

CITY OF TOLEDO



DEPARTMENT OF LAW

**DALE R. EMCH
DIRECTOR**

June 30, 2018

David Yost
Ohio Auditor
Office of Auditor of State
88 East Broad St., 5th Fl
Columbus, OH 43215

**RE: STATEMENT OF COMPLIANCE PURSUANT TO OHIO REVISED
CODE SECTION 4511.0915**

Dear Mr. Yost:

Pursuant to Ohio Revised Code Section 4511.0915, I am submitting the City of Toledo, Ohio's Statement of Compliance.

The City of Toledo believes it is in compliance with the sections of such provisions of Ohio Revised Code Sections 4511.092 to 4511.0914 that are constitutional. The Ohio Supreme Court held in *Dayton v. State*, 2017-Ohio-6909 (July 26, 2017) that Revised Code Sections 4511.093(B)(1), 4511.0912, and 4511.095 were unconstitutional and struck these provisions from the legislation. Pursuant to black-letter Ohio law, a provision that is struck from a law as unconstitutional is deemed to be a nullity and to have never existed. Moreover, the Lucas County Court of Common Pleas has declared other sections unconstitutional. While there are currently motions before the Lucas County Court of Common Pleas filed by the State asking the Court to reconsider its earlier ruling, the Court has not changed its ruling to date. The Ohio Supreme Court is clear that a stricken provision "is not a law, it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed." *City of Middletown v. Ferguson*, 25 Ohio St.3d 71, 80 (1986).

As such, Toledo believes it is in compliance with the such provisions of Ohio Revised Code Section 4511.092 to 4511.0914 that are constitutional.

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AUDITOR OF STATE

Sincerely,

Dale R. Emch
Director of Law

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