



## Ohio Revised Code

### Section 349.04 Method of selecting board of trustees.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

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The following method of selecting a board of trustees is deemed to be a compelling state interest. Within ten days after the new community authority has been established, as provided in section 349.03 of the Revised Code, an initial board of trustees shall be appointed as follows: the organizational board of commissioners shall appoint by resolution at least three, but not more than six, citizen members of the board of trustees to represent the interests of present and future residents of the new community district and one member to serve as a representative of local government, and the developer shall appoint a number of members equal to the number of citizen members to serve as representatives of the developer. In the case of a new community authority established within three years after March 22, 2012, the citizen members may represent present and future employers within the new community district and any present or future residents of the district.

Members shall serve two-year overlapping terms, with two of each of the initial citizen and developer members appointed to serve initial one-year terms. The organizational board of commissioners shall adopt, by further resolution adopted within one year of such resolution establishing such initial board of trustees, a method for selection of successor members thereof which determines the projected total population of the projected new community and meets the following criteria:

- (A) The appointed citizen members shall be replaced by elected citizen members according to a schedule established by the organizational board of commissioners calculated to achieve one such replacement each time the new community district gains a proportion, having a numerator of one and a denominator of twice the number of citizen members, of its projected total population until such time as all of the appointed citizen members are replaced.
- (B) Representatives of the developer shall be replaced by elected citizen members according to a schedule established by the organizational board of commissioners calculated to achieve one such replacement each time the new community district gains a proportion, having a numerator of one and a denominator equal to the number of developer members, of its projected total population until



such time as all of the developer's representatives are replaced.

(C) The representative of local government shall be replaced by an elected citizen member at the time the new community district gains three-quarters of its projected total population.

Elected citizen members of the board of trustees shall be elected by a majority of the residents of the new community district voting at elections held at the times and in the manner provided in a resolution of the organizational board of commissioners. Each citizen member except an appointed citizen member shall be a qualified elector who resides within the new community district. The organizational board of commissioners, by resolution, may adopt an alternative method of selecting or electing successor members of the board of trustees provided that if an alternative method of selection is adopted for a new community authority organized prior to March 22, 2012, the board of trustees of that authority shall be limited in the collection of a community development charge, collected pursuant to division (Q) of section 349.06 of the Revised Code, and the issuance of bonds or notes, issued pursuant to section 349.08 of the Revised Code, to the amount or to the extent otherwise permitted for a board of trustees whose members are not elected by residents of the new community district. If the alternative method provides for the election of citizen members, the elections may be held at the times and in the manner provided in the petition or in a resolution of the organizational board of commissioners, and the elected citizen members shall be qualified electors who reside in the new community district.

Citizen members shall not be employees of or have financial interest in the developer. If a vacancy occurs in the office of a member other than a member appointed by the developer, the organizational board of commissioners may appoint a successor member for the remainder of the unexpired term. Any appointed member of the board of trustees may at any time be removed by the organizational board of commissioners for misfeasance, nonfeasance, or malfeasance in office. Members appointed by the developer may also at any time be removed by the developer without a showing of cause.

Each member of the board of trustees, before entering upon official duties, shall take and subscribe to an oath before an officer authorized to administer oaths in Ohio that the member will honestly and faithfully perform the duties of the member's office. Such oath shall be filed in the office of the clerk of the board of county commissioners in which the petition was filed. Upon taking the oath,



the board of trustees shall elect one of its number as chairperson and another as vice-chairperson, and shall appoint suitable persons as secretary and treasurer who need not be members of the board. The treasurer shall be the fiscal officer of the authority. The board shall adopt by-laws governing the administration of the affairs of the new community authority. Each member of the board shall post a bond for the faithful performance of official duties and give surety therefor in such amount, but not less than ten thousand dollars, as the resolution creating such board shall prescribe.

All of the powers of the new community authority shall be exercised by its board of trustees, but without relief of such responsibility, such powers may be delegated to committees of the board or its officers and employees in accordance with its by-laws. A majority of the board shall constitute a quorum, and a concurrence of a majority of a quorum in any matter within the board's duties is sufficient for its determination, provided a quorum is present when such concurrence is had and a majority of those members constituting such quorum are trustees not appointed by the developer. All trustees shall be empowered to vote on all matters within the authority of the board of trustees, and no vote by a member appointed by the developer shall be construed to give rise to civil or criminal liability for conflict of interest on the part of public officials.