing various sections of Chapter 1905 of the Toledo Municipal Code, "Income Tax"; enacting new sections of Chapter 1905 of the Toledo Municipal Code, "Income Tax"; and declaring an emergency.**

### SUMMARY & BACKGROUND:

On October 2019, the Ohio General Assembly passed and enacted HB 166 ("budget bill"), which made various changes to municipal income taxing authority specifically exempting supplemental executive retirement plans from tax and adding municipal authority for background checks when certain individuals handle federal tax information. These changes are effective January 1, 2020. This Ordinance seeks to make various amendments necessitated by changes to state law caused by the budget bill.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Section 1905.02(C)(29) of the Toledo Municipal Code which reads as follows:

#### **1905.02 Definitions and Usage...**

(C) As used in this Chapter:

(29) **"Pension"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS Form W-2, Wage and Tax Statement, or successor form.  
is repealed.

SECTION 2. That a new Section 1905.02(C)(29) of the Toledo Municipal Code which reads as follows:

#### **1905.02 Definitions and Usage...**

(C) As used in this Chapter:

(29) **"Pension"** means the following:

(a) Any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS Form W-2, Wage and Tax Statement, or successor form. (Effective for tax years before January 1, 2020.)

(b) A retirement benefit plan, regardless of whether the plan satisfies the qualifications described under

section 401(a) of the Internal Revenue code, including amounts that are taxable under the “Federal Insurance Contributions Act,” Chapter 21 of the Internal Revenue Code, excluding employee contributions and elective deferrals, and regardless of whether such amounts are paid in the same taxable year in which the amounts are included in the employee’s wages, as defined by section 3121(a) of the Internal Revenue Code. (Effective for tax years after January 1, 2020.)

(c) “**Retirement Benefit Plan**” means an arrangement whereby an entity provides benefits to individuals either on or after their termination of service because of retirement or disability. Retirement benefit plan does not include wage continuation payments, severance payments, or payments made for accrued personal or vacation time. (Effective for tax years beginning on or after January 1, 2020)

is enacted.

SECTION 3. That Section 1905.18 of the Toledo Municipal Code which reads as follows:

**1905.18 Tax information confidential...**

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by this Chapter. The Tax Administrator or a designee thereof may furnish copies of returns filed or otherwise received under this Chapter and other related tax information to the internal revenue service, the Ohio tax commissioner, and tax administrators of other municipal corporations.

(B) This Section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

is repealed.

SECTION 4. That a new Section 1905.18 of the Toledo Municipal Code which reads as follows:

**1905.18 Tax information confidential**

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by this Chapter. The Tax Administrator or a designee thereof may furnish copies of returns filed or otherwise received under this Chapter and other related tax information to the internal revenue service, the Ohio tax commissioner, and tax administrators of other municipal corporations.

(B) This Section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

**1905.181 Criminal records check for employees with access to certain tax information.**

(A) Division (B) of this section applies to any of the following individuals pursuant to 718.131 of the Revised Code:

(1) An employee in the service of the Municipality;

(2) A prospective employee for a position in the service of the Municipality;

(3) A contractor of the Municipality.

(B) If an individual described in division (A) of this section has or, in the case of a prospective employee, will have access to or the use of federal tax information, the Tax Commissioner must request that the Superintendent of the Bureau of Criminal Identification and Investigation conduct a criminal records check based on the individual's fingerprints in accordance with section 109.572 <<http://codes.ohio.gov/orc/109.572>> of the Revised Code. The Tax Commissioner must request that criminal record information from the Federal Bureau of Investigation be obtained as part of the criminal records check.

The individual and the Tax Administrator shall also comply with any separate request by the Federal Bureau of Investigation to conduct a national criminal records check.

(C) Tax Commissioner may adopt any rules, policies, or procedures necessary to implement this section. is enacted.

SECTION 5. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken, and all deliberations of this Council and of any of its committees that resulted in such formal action were held, in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 6. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety, and property and for the further reason that this Ordinance must be immediately effective in order to comply with the amendments to State law.

Vote on emergency clause: yeas 12, nays 0.

Passed: December 10, 2019, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:

December 11, 2019  
Wade Kapszukiewicz  
Mayor