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Representatives Wilkin, O'Brien

Cosponsors: Representatives Riedel, Miranda, Ginter, Smith, K., Hambley, Lang, Stein, Miller, A., Scherer, Arndt, Smith, T., Abrams, Baldrige, Blair, Brent, Brown, Carfagna, Carruthers, Cera, Clites, Crawley, Cross, Crossman, Cupp, Dean, Denson, Edwards, Fraizer, Galonski, Ghanbari, Green, Hicks-Hudson, Hillyer, Hoops, Jones, Kick, Koehler, Lanese, LaRe, Lepore-Hagan, Liston, Manning, D., McClain, Patterson, Patton, Perales, Plummer, Reineke, Richardson, Robinson, Roemer, Rogers, Seitz, Sheehy, Sobecki, Stephens, Strahorn, Swearingen, Upchurch, Weinstein, West, Wiggam Senators Antonio, Blessing, Burke, Craig, Hackett, Peterson, Rulli, Sykes, Thomas, Wilson, Yuko

A BILL

To amend sections 6121.03 and 6121.04 of the 1
Revised Code to allow the Ohio Water Development 2
Authority to provide for the refinancing of 3
loans for certain public water and waste water 4
infrastructure projects and to declare an 5
emergency. 6

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

Section 1. That sections 6121.03 and 6121.04 of the 7
Revised Code be amended to read as follows: 8

Sec. 6121.03. (A) It is hereby declared to be the public 9
policy of the state through the operations of the Ohio water 10
development authority under this chapter to contribute toward 11
one or more of the following: ~~to~~ 12

- (1) To preserve, protect, upgrade, conserve, develop, 13
utilize, and manage the water resources of the state,~~to;~~ 14
- (2) To prevent or abate the pollution of water resources, 15
~~to;~~ 16
- (3) To promote the beneficial use of waters of the state 17
for the protection and preservation of the public health, 18
safety, convenience, and welfare,~~to;~~ 19
- (4) To assist in the financing of waste water facilities 20
and water management facilities for industry, commerce, 21
distribution, and research, including public utility companies,~~to;~~ 22
~~to;~~ 23
- (5) To create or preserve jobs and employment 24
opportunities or improve the economic welfare of the people of 25
the state, or to assist and cooperate with governmental agencies 26
in achieving such purposes. 27
- (B) In furtherance of such public policy, the Ohio water 28
development authority may ~~initiate~~ do all of the following: 29
- (1) Initiate, acquire, construct, maintain, repair, and 30
operate water development projects or cause the same to be 31
operated pursuant to a lease, sublease, or agreement with any 32
person or governmental agency; ~~may make~~ 33
- (2) Make loans and grants to governmental agencies for the 34
acquisition ~~or,~~ construction, or refinancing of waste water or 35
water management facilities by such governmental agencies and 36
provide for the financing and refinancing of such loans; ~~may~~ 37
~~make~~ 38
- (3) Make loans to persons for the acquisition ~~or,~~ 39
construction, or refinancing of waste water facilities or water 40

management facilities by such persons; ~~and may issue~~ 41

(4) Issue water development revenue bonds of this state 42
payable solely from revenues, to pay the cost of or refinance 43
such projects, provided that, except for facilities for 44
pollution control or solid waste disposal, no such financing 45
assistance shall be made for facilities to be constructed for 46
the purpose of providing electric or gas utility service to the 47
public. 48

(C) Any water development project shall be determined by 49
the authority to be consistent with any applicable comprehensive 50
plan of water management approved by the director of 51
environmental protection or in the process of preparation by 52
such director and to be not inconsistent with the standards set 53
for the waters of the state affected thereby by the director of 54
environmental protection. Any resolution of the authority 55
providing for acquiring or constructing such projects or for 56
making a loan or grant for such projects shall include a finding 57
by the authority that such determinations have been made. 58
Determinations by resolution of the authority that a project is 59
a waste water facility or a water management facility under this 60
chapter and is consistent with the purposes of Section 13 of 61
Article VIII, Ohio Constitution, and this chapter shall be 62
conclusive as to the validity and enforceability of the water 63
development revenue bonds issued to finance or refinance such 64
project and of the resolutions, trust agreements or indentures, 65
leases, subleases, sale agreements, loan agreements and other 66
agreements made in connection therewith, all in accordance with 67
their terms. 68

Sec. 6121.04. The Ohio water development authority may do 69
any or all of the following: 70

(A) Adopt bylaws for the regulation of its affairs and the conduct of its business;	71 72
(B) Adopt an official seal;	73
(C) Maintain a principal office and suboffices at places within the state that it designates;	74 75
(D) Sue and plead in its own name and be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 6121.06, 6121.08, and 6121.13 of the Revised Code. Any such actions against the authority shall be brought in the court of common pleas of the county in which the principal office of the authority is located or in the court of common pleas of the county in which the cause of action arose, provided that the county is located within this state, and all summonses, exceptions, and notices of every kind shall be served on the authority by leaving a copy thereof at the principal office with the person in charge thereof or with the secretary-treasurer of the authority.	76 77 78 79 80 81 82 83 84 85 86 87 88 89
(E) Make loans and grants to governmental agencies for the acquisition or, construction, or refinancing of water development projects by any such governmental agency and adopt rules and procedures for making such loans and grants, <u>including</u> <u>rules governing the financing and refinancing of such loans;</u>	90 91 92 93 94
(F) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, or lease or rent to, or contract for operation by, a governmental agency or person, water development projects, and establish rules for the use of those projects;	95 96 97 98 99

(G) Make available the use or services of any water 100
development project to one or more persons, one or more 101
governmental agencies, or any combination thereof; 102

(H) Issue water development revenue bonds and notes and 103
water development revenue refunding bonds of the state, payable 104
solely from revenues as provided in section 6121.06 of the 105
Revised Code, unless the bonds are refunded by refunding bonds, 106
for the purpose of paying any part of the cost of or refinancing 107
one or more water development projects or parts thereof; 108

(I) Acquire by gift or purchase, hold, and dispose of real 109
and personal property in the exercise of its powers and the 110
performance of its duties under this chapter; 111

(J) Acquire, in the name of the state, by purchase or 112
otherwise, on terms and in the manner that it considers proper, 113
or by the exercise of the right of condemnation in the manner 114
provided by section 6121.18 of the Revised Code, public or 115
private lands, including public parks, playgrounds, or 116
reservations, or parts thereof or rights therein, rights-of-way, 117
property, rights, easements, and interests that it considers 118
necessary for carrying out this chapter, but excluding the 119
acquisition by the exercise of the right of condemnation of any 120
waste water facility or water management facility owned by any 121
person or governmental agency, and compensation shall be paid 122
for public or private lands so taken, except that a government- 123
owned waste water facility may be appropriated in accordance 124
with section 6121.041 of the Revised Code; 125

(K) Adopt rules to protect augmented flow in waters of the 126
state, to the extent augmented by a water development project, 127
from depletion so it will be available for beneficial use, and 128
to provide standards for the withdrawal from waters of the state 129

of the augmented flow created by a water development project 130
that is not returned to the waters of the state so augmented and 131
to establish reasonable charges therefor if considered necessary 132
by the authority; 133

(L) Make and enter into all contracts and agreements and 134
execute all instruments necessary or incidental to the 135
performance of its duties and the execution of its powers under 136
this chapter in accordance with the following requirements: 137

(1) When the cost under any such contract or agreement, 138
other than compensation for personal services, involves an 139
expenditure of more than fifty thousand dollars, the authority 140
shall make a written contract with the lowest responsive and 141
responsible bidder, in accordance with section 9.312 of the 142
Revised Code, after advertisement for not less than two 143
consecutive weeks in a newspaper of general circulation in 144
Franklin county, and in other publications that the authority 145
determines, which shall state the general character of the work 146
and the general character of the materials to be furnished, the 147
place where plans and specifications therefor may be examined, 148
and the time and place of receiving bids, provided that a 149
contract or lease for the operation of a water development 150
project constructed and owned by the authority or an agreement 151
for cooperation in the acquisition or construction of a water 152
development project pursuant to section 6121.13 of the Revised 153
Code or any contract for the construction of a water development 154
project that is to be leased by the authority to, and operated 155
by, persons who are not governmental agencies and the cost of 156
the project is to be amortized exclusively from rentals or other 157
charges paid to the authority by persons who are not 158
governmental agencies is not subject to the foregoing 159
requirements and the authority may enter into such a contract or 160

lease or such an agreement pursuant to negotiation and upon 161
terms and conditions and for the period that it finds to be 162
reasonable and proper in the circumstances and in the best 163
interests of proper operation or of efficient acquisition or 164
construction of the project. 165

(2) Each bid for a contract for the construction, 166
demolition, alteration, repair, or reconstruction of an 167
improvement shall contain the full name of every person 168
interested in it and shall meet the requirements of section 169
153.54 of the Revised Code. 170

(3) Each bid for a contract except as provided in division 171
(L) (2) of this section shall contain the full name of every 172
person or company interested in it and shall be accompanied by a 173
sufficient bond or certified check on a solvent bank that if the 174
bid is accepted, a contract will be entered into and the 175
performance thereof secured. 176

(4) The authority may reject any and all bids. 177

(5) A bond with good and sufficient surety, approved by 178
the authority, shall be required of every contractor awarded a 179
contract except as provided in division (L) (2) of this section, 180
in an amount equal to at least fifty per cent of the contract 181
price, conditioned upon the faithful performance of the 182
contract. 183

(M) Employ managers, superintendents, and other employees 184
and retain or contract with consulting engineers, financial 185
consultants, accounting experts, architects, attorneys, and 186
other consultants and independent contractors that are necessary 187
in its judgment to carry out this chapter, and fix the 188
compensation thereof. All expenses thereof shall be payable 189

solely from the proceeds of water development revenue bonds or 190
notes issued under this chapter, from revenues, or from funds 191
appropriated for that purpose by the general assembly. 192

(N) Receive and accept from any federal agency, subject to 193
the approval of the governor, grants for or in aid of the 194
construction of any water development project or for research 195
and development with respect to waste water or water management 196
facilities, and receive and accept aid or contributions from any 197
source of money, property, labor, or other things of value, to 198
be held, used, and applied only for the purposes for which the 199
grants and contributions are made; 200

(O) Engage in research and development with respect to 201
waste water or water management facilities; 202

(P) Purchase fire and extended coverage and liability 203
insurance for any water development project and for the 204
principal office and suboffices of the authority, insurance 205
protecting the authority and its officers and employees against 206
liability for damage to property or injury to or death of 207
persons arising from its operations, and any other insurance the 208
authority may agree to provide under any resolution authorizing 209
its water development revenue bonds or in any trust agreement 210
securing the same; 211

(Q) Charge, alter, and collect rentals and other charges 212
for the use or services of any water development project as 213
provided in section 6121.13 of the Revised Code; 214

(R) Provide coverage for its employees under Chapters 215
145., 4123., and 4141. of the Revised Code; 216

(S) Assist in the implementation and administration of the 217
drinking water assistance fund and program created in section 218

6109.22 of the Revised Code and the water pollution control loan fund and program created in section 6111.036 of the Revised Code, including, without limitation, performing or providing fiscal management for the funds and investing and disbursing moneys in the funds, and enter into all necessary and appropriate agreements with the director of environmental protection for those purposes;

(T) Issue water development revenue bonds and notes of the state in principal amounts that are necessary for the purpose of raising moneys for the sole benefit of the water pollution control loan fund created in section 6111.036 of the Revised Code, including moneys to meet the requirement for providing matching moneys under division (D) of that section. The bonds and notes may be secured by appropriate trust agreements and repaid from moneys credited to the fund from payments of principal and interest on loans made from the fund, as provided in division (F) of section 6111.036 of the Revised Code.

(U) Issue water development revenue bonds and notes of the state in principal amounts that are necessary for the purpose of raising moneys for the sole benefit of the drinking water assistance fund created in section 6109.22 of the Revised Code, including moneys to meet the requirement for providing matching moneys under divisions (B) and (F) of that section. The bonds and notes may be secured by appropriate trust agreements and repaid from moneys credited to the fund from payments of principal and interest on loans made from the fund, as provided in division (F) of section 6109.22 of the Revised Code.

(V) Make loans to and enter into agreements with boards of county commissioners for the purposes of section 1506.44 of the Revised Code and adopt rules establishing requirements and

procedures for making the loans and entering into the	249
agreements;	250
(W) Do all acts necessary or proper to carry out the	251
powers expressly granted in this chapter.	252
Any instrument by which real property is acquired pursuant	253
to this section shall identify the agency of the state that has	254
the use and benefit of the real property as specified in section	255
5301.012 of the Revised Code.	256
Section 2. That existing sections 6121.03 and 6121.04 of	257
the Revised Code are hereby repealed.	258
Section 3. This act is hereby declared to be an emergency	259
measure necessary for the immediate preservation of the public	260
peace, health, and safety. The reason for such necessity is to	261
allow government agencies to take advantage of historically low	262
interest rates during the COVID-19 pandemic to refinance needed	263
water development and waste water facility projects. Therefore,	264
this act shall go into immediate effect.	265