As Introduced

133rd General Assembly
Regular Session
2019-2020

Representatives Ghanbari, Patterson

A BILL

To amend section 131.44 and to enact sections 126.601, 126.61, 126.62, 126.63, 126.64, 126.65, 126.66, and 126.67 of the Revised Code to create the H2Ohio Trust Fund for the protection and preservation of Ohio's water quality, to create the H2Ohio Advisory Council to disburse money from the Fund for water quality programs, and to create the H2Ohio Endowment Board to make recommendations to the Treasurer of State regarding the issuance of securities to pay for costs related to the purposes of the Fund.

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

Section 1. That section 131.44 be amended and sections 126.601, 126.61, 126.62, 126.63, 126.64, 126.65, 126.66, and 126.67 of the Revised Code be enacted to read as follows:

Sec. 126.601. (A) There is hereby created the H2Ohio trust fund, which is in the custody of the treasurer of state, but is not a part of the state treasury. The fund shall be irrevocable and consist of all of the following:

(1) Money appropriated to it:
(2) Proceeds from the issuance of securities by the treasurer of state under section 126.66 of the Revised Code;

(3) Proceeds from real property transactions authorized under section 126.65 of the Revised Code and loan repayments made under section 126.63 of the Revised Code that are not pledged revenues required to be deposited in the H2Ohio security repayment fund created in section 126.67 of the Revised Code;

(4) Money received from gifts, donations, and bequests;

(5) Any other money contributed to the fund.

(B) The purpose of the fund is to provide for the protection, preservation, and restoration of the water quality of this state's lakes and rivers. Money in the fund may be used for all of the following purposes:

(1) The disbursement of money by the H2Ohio advisory council, established under section 126.61 of the Revised Code, in accordance with section 126.63 of the Revised Code;

(2) The acquisition of real property by the H2Ohio endowment board under section 126.65 of the Revised Code;

(3) Administrative expenses incurred by the H2Ohio advisory council;

(4) Administrative expenses incurred by the H2Ohio endowment board, including the employment of an executive director under section 126.65 of the Revised Code;

(5) Costs and expenses related to the issuance of securities by the treasurer of state under section 126.66 of the Revised Code;

(6) Costs and expenses related to the functions of the
H2Ohio endowment board.

(C) The treasurer of state shall act as trustee of the fund. The treasurer shall have full power to invest money in the fund. The treasurer shall discharge the treasurer's duties with respect to the fund solely in the interest of the fund's purposes with care, skill, prudence, and diligence. The treasurer of state shall diversify the investments of the fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. All investment earnings of the fund shall be credited to the fund.

Sec. 126.61. (A) There is hereby created the H2Ohio advisory council consisting of the following members:

(1) The director of agriculture or the director's designee;

(2) The director of environmental protection or the director's designee;

(3) The director of natural resources or the director's designee;

(4) The executive director of the Ohio Lake Erie commission who shall serve as a nonvoting, ex officio member;

(5) Two members appointed by the president of the senate, one member of the majority party and one member of the minority party;

(6) Two members appointed by the speaker of the house of representatives, one member of the majority party and one member of the minority party;

(7) One member appointed by the governor with the advice and consent of the senate who represents the interests of
(8) One member appointed by the governor with the advice and consent of the senate who represents the interests of counties;

(9) One member appointed by the governor with the advice and consent of the senate who represents the interests of townships;

(10) One member appointed by the governor with the advice and consent of the senate who represents the interests of municipal corporations;

(11) Two members appointed by the governor with the advice and consent of the senate who represent the interests of business or tourism;

(12) Two members appointed by the governor with the advice and consent of the senate who represent agricultural interests;

(13) Two members appointed by the governor with the advice and consent of the senate who represent statewide environmental advocacy organizations.

All appointing authorities shall make appointments to the council not later than one hundred twenty days after the effective date of this section.

(B)(1) The members appointed by the president of the senate and speaker of the house of representatives shall serve at the pleasure of their appointing authorities. Of the initial members appointed by the governor, five shall be appointed for two years and four shall be appointed for one year. Thereafter, terms of office for members appointed by the governor shall be for two years, with each term ending on the same day of the same
month as did the term that it succeeds. The members appointed by
the governor shall reflect the demographic and economic
diversity of the population of the state. Additionally, the
governor's appointments shall be from geographically diverse
areas of the state so that all areas of the state have
representation on the council. The governor may remove a member
appointed by the governor for misfeasance, nonfeasance, or
malfeasance in office.

(2) Each member appointed by the governor shall hold
office from the date of appointment until the end of the term
for which the member is appointed. Such members may be
reappointed. Vacancies shall be filled in the same manner as
provided for original appointments. Any member appointed to fill
a vacancy occurring prior to the expiration date of the term for
which the member was appointed shall hold office for the
remainder of that term. A member shall continue in office after
the expiration date of the member's term until the member's
successor takes office or until a period of sixty days has
elapsed, whichever occurs first.

(C) The governor shall appoint a member of the council to
serve as the chairperson of the council. The executive director
of the Ohio Lake Erie commission shall serve as the vice-
chairperson of the council unless the governor appoints the
executive director as the chairperson. If the executive director
is appointed chairperson, the council annually shall select a
person from among its members to serve as vice-chairperson while
the director is chairperson. The council annually shall select
from among its members a secretary to keep a record of its
proceedings. A majority vote of a quorum of the members of the
council is necessary to take action on any matter.
(D)(1) Members of the council are public officials or officers only for the purposes of section 9.86 and Chapters 102. and 2921. of the Revised Code. Serving as a member of the council does not constitute holding a public office or position of employment so as to constitute grounds for removal of public officers or employees serving as members of the council from their offices or positions of employment.

(2) Members of the council shall file with the Ohio ethics commission the disclosure statement described in division (A) of section 102.02 of the Revised Code on the form prescribed by the commission. Members are subject to divisions (C) and (D) of that section.

(3) Members of the council shall serve without compensation for attending council meetings, but shall receive their actual and necessary traveling and other expenses incurred in the performance of their official duties in accordance with the rules of the office of budget and management.

(E) Members appointed by the governor to represent the interests of counties, townships, and municipal corporations do not have a conflict of interest by virtue of their service on the council. For the purposes of this division, "conflict of interest" means the taking of any action as a member of the council that affects a public agency the person serves as an officer or employee.

(F) The Ohio Lake Erie commission, department of agriculture, and environmental protection agency shall provide administrative support to the council. The Ohio Lake Erie commission, in addition to providing administrative support, shall provide the location for council meetings.
(G) Sections 101.82 to 101.87 of the Revised Code do not apply to the council.

Sec. 126.62. The H2Ohio advisory council shall adopt bylaws governing its operation, including bylaws that establish all of the following:

(A) The frequency of meetings;

(B) Procedures for reviewing annual plans submitted by the directors of agriculture, natural resources, and environmental protection under section 126.64 of the Revised Code;

(C) Procedures for approving or disapproving annual plans submitted by the directors of agriculture, natural resources, and environmental protection under section 126.64 of the Revised Code. The procedures shall include a process for resubmitting disapproved plans.

(D) Procedures for applicants to apply for loans and grants from the H2Ohio trust fund;

(E) Any other policy or procedure that the council determines is necessary to carry out its duties.

Sec. 126.63. (A) The H2Ohio advisory council, created in section 126.61 of the Revised Code, shall disburse money from the H2Ohio trust fund, created in section 126.601 of the Revised Code for any of the following purposes:

(1) Awarding or allocating grants or money, issuing loans, or making purchases for the development and implementation of projects and programs, including remediation projects, that are designed to address water quality priorities;

(2) Funding cooperative research, data gathering and monitoring, and demonstration projects related to water quality...
(3) Encouraging cooperation with and among leaders from state legislatures, state agencies, political subdivisions, business and industry, labor, agriculture, institutions of higher education, environmental organizations, and water conservation districts;

(4) Other purposes, policies, programs, and priorities identified by the Ohio Lake Erie commission in coordination with state agencies or boards responsible for water protection and water management, provided that the purposes, policies, programs, and priorities align with a statewide strategic vision and comprehensive periodic water protection and restoration strategy.

(B) The council shall not disburse more than the amount approved by the H2Ohio endowment board under section 126.65 of the Revised Code.

(C) The council shall notify the public of available H2Ohio trust fund money and of how to apply to receive loans and grants from the fund.

(D) Not later than August 31, 2020, and annually thereafter, the H2Ohio advisory council, in coordination with the Ohio Lake Erie commission, shall do both of the following:

(1) Prepare a report of the activities that were undertaken with respect to the H2Ohio trust fund during the immediately preceding fiscal year, including the revenues and expenses of the fund for the preceding fiscal year;

(2) Submit the report to the general assembly and to the governor.
Sec. 126.64. (A) The directors of agriculture, natural resources, and environmental protection each shall prepare an annual plan governing the expenditure of money appropriated to each agency from the H2Ohio trust fund created in section 126.601 of the Revised Code that, at a minimum, describes the following:

(1) Funding priorities;

(2) The specific programs, projects, or entities proposed to receive funding;

(3) The internal controls and external accountability measures that will be put in place to ensure that the funding is properly used.

(B) Not later than the first day of March of each year, the directors shall deliver their respective annual plans to the H2Ohio advisory council.

(C) The council shall review and shall approve or disapprove each agency's annual plan in accordance with the council's policies and procedures.

(D) An agency shall not expend any money appropriated from the H2Ohio trust fund to the agency unless the council approves the plan submitted by the agency under this section.

Sec. 126.65. (A) There is hereby created the H2Ohio endowment board, which shall consist of the following twelve members:

(1) Three members appointed by the governor who shall serve ten-year terms;

(2) Three members appointed by the governor, one of whom shall serve a seven-year term, one of whom shall serve a five-
year term, and one of whom shall serve a three-year term;

(3) Three members appointed by the speaker of the house of representatives, one of whom shall serve a seven-year term, one of whom shall serve a five-year term, and one of whom shall serve a three-year term;

(4) Three members appointed by the president of the senate, one of whom shall serve a seven-year term, one of whom shall serve a five-year term, and one of whom shall serve a three-year term.

(B)(1) Each member of the board shall serve the member's respective term, commencing on the fifteenth day of October and ending on the fourteenth day of October, except as provided in division (B)(2) of this section.

(2) Notwithstanding division (A)(1) of this section, of the initial three members appointed under that division, one member shall serve a term of three years, one member shall serve a term of six years, and one member shall serve a term of nine years, as designated by the governor at the time of the appointment. Thereafter, all members appointed under division (A)(1) of this section shall serve ten-year terms.

(C) Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. Each vacancy of an appointed
member occurring on the board shall be filled by the appropriate appointing authority within sixty days after the vacancy occurs.

(D) Members of the board shall receive no compensation as board members, but shall be reimbursed for their necessary expenses incurred in the performance of their official duties. The board shall select from among its members a chairperson, a vice-chairperson, and a secretary. These officers shall serve a one-year term and may be reappointed. The appropriate appointing authority may remove any member of the board from office for inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance.

(E)(1) The board shall employ an executive director to serve at the pleasure of the board. The board shall prescribe the powers and duties of an executive director, including coordinating efforts between the board, the H2Ohio advisory council, and the treasurer of state. The executive director shall serve in the unclassified civil service at a salary fixed pursuant to section 124.14 of the Revised Code.

(2) The executive director shall submit to the director of budget and management, by the first day of June of each year, a request for surplus revenue to be transferred into the H2Ohio trust fund created in section 126.601 of the Revised Code in an amount determined by the board.

(F) The board shall make recommendations to the treasurer of state regarding the issuance of securities to pay for costs related to disbursing money from the H2Ohio trust fund by the H2Ohio advisory council. The board also may adopt an investment policy to be submitted to the treasurer of state.

(G) The board may appoint or provide for the appointment
of agents, consultants, independent contractors, or any other type of administrative, investment, financial, or accounting experts as are necessary, in the judgment of the board, to carry out the board's duties under this section.

(H) The board may buy, sell, and lease real property.

(I) Each fiscal year, the board shall approve an amount, not to exceed fifty million dollars, that the H2Ohio advisory council may disburse from the H2Ohio trust fund under section 126.63 of the Revised Code.

(J) The board is not subject to sections 101.82 to 101.87 of the Revised Code.

Sec. 126.66. (A)(1) Based on recommendations made by the H2Ohio endowment board, the treasurer of state may issue securities to pay for costs related to disbursing money from the H2Ohio trust fund by the H2Ohio advisory council. The securities shall be secured by repayments of loans issued from the fund and any other pledged revenues. All pledged revenues shall be deposited in the H2Ohio security repayment fund created in section 126.67 of the Revised Code.

(2) Securities issued under division (A)(1) of this section are special obligation securities and are not general obligations of the state. Such securities do not constitute debt for which the full faith and credit of the state may be pledged. The holder or owner of such securities has no right to have money raised by taxation by the state or any political subdivision of the state obligated or pledged, and money so raised shall not be obligated or pledged, for the payment of principal or interest on such securities, and each security shall bear on its face a statement to that effect.
(B) The treasurer of state shall deposit the proceeds from the issuance of securities under this section into the H2Ohio trust fund created in section 126.601 of the Revised Code.

(C) The treasurer of state may issue securities to fund or refund the securities issued under division (A)(1) of this section. The treasurer of state also may issue securities in anticipation of the proceeds of the securities issued pursuant to this section.

(D) When issuing securities under this section, the treasurer of state shall do so under just, reasonable, and financially sound procedures, terms, and conditions.

(E)(1) The treasurer of state shall take all actions necessary to pay debt incurred by the issuance of securities and shall execute all necessary documents to provide for the pledge, protection, and disposition of the pledged revenues, including pledged revenues raised from the repayment of loans issued from the H2Ohio trust fund. Those necessary documents include the issued securities, trust agreements, leases, and other financing documents.

(2) The treasurer of state may use all allowable revenue sources to pay debt incurred by the issuance of securities.

(F) The treasurer of state shall determine the maximum maturity of securities issued under this section.

(G) Except for sections 9.98 to 9.983 and sections 123.25 and 123.34 of the Revised Code, the securities issued under this section are not subject to any other provision of the Revised Code governing the issuance of securities by the state or any political subdivision of the state.

Sec. 126.67. There is hereby created the H2Ohio security
As Introduced

repayment fund consisting of revenues pledged under section 126.66 of the Revised Code. The fund shall be in the custody of the treasurer of state, but is not a part of the state treasury. The treasurer of state shall use pledged revenues deposited in the fund to pay the costs and expenses related to the issuance and repayment of securities issued under section 126.66 of the Revised Code.

Sec. 131.44. (A) As used in this section:

(1) "Surplus revenue" means the excess, if any, of the total fund balance over the required year-end balance.

(2) "Total fund balance" means the sum of the unencumbered balance in the general revenue fund on the last day of the preceding fiscal year plus the balance in the budget stabilization fund.

(3) "Required year-end balance" means the sum of the following:

(a) Eight and one-half per cent of the general revenue fund revenues for the preceding fiscal year;

(b) "Ending fund balance," which means one-half of one per cent of general revenue fund revenues for the preceding fiscal year;

(c) "Carryover balance," which means, with respect to a fiscal biennium, the excess, if any, of the estimated general revenue fund appropriation and transfer requirement for the second fiscal year of the biennium over the estimated general revenue fund revenue for that fiscal year;

(d) "Capital appropriation reserve," which means the amount, if any, of general revenue fund capital appropriations
(e) "Income tax reduction impact reserve," which means an amount equal to the reduction projected by the director of budget and management in income tax revenue in the current fiscal year attributable to the previous reduction in the income tax rate made by the tax commissioner pursuant to division (B) of section 5747.02 of the Revised Code.

(4) "Estimated general revenue fund appropriation and transfer requirement" means the most recent adjusted appropriations made by the general assembly from the general revenue fund and includes both of the following:

   (a) Appropriations made and transfers of appropriations from the first fiscal year to the second fiscal year of the biennium in provisions of acts of the general assembly signed by the governor but not yet effective;

   (b) Transfers of appropriations from the first fiscal year to the second fiscal year of the biennium approved by the controlling board.

(5) "Estimated general revenue fund revenue" means the most recent such estimate available to the director of budget and management.

(B)(1) Not later than the thirty-first day of July each year, the director of budget and management shall determine the surplus revenue that existed on the preceding thirtieth day of June and transfer from the general revenue fund, to the extent of the unobligated, unencumbered balance on the preceding thirtieth day of June in excess of one-half of one per cent of the general revenue fund revenues in the preceding fiscal year,
the following:

(a) First, to the budget stabilization fund, any amount necessary for the balance of the budget stabilization fund to equal eight and one-half per cent of the general revenue fund revenues of the preceding fiscal year;

(b) Then, an amount determined by the director of budget and management that is up to the amount requested by the executive director of the H2Ohio endowment board in accordance with division (E)(2) of section 126.65 of the Revised Code;

(c) Lastly, to the income tax reduction fund, which is hereby created in the state treasury, an amount equal to the surplus revenue.

(2) Not later than the thirty-first day of July each year, the director shall determine the percentage that the balance in the income tax reduction fund is of the amount of revenue that the director estimates will be received from the tax levied under section 5747.02 of the Revised Code in the current fiscal year without regard to any reduction under division (B) of that section. If that percentage exceeds thirty-five one hundredths of one per cent, the director shall certify the percentage to the tax commissioner not later than the thirty-first day of July.

(C) The director of budget and management shall transfer money in the income tax reduction fund to the general revenue fund, the local government fund, and the public library fund as necessary to offset revenue reductions resulting from the reductions in taxes required under division (B) of section 5747.02 of the Revised Code in the respective amounts and percentages prescribed by division (A) of section 5747.03 and
divisions (A) and (B) of section 131.51 of the Revised Code as if the amount transferred had been collected as taxes under Chapter 5747. of the Revised Code. If no reductions in taxes are made under that division that affect revenue received in the current fiscal year, the director shall not transfer money from the income tax reduction fund to the general revenue fund, the local government fund, and the public library fund.

Section 2. That existing section 131.44 of the Revised Code is hereby repealed.