

As Reported by the House State Government Committee

128th General Assembly

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Sub. S. B. No. 85

Senator Stewart

**Cosponsors: Senators Seitz, Wagoner, Fedor, Harris, Hughes, Husted,
Kearney, Miller, D., Morano, Patton, Sawyer, Smith, Turner, Wilson
Representatives Gerberry, Lundy, Belcher, Williams, B., Daniels, Hite,
Stebelton**

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A B I L L

To enact sections 9.29, 735.054, 6101.161, 6103.101, 1
6115.201, and 6119.101 of the Revised Code to 2
authorize certain political subdivisions to 3
contract for engineering, repair, sustainability, 4
water quality management, and maintenance of a 5
water storage tank through a professional service 6
contract under specified conditions. 7

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

Section 1. That sections 9.29, 735.054, 6101.161, 6103.101, 8
6115.201, and 6119.101 of the Revised Code be enacted to read as 9
follows: 10

Sec. 9.29. (A) The following political subdivisions may enter 11
into, by direct negotiation or through the solicitation of 12
requests for proposals or requests for qualifications, a 13
multi-year, asset management professional service contract for the 14
engineering, repair, sustainability, water quality management, and 15
maintenance of a water storage tank and appurtenant facilities 16

owned, controlled, or operated by that political subdivision, but 17
only if the contract complies with division (B) of this section: 18

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(1) A board of county commissioners, board of directors of a 20
conservancy district, board of directors of a sanitary district, 21
or board of trustees of a regional water and sewer district; 22

(2) A municipal corporation through its director of public 23
service, mayor, city manager, board of trustees of public affairs, 24
village administrator, or other contracting officer, commission, 25
board, or authority as authorized by ordinance of the municipal 26
corporation's legislative authority. 27

(B) A contract entered into pursuant to division (A) of this 28
section shall include provisions that do all of the following: 29

(1) Provide that the contracting political subdivision is not 30
required to make total payments in a single year that exceed the 31
excess of (a) the political subdivision's water utility charges 32
over (b) the operating expenses of the water system payable from 33
such charges and the principal, interest, and other debt charges, 34
including reserves and coverage requirements, for outstanding debt 35
due in that year; 36

(2) Require that the work performed be done under the 37
supervision of a professional engineer licensed under Chapter 38
4733. of the Revised Code, who certifies that the work will be 39
performed in compliance with all applicable codes and engineering 40
standards; 41

(3) Provide that if, on the date of commencement of the 42
contract, the water tank or appurtenant facilities require 43
engineering, repair, sustainability, water quality management, or 44
service in order to bring the tank or facilities into compliance 45
with federal, state, or local requirements, the party contracting 46

with the political subdivision must provide the engineering, 47
repair, sustainability, water quality management, or service. The 48
cost of the work necessary to ensure such compliance shall be 49
itemized separately and may be charged to the political 50
subdivision in payments spread over a period of not less than 51
three years from the date of commencement of the contract. The 52
charges shall be paid after provision is made to pay operating 53
expenses and the principal, interest, and other debt service 54
charges, including reserves and coverage requirements for 55
outstanding debt due in that year. 56

Sec. 735.054. Notwithstanding sections 715.18, 731.14, 57
731.141, 733.22, and 735.05 of the Revised Code, any municipal 58
corporation that may be required by law to award contracts in the 59
manner set forth in such sections may comply with section 9.29 of 60
the Revised Code regarding any contract for the engineering, 61
repair, sustainability, water quality management, and maintenance 62
of a water storage tank and appurtenant facilities. 63

Sec. 6101.161. Notwithstanding section 6101.16 of the Revised 64
Code, the board of directors of a conservancy district may comply 65
with section 9.29 of the Revised Code regarding any contract for 66
the engineering, repair, sustainability, water quality management, 67
and maintenance of a water storage tank and appurtenant 68
facilities. 69

Sec. 6103.101. Notwithstanding sections 307.86 and 6103.10 of 70
the Revised Code, the board of county commissioners may comply 71
with section 9.29 of the Revised Code regarding any contract for 72
the engineering, repair, sustainability, water quality management, 73
and maintenance of a water storage tank and appurtenant 74
facilities. 75

Sec. 6115.201. Notwithstanding section 6115.20 of the Revised 76
Code, the board of directors of a sanitary district may comply 77
with section 9.29 of the Revised Code regarding any contract for 78
the engineering, repair, sustainability, water quality management, 79
and maintenance of a water storage tank and appurtenant 80
facilities. 81

Sec. 6119.101. Notwithstanding section 6119.10 of the Revised 82
Code, the board of trustees of a regional water and sewer district 83
may comply with section 9.29 of the Revised Code regarding any 84
contract for the engineering, repair, sustainability, water 85
quality management, and maintenance of a water storage tank and 86
appurtenant facilities. 87

Section 2. Nothing in this act is intended to restrict the 88
authority of a municipal corporation under Sections 3 and 4 of 89
Article XVIII, Ohio Constitution. 90