

As Reported by the House Finance Committee

133rd General Assembly

Regular Session

2019-2020

Sub. H. B. No. 7

Representatives Ghanbari, Patterson

**Cosponsors: Representatives Carfagna, Crawley, Edwards, Hambley, Hoops,
Howse, Rogers, West**

A BILL

To amend sections 131.44 and 6121.04 and to enact 1
sections 126.601, 126.61, 126.62, 126.63, 2
126.64, 126.65, 126.66, 126.67, and 126.68 of 3
the Revised Code to create the H2Ohio Trust Fund 4
for the protection and preservation of Ohio's 5
water quality, to create the H2Ohio Advisory 6
Council to establish priorities for use of the 7
Fund for water quality programs, and to 8
authorize the Ohio Water Development Authority 9
to invest the money in the Fund and to make 10
recommendations to the Treasurer of State 11
regarding the issuance of securities to pay for 12
costs related to the purposes of the Fund. 13

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

Section 1. That sections 131.44 and 6121.04 be amended and 14
sections 126.601, 126.61, 126.62, 126.63, 126.64, 126.65, 15
126.66, 126.67, and 126.68 of the Revised Code be enacted to 16
read as follows: 17

Sec. 126.601. (A) There is hereby created the H2Ohio trust 18

fund, which is in the custody of the treasurer of state, but is 19
separate, apart from, and not a part of the state treasury. The 20
fund shall be an irrevocable trust and consist of all of the 21
following: 22

(1) Amounts appropriated to it; 23

(2) Net proceeds from the issuance of obligations under 24
section 126.67 of the Revised Code; 25

(3) Proceeds from real property transactions authorized 26
under section 126.65 of the Revised Code and loan repayments 27
made under section 126.63 of the Revised Code that are not 28
pledged revenues required to be deposited in the H2Ohio bond 29
service fund created in section 126.68 of the Revised Code; 30

(4) Gifts, donations, and bequests to the fund; 31

(5) Any other contributions to the fund. 32

(B) The purpose of the fund is to provide for the 33
protection, preservation, and restoration of the water quality 34
of this state. Amounts may be disbursed from the fund for all of 35
the following purposes: 36

(1) The purposes of the H2Ohio advisory council, 37
established under section 126.61 of the Revised Code, set forth 38
in division (A) of section 126.63 of the Revised Code; 39

(2) The acquisition of real property or interests in real 40
property; 41

(3) Administrative expenses incurred by the H2Ohio 42
advisory council; 43

(4) Administrative expenses incurred by the Ohio water 44
development authority that are related to the administration of 45

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| <u>the fund;</u> | 46 |
| <u>(5) Costs and expenses related to the issuance of</u> | 47 |
| <u>obligations under section 126.67 of the Revised Code;</u> | 48 |
| <u>(6) Costs and expenses related to the Ohio water</u> | 49 |
| <u>development authority's functions related to the fund;</u> | 50 |
| <u>(7) Costs and expenses related to the investment of</u> | 51 |
| <u>amounts in the H2Ohio trust fund.</u> | 52 |
| <u>(C) The Ohio water development authority is and shall act</u> | 53 |
| <u>as the trustee of the fund. The authority has full power to</u> | 54 |
| <u>invest the fund. The authority and other fiduciaries shall do</u> | 55 |
| <u>both of the following:</u> | 56 |
| <u>(1) Discharge their duties with respect to the fund for</u> | 57 |
| <u>the fund's purposes and defray reasonable expenses of</u> | 58 |
| <u>administering the fund with care, skill, prudence, and diligence</u> | 59 |
| <u>under the circumstances then prevailing that a prudent person</u> | 60 |
| <u>acting in like capacity and familiar with these matters would</u> | 61 |
| <u>use in the conduct of an enterprise of a like character and with</u> | 62 |
| <u>like aims including, if applicable, the payment of debt service</u> | 63 |
| <u>on outstanding obligations issued under section 126.67 of the</u> | 64 |
| <u>Revised Code;</u> | 65 |
| <u>(2) Diversify the investments of the fund so as to</u> | 66 |
| <u>minimize the risk of large losses, unless under the</u> | 67 |
| <u>circumstances it is clearly prudent not to do so.</u> | 68 |
| <u>(D) (1) To facilitate investment of the fund, the authority</u> | 69 |
| <u>may establish a partnership, trust, limited liability company,</u> | 70 |
| <u>corporation, including a corporation exempt from taxation under</u> | 71 |
| <u>the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, or any</u> | 72 |
| <u>other legal entity authorized to transact business in this</u> | 73 |
| <u>state.</u> | 74 |

(2) In exercising its fiduciary responsibility with 75
respect to the investment of the fund, it shall be the intent of 76
the authority to give consideration to investments that enhance 77
the general welfare of the state and its citizens where the 78
investments offer quality, return, and safety comparable to 79
other investments currently available to the authority. In 80
fulfilling this intent, the authority shall give equal 81
consideration to investments otherwise qualifying under this 82
section that involve minority owned and controlled firms and 83
firms owned and controlled by women, either alone or in joint 84
venture with other firms. 85

(3) The authority shall adopt, in a regular meeting, 86
policies, objectives, or criteria for the operation of the 87
investment program that include asset allocation targets and 88
ranges, risk factors, asset class benchmarks, time horizons, 89
total return objectives, and performance evaluation guidelines. 90
In adopting policies and criteria for the selection of agents 91
with whom the authority may contract for the administration of 92
the H2Ohio trust fund, the authority shall do both of the 93
following: 94

(a) Comply with sections 145.114 and 145.116 of the 95
Revised Code in the same manner as is required by public 96
employees retirement board under those sections; 97

(b) Give equal consideration to all of the following that 98
otherwise meet the policies and criteria established by the 99
authority: 100

(i) Minority owned and controlled firms; 101

(ii) Firms owned and controlled by women; 102

(iii) Ventures involving minority owned and controlled 103

firms and firms owned and controlled by women. 104

The authority shall adopt any amendments and additions to 105
the policies and criteria in a regular meeting. The authority 106
shall publish its policies, objectives, and criteria at least 107
once annually and shall make copies available to interested 108
parties. 109

(4) When reporting on the performance of investments, the 110
authority shall comply with the performance presentation 111
standards established by the association for investment 112
management and research. 113

(5) All investments shall be purchased at current market 114
prices and the evidences of title of the investments shall be 115
placed in the hands of the treasurer of state, who is hereby 116
designated as custodian thereof, or in the hands of the 117
treasurer of state's authorized agent. The treasurer of state 118
may deposit evidences of title of the investments so purchased 119
for safekeeping with an authorized agent, selected by the 120
treasurer of state, who is a qualified trustee under section 121
135.18 of the Revised Code. The treasurer of state or agent 122
shall collect the principal, dividends, distributions, and 123
interest thereon as they become due and payable and place them 124
when so collected into the fund. 125

(6) The treasurer of state shall pay for investments 126
purchased by the authority on receipt of written or electronic 127
instructions from the authority or the authority's designated 128
agent authorizing the purchase and pending receipt of the 129
evidence of title of the investment by the treasurer of state or 130
the treasurer of state's authorized agent. The authority may 131
sell investments held by the authority, and the treasurer of 132
state or the treasurer of state's authorized agent shall accept 133

payment from the purchaser and deliver evidence of title of the 134
investment to the purchaser on receipt of written or electronic 135
instructions from the authority or the authority's designated 136
agent authorizing the sale, and pending receipt of the money for 137
the investments. The amount received shall be placed in the 138
H2Ohio trust fund. The authority and the treasurer of state may 139
enter into agreements to establish procedures for the purchase 140
and sale of investments under division (D) of this section and 141
the custody of the investments. 142

(E) No purchase or sale of any investment shall be made 143
under this section except as authorized by the authority. 144

(F) Any statement or financial position distributed by the 145
authority shall include the fair value, as of the statement 146
date, of all investments held by the authority under this 147
section. 148

(G) All investment earnings of the fund shall be credited 149
to the fund. 150

Sec. 126.61. (A) There is hereby created the H2Ohio 151
advisory council consisting of the following members: 152

(1) The director of agriculture or the director's 153
designee; 154

(2) The director of environmental protection or the 155
director's designee; 156

(3) The director of natural resources or the director's 157
designee; 158

(4) The executive director of the Ohio Lake Erie 159
commission created in section 1506.21 of the Revised Code who 160
shall serve as a nonvoting, ex officio member; 161

(5) Two members appointed by the president of the senate, 162
one member of the majority party and one member of the minority 163
party; 164

(6) Two members appointed by the speaker of the house of 165
representatives, one member of the majority party and one member 166
of the minority party; 167

(7) One member appointed by the governor with the advice 168
and consent of the senate to represent the interests of 169
counties; 170

(8) One member appointed by the governor with the advice 171
and consent of the senate to represent the interests of 172
townships; 173

(9) One member appointed by the governor with the advice 174
and consent of the senate to represent the interests of 175
municipal corporations; 176

(10) One member appointed by the governor with the advice 177
and consent of the senate to represent the interests of public 178
health; 179

(11) Two members appointed by the governor with the advice 180
and consent of the senate to represent the interests of business 181
or tourism; 182

(12) Two members appointed by the governor with the advice 183
and consent of the senate to represent agricultural interests; 184

(13) One member appointed by the governor with the advice 185
and consent of the senate to represent statewide environmental 186
advocacy organizations; 187

(14) One member appointed by the governor with the advice 188
and consent of the senate to represent institutions of higher 189

education. 190

All appointing authorities shall make appointments to the 191
council not later than one hundred twenty days after the 192
effective date of this section. 193

(B) (1) The members appointed by the president of the 194
senate and speaker of the house of representatives shall serve 195
at the pleasure of their appointing authorities and are eligible 196
to serve only so long as they are members of the respective 197
chamber of the general assembly. 198

(2) Of the initial members appointed by the governor, five 199
shall be appointed for two years and five shall be appointed for 200
one year. Thereafter, terms of office for members appointed by 201
the governor shall be for four years, with each term ending on 202
the same day of the same month as did the term that it succeeds. 203
The members appointed by the governor shall reflect the 204
demographic and economic diversity of the population of the 205
state. Additionally, the governor's appointments shall be from 206
geographically diverse areas of the state. The governor may 207
remove a member appointed by the governor for misfeasance, 208
nonfeasance, or malfeasance in office. 209

Each member appointed by the governor shall hold office 210
from the date of appointment until the end of the term for which 211
the member is appointed. Such members may be reappointed. 212
Vacancies shall be filled in the same manner as provided for 213
original appointments. Any member appointed to fill a vacancy 214
occurring prior to the expiration date of the term for which the 215
member was appointed shall hold office for the remainder of that 216
term. A member shall continue in office after the expiration 217
date of the member's term until the member's successor takes 218
office or until a period of sixty days has elapsed, whichever 219

occurs first. 220

(C) The governor shall appoint a member of the council to 221
serve as the chairperson of the council. The executive director 222
of the Ohio Lake Erie commission shall serve as the vice- 223
chairperson of the council unless the governor appoints the 224
executive director as the chairperson. If the executive director 225
is appointed chairperson, the council annually shall select a 226
person from among its members to serve as vice-chairperson while 227
the director is chairperson. The council annually shall select 228
from among its members a secretary to keep a record of its 229
proceedings. A majority of the voting members of the council 230
constitutes a quorum and a majority vote of that quorum of the 231
members of the council is necessary to take action on any 232
matter. 233

(D) (1) Members of the council are public officials or 234
officers only for the purposes of section 9.86 and Chapters 102. 235
and 2921. of the Revised Code. Serving as a member of the 236
council does not constitute holding a public office or position 237
of employment so as to constitute grounds for removal of public 238
officers or employees serving as members of the council from 239
their offices or positions of employment. 240

(2) Members of the council shall file with the Ohio ethics 241
commission the disclosure statement described in division (A) of 242
section 102.02 of the Revised Code on the form prescribed by the 243
commission. Members are subject to divisions (C) and (D) of that 244
section. 245

(3) Members of the council shall serve without 246
compensation for attending council meetings, but shall be 247
reimbursed for their actual and necessary travel and other 248
expenses incurred in the performance of their official duties in 249

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| <u>accordance with the rules of the office of budget and</u> | 250 |
| <u>management.</u> | 251 |
| <u>(E) Members appointed by the governor to represent the</u> | 252 |
| <u>interests of institutions of higher education, counties,</u> | 253 |
| <u>townships, and municipal corporations do not have a conflict of</u> | 254 |
| <u>interest by virtue of their service on the council. For the</u> | 255 |
| <u>purposes of this division, "conflict of interest" means the</u> | 256 |
| <u>taking of any action as a member of the council that affects a</u> | 257 |
| <u>public body the person serves as an officer or employee.</u> | 258 |
| <u>(F) Sections 101.82 to 101.87 of the Revised Code do not</u> | 259 |
| <u>apply to the council.</u> | 260 |
| <u>Sec. 126.62. (A) The H2Ohio advisory council shall adopt</u> | 261 |
| <u>bylaws governing its operation, including bylaws that establish</u> | 262 |
| <u>all of the following:</u> | 263 |
| <u>(1) The frequency of meetings;</u> | 264 |
| <u>(2) Procedures for reviewing annual plans submitted by the</u> | 265 |
| <u>directors of agriculture, natural resources, and environmental</u> | 266 |
| <u>protection under section 126.64 of the Revised Code;</u> | 267 |
| <u>(3) Procedures for approving or disapproving annual plans</u> | 268 |
| <u>submitted by the directors of agriculture, natural resources,</u> | 269 |
| <u>and environmental protection under section 126.64 of the Revised</u> | 270 |
| <u>Code. The procedures shall include a process for resubmitting</u> | 271 |
| <u>disapproved plans or disapproved portions of plans.</u> | 272 |
| <u>(4) Procedures for applicants to apply for loans and</u> | 273 |
| <u>grants from the H2Ohio trust fund;</u> | 274 |
| <u>(5) Procedures for notifying the public how to apply for</u> | 275 |
| <u>loans and grants from the H2Ohio trust fund;</u> | 276 |
| <u>(6) A statewide strategic vision and comprehensive</u> | 277 |

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| <u>periodic water protection and restoration strategy that sets</u> | 278 |
| <u>forth the priorities for use of the H2Ohio trust fund;</u> | 279 |
| <u>(7) Any other policy or procedure that the council</u> | 280 |
| <u>determines is necessary to carry out its duties.</u> | 281 |
| <u>(B) The council may establish a subcommittee comprised of</u> | 282 |
| <u>experts in the appropriate fields of science to advise the</u> | 283 |
| <u>council.</u> | 284 |
| Sec. 126.63. <u>(A) In accordance with the priorities</u> | 285 |
| <u>established by the H2Ohio advisory council under section 126.62</u> | 286 |
| <u>of the Revised Code and after receiving notification from the</u> | 287 |
| <u>council that a use for the fund has been approved, the Ohio</u> | 288 |
| <u>water development authority created in section 6121.02 of the</u> | 289 |
| <u>Revised Code shall disburse money from the fund for any of the</u> | 290 |
| <u>following purposes:</u> | 291 |
| <u>(1) Grants or loans, or purchases for the development and</u> | 292 |
| <u>implementation of projects and programs, including remediation</u> | 293 |
| <u>projects, that are designed to address water quality priorities;</u> | 294 |
| <u>(2) Funding cooperative research, data gathering and</u> | 295 |
| <u>monitoring, and demonstration projects related to water quality</u> | 296 |
| <u>priorities;</u> | 297 |
| <u>(3) Encouraging cooperation with and among leaders from</u> | 298 |
| <u>state legislatures, state agencies, political subdivisions,</u> | 299 |
| <u>business and industry, labor, agriculture, institutions of</u> | 300 |
| <u>higher education, environmental organizations, and water</u> | 301 |
| <u>conservation districts;</u> | 302 |
| <u>(4) Other purposes, policies, programs, and priorities</u> | 303 |
| <u>identified by the Ohio Lake Erie commission in coordination with</u> | 304 |
| <u>state agencies or boards responsible for water protection and</u> | 305 |
| <u>water management, provided that the purposes, policies,</u> | 306 |

programs, and priorities align with the council's statewide 307
strategic vision and comprehensive periodic water protection and 308
restoration strategy. 309

(B) Annual disbursements from the fund shall not exceed 310
the amount approved by the Ohio water development authority 311
under section 126.65 of the Revised Code. 312

(C) Not later than ninety days after the end of each 313
fiscal year, the H2Ohio advisory council, in coordination with 314
the Ohio Lake Erie commission, shall do both of the following: 315

(1) Prepare a report of the activities that were funded 316
from the H2Ohio trust fund during the immediately preceding 317
fiscal year, including the revenues and expenses of the fund for 318
the preceding fiscal year; 319

(2) Submit the report to the general assembly and to the 320
governor. 321

Sec. 126.64. (A) The directors of agriculture, natural 322
resources, and environmental protection each shall prepare an 323
annual plan detailing the proposed use of disbursements from the 324
H2Ohio trust fund for the year covered by the plan. Each agency 325
shall describe in the plan, at a minimum, all of the following: 326

(1) Funding priorities; 327

(2) The specific programs, projects, or entities proposed 328
to receive funding; 329

(3) The internal controls and external accountability 330
measures that will be put in place to ensure that the funding is 331
used in accordance with the plan. In addition, plans shall 332
include internal auditing mechanisms that the agency shall 333
conduct at least once every twelve months after a funded project 334

is implemented to ensure the project achieves its intended water 335
quality improvements. 336

(4) Mechanisms by which the agency will improve the water 337
quality benefits of a funded project, or recoup funding, if an 338
internal audit indicates that the project is not achieving its 339
intended water quality improvements. 340

(B) Not later than the first day of March of each year, 341
the directors shall deliver their respective annual plans to the 342
H2Ohio advisory council. 343

(C) The council shall review and shall approve or 344
disapprove, in whole or in part, each agency's annual plan in 345
accordance with the council's policies and procedures. 346

(D) The Ohio water development authority shall not 347
disburse any money from the H2Ohio trust fund to the agency 348
unless the council approves the plan submitted by the agency 349
under this section or approves the portion of the plan for which 350
money is being disbursed. 351

Sec. 126.65. (A) The treasurer of state or the treasurer 352
of state's designee shall act as the executive director of the 353
H2Ohio trust fund. The treasurer of state also shall provide for 354
the coordination of efforts between the authority, the H2Ohio 355
advisory council, and the treasurer of state. 356

(B) The treasurer of state, acting as executive director 357
of the fund, shall submit to the director of budget and 358
management, by the first day of June of each year, a request for 359
surplus revenue to be transferred into the H2Ohio trust fund 360
created in section 126.601 of the Revised Code in an amount 361
determined by the authority. 362

(C) The authority shall make recommendations to the 363

treasurer of state regarding the issuance of obligations under 364
section 126.67 of the Revised Code. 365

(D) The authority may appoint or provide for the 366
appointment of agents, consultants, independent contractors, or 367
any other type of administrative, investment, financial, or 368
accounting experts as are necessary, in the judgment of the 369
authority, to carry out the authority's duties. 370

(E) The authority may buy, sell, and lease real property 371
or interests in real property. 372

(F) At the end of each fiscal period, the authority shall 373
declare an amount of investment earnings that shall be made 374
available for disbursement in accordance with section 126.63 of 375
the Revised Code. The authority shall not disburse an amount 376
from the H2Ohio trust fund that is in excess of one hundred 377
million dollars each fiscal year. 378

Sec. 126.66. As used in sections 126.66 to 126.68 of the 379
Revised Code and in the applicable bond proceedings unless 380
otherwise provided: 381

(A) "Bond proceedings" means the orders, agreements, and 382
credit enhancement facilities and amendments and supplements to 383
them, or any one or more combination of them, authorizing, 384
awarding, or providing for the terms and conditions applicable 385
to or providing for the security or liquidity of, the particular 386
obligations, and the provisions contained in those obligations. 387

(B) "Cost of projects" includes any related direct 388
administrative expenses and allocable portions of the direct 389
costs of those projects funded from the H2Ohio trust fund. 390

(C) "Debt service" means principal, including any 391
mandatory sinking fund or redemption requirements for retirement 392

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| <u>of obligations, interest and other accreted amounts, interest</u> | 393 |
| <u>equivalent, and any redemption premium, payable on obligations.</u> | 394 |
| <u>If not prohibited by the applicable bond proceedings, debt</u> | 395 |
| <u>service may include costs relating to credit enhancement</u> | 396 |
| <u>facilities that are related to and represent, or are intended to</u> | 397 |
| <u>provide a source of payment of or limitation on, other debt</u> | 398 |
| <u>service.</u> | 399 |
| <u>(D) "Issuing authority" means the treasurer of state.</u> | 400 |
| <u>(E) "Net proceeds" means amounts received from the sale of</u> | 401 |
| <u>obligations, excluding amounts used to refund or retire</u> | 402 |
| <u>outstanding obligations, amounts required to be deposited into</u> | 403 |
| <u>special funds pursuant to the applicable bond proceedings, and</u> | 404 |
| <u>amounts to be used to pay financing costs.</u> | 405 |
| <u>(F) "Obligations" means bonds, notes, or other evidences</u> | 406 |
| <u>of obligation, including any appertaining interest coupons,</u> | 407 |
| <u>issued under section 126.67 of the Revised Code to pay the costs</u> | 408 |
| <u>of projects.</u> | 409 |
| <u>(G) "Pledged receipts" means, as and to the extent</u> | 410 |
| <u>provided in the bond proceedings:</u> | 411 |
| <u>(1) Repayments of loans made from the H2Ohio trust fund</u> | 412 |
| <u>including interest, if any;</u> | 413 |
| <u>(2) Moneys received from the lease, sale, or other</u> | 414 |
| <u>disposition or use of projects funded from the H2Ohio trust</u> | 415 |
| <u>fund;</u> | 416 |
| <u>(3) Accrued interest received from the sale of</u> | 417 |
| <u>obligations;</u> | 418 |
| <u>(4) Income from the investment of money in the H2Ohio</u> | 419 |
| <u>trust fund;</u> | 420 |

(5) Any gifts, grants, donations, or pledges, and receipts 421
therefrom, available for the payment of debt service; 422

(6) Additional or any other specific revenues or receipts 423
lawfully available to be pledged, and pledged, pursuant to 424
further authorization by the general assembly, to the payment of 425
debt service. 426

(H) "Projects" means projects for the protection, 427
preservation, and restoration of water quality, including 428
projects for water pollution control and abatement. 429

(I) "Special funds" or "funds," unless the context 430
indicates otherwise, means the bond service fund created in 431
section 126.68 of the Revised Code, and any other funds, 432
including any reserve funds, created under the bond proceedings 433
and stated to be special funds in those proceedings, including 434
moneys and investments, and earnings from investments, credited 435
and to be credited to the particular fund. 436

(J) "Credit enhancement facilities," "financing costs," 437
and "interest" or "interest equivalent" have the same meanings 438
as in section 133.01 of the Revised Code. 439

Sec. 126.67. (A) The issuing authority shall issue 440
obligations under this section to pay costs of projects. Those 441
obligations are authorized to be issued for the public purposes 442
of the protection, preservation, and restoration of water 443
quality including for water pollution control and abatement, 444
under one or any combination of Section 2i of Article VIII, Ohio 445
Constitution, for remediation or cleanup of conditions or 446
circumstances that may be deleterious to water resources under 447
division (B) (2) of Sections 2o and 2q of Article VIII, Ohio 448
Constitution, for supporting research and development under 449

Section (B) (2) of Section 2p of Article VIII, Ohio Constitution, 450
and to control water pollution under Section 13 of Article VIII, 451
Ohio Constitution, or any combination thereof. 452

(B) The issuing authority, upon the request of the Ohio 453
water development authority as provided in section 126.65 of the 454
Revised Code, shall issue obligations in the amount requested. 455
The provisions and authorizations in section 151.01 of the 456
Revised Code apply to the obligations and the bond proceedings 457
except as otherwise provided or provided for in this section and 458
in those obligations or bond proceedings, and the bond 459
proceedings shall provide for or authorize the manner of 460
determining the principal maturity or maturities of those 461
obligations notwithstanding any limitation in division (C) of 462
section 151.01 of the Revised Code. 463

(C) Net proceeds of obligations shall be deposited in the 464
H2Ohio trust fund created in section 126.601 of the Revised 465
Code. 466

(D) The issuing authority may pledge all, or such portion 467
as the issuing authority determines, of the pledged receipts to 468
the payment of the debt service charges on obligations issued 469
under this section, and for the establishment and maintenance of 470
any reserves, as provided in the bond proceedings, and make 471
other provisions in the bond proceedings with respect to pledged 472
receipts as authorized by this section, which provisions are 473
controlling notwithstanding any other provisions of law 474
pertaining to them. 475

(E) The issuing authority may covenant in the bond 476
proceedings, and such covenants shall be controlling 477
notwithstanding any other provision of law, that the state and 478
applicable officers and state agencies, including the general 479

assembly, so long as any obligations issued under this section 480
are outstanding, shall maintain statutory authority for and 481
cause to be collected any pledged receipts. 482

(F) Obligations may be further secured, as determined by 483
the issuing authority, by a trust agreement between the state 484
and a corporate trustee, which may be any trust company or bank 485
having a place of business within the state. Any trust agreement 486
may contain the order authorizing the issuance of obligations, 487
any provisions that may be contained in any bond proceedings, 488
and other provisions that are customary or appropriate in an 489
agreement of that type, including, but not limited to: 490

(1) Maintenance of each pledge, trust agreement, or other 491
instrument comprising part of the bond proceedings until the 492
payment of debt service obligations secured by it have been 493
fully paid or provided for; 494

(2) In the event of default in any payments required to be 495
made by the bond proceedings, enforcement of those payments or 496
agreements by mandamus, the appointment of a receiver, suit in 497
equity, action at law, or any combination of them. 498

(3) The rights and remedies of the holders or owners of 499
obligations and of the trustee and provisions for protecting and 500
enforcing them, including limitations on rights of individual 501
holders and owners. 502

(G) The obligations are not general obligations of the 503
state and the full faith and credit, revenue, and taxing power 504
of the state shall not be pledged to the payment of debt service 505
on them. The holders or owners of the obligation shall have no 506
right to have any moneys obligated or pledged for the payment of 507
debt service except as provided in this section and in the 508

applicable bond proceedings. The rights of the holders and 509
owners to payment of debt service are limited to all or that 510
portion of the pledged receipts, those special funds, pledged to 511
the payment of debt service pursuant to the bond proceedings in 512
accordance with this section, and each obligation shall bear on 513
its face a statement to that effect. Nothing in this section 514
shall prohibit or be deemed to prohibit the state, of its own 515
volition, from using to the extent lawfully authorized to do so 516
any other resources to pay debt services on the obligations. 517

Sec. 126.68. There is hereby created the H2Ohio bond 518
service fund, which is in the custody of the treasurer of state, 519
but is separate, apart from, and not a part of the state 520
treasury. All money received and required by the bond 521
proceedings, consistent with section 126.67 of the Revised Code, 522
to be deposited, transferred, or credited to the bond service 523
fund, and all other money transferred or allocated to or 524
received for the purposes of that fund, shall be deposited and 525
credited to the bond service fund, subject to any applicable 526
provisions of the bond proceedings. 527

Sec. 131.44. (A) As used in this section: 528

(1) "Surplus revenue" means the excess, if any, of the 529
total fund balance over the required year-end balance. 530

(2) "Total fund balance" means the sum of the unencumbered 531
balance in the general revenue fund on the last day of the 532
preceding fiscal year plus the balance in the budget 533
stabilization fund. 534

(3) "Required year-end balance" means the sum of the 535
following: 536

(a) Eight and one-half per cent of the general revenue 537

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| fund revenues for the preceding fiscal year; | 538 |
| (b) "Ending fund balance," which means one-half of one per cent of general revenue fund revenues for the preceding fiscal year; | 539 540 541 |
| (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; | 542 543 544 545 546 |
| (d) "Capital appropriation reserve," which means the amount, if any, of general revenue fund capital appropriations made for the current biennium that the director of budget and management has determined will be encumbered or disbursed; | 547 548 549 550 |
| (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. | 551 552 553 554 555 556 |
| (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: | 557 558 559 560 |
| (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; | 561 562 563 564 |
| (b) Transfers of appropriations from the first fiscal year to the second fiscal year of the biennium approved by the | 565 566 |

controlling board. 567

(5) "Estimated general revenue fund revenue" means the 568
most recent such estimate available to the director of budget 569
and management. 570

(B) (1) Not later than the thirty-first day of July each 571
year, the director of budget and management shall determine the 572
surplus revenue that existed on the preceding thirtieth day of 573
June and transfer from the general revenue fund, to the extent 574
of the unobligated, unencumbered balance on the preceding 575
thirtieth day of June in excess of one-half of one per cent of 576
the general revenue fund revenues in the preceding fiscal year, 577
the following: 578

(a) First, to the budget stabilization fund, any amount 579
necessary for the balance of the budget stabilization fund to 580
equal eight and one-half per cent of the general revenue fund 581
revenues of the preceding fiscal year; 582

(b) Then, to the H2Ohio trust fund created in section 583
126.601 of the Revised Code, in an amount determined by the 584
director of budget and management that is up to the amount 585
requested by the treasurer of state in accordance with division 586
(E) (2) of section 126.65 of the Revised Code; 587

(c) Lastly, to the income tax reduction fund, which is 588
hereby created in the state treasury, an amount equal to the 589
surplus revenue. 590

(2) Not later than the thirty-first day of July each year, 591
the director shall determine the percentage that the balance in 592
the income tax reduction fund is of the amount of revenue that 593
the director estimates will be received from the tax levied 594
under section 5747.02 of the Revised Code in the current fiscal 595

year without regard to any reduction under division (B) of that 596
section. If that percentage exceeds thirty-five one hundredths 597
of one per cent, the director shall certify the percentage to 598
the tax commissioner not later than the thirty-first day of 599
July. 600

(C) The director of budget and management shall transfer 601
money in the income tax reduction fund to the general revenue 602
fund, the local government fund, and the public library fund as 603
necessary to offset revenue reductions resulting from the 604
reductions in taxes required under division (B) of section 605
5747.02 of the Revised Code in the respective amounts and 606
percentages prescribed by division (A) of section 5747.03 and 607
divisions (A) and (B) of section 131.51 of the Revised Code as 608
if the amount transferred had been collected as taxes under 609
Chapter 5747. of the Revised Code. If no reductions in taxes are 610
made under that division that affect revenue received in the 611
current fiscal year, the director shall not transfer money from 612
the income tax reduction fund to the general revenue fund, the 613
local government fund, and the public library fund. 614

Sec. 6121.04. The Ohio water development authority may do 615
any or all of the following: 616

(A) Adopt bylaws for the regulation of its affairs and the 617
conduct of its business; 618

(B) Adopt an official seal; 619

(C) Maintain a principal office and suboffices at places 620
within the state that it designates; 621

(D) Sue and plead in its own name and be sued and 622
impleaded in its own name with respect to its contracts or torts 623
of its members, employees, or agents acting within the scope of 624

their employment, or to enforce its obligations and covenants 625
made under sections 6121.06, 6121.08, and 6121.13 of the Revised 626
Code. Any such actions against the authority shall be brought in 627
the court of common pleas of the county in which the principal 628
office of the authority is located or in the court of common 629
pleas of the county in which the cause of action arose, provided 630
that the county is located within this state, and all summonses, 631
exceptions, and notices of every kind shall be served on the 632
authority by leaving a copy thereof at the principal office with 633
the person in charge thereof or with the secretary-treasurer of 634
the authority. 635

(E) Make loans and grants to governmental agencies for the 636
acquisition or construction of water development projects by any 637
such governmental agency and adopt rules and procedures for 638
making such loans and grants; 639

(F) Acquire, construct, reconstruct, enlarge, improve, 640
furnish, equip, maintain, repair, operate, or lease or rent to, 641
or contract for operation by, a governmental agency or person, 642
water development projects, and establish rules for the use of 643
those projects; 644

(G) Make available the use or services of any water 645
development project to one or more persons, one or more 646
governmental agencies, or any combination thereof; 647

(H) Issue water development revenue bonds and notes and 648
water development revenue refunding bonds of the state, payable 649
solely from revenues as provided in section 6121.06 of the 650
Revised Code, unless the bonds are refunded by refunding bonds, 651
for the purpose of paying any part of the cost of one or more 652
water development projects or parts thereof; 653

(I) Acquire by gift or purchase, hold, and dispose of real 654
and personal property in the exercise of its powers and the 655
performance of its duties under this chapter; 656

(J) Acquire, in the name of the state, by purchase or 657
otherwise, on terms and in the manner that it considers proper, 658
or by the exercise of the right of condemnation in the manner 659
provided by section 6121.18 of the Revised Code, public or 660
private lands, including public parks, playgrounds, or 661
reservations, or parts thereof or rights therein, rights-of-way, 662
property, rights, easements, and interests that it considers 663
necessary for carrying out this chapter, but excluding the 664
acquisition by the exercise of the right of condemnation of any 665
waste water facility or water management facility owned by any 666
person or governmental agency, and compensation shall be paid 667
for public or private lands so taken, except that a government- 668
owned waste water facility may be appropriated in accordance 669
with section 6121.041 of the Revised Code; 670

(K) Adopt rules to protect augmented flow in waters of the 671
state, to the extent augmented by a water development project, 672
from depletion so it will be available for beneficial use, and 673
to provide standards for the withdrawal from waters of the state 674
of the augmented flow created by a water development project 675
that is not returned to the waters of the state so augmented and 676
to establish reasonable charges therefor if considered necessary 677
by the authority; 678

(L) Make and enter into all contracts and agreements and 679
execute all instruments necessary or incidental to the 680
performance of its duties and the execution of its powers under 681
this chapter in accordance with the following requirements: 682

(1) When the cost under any such contract or agreement, 683

other than compensation for personal services, involves an 684
expenditure of more than fifty thousand dollars, the authority 685
shall make a written contract with the lowest responsive and 686
responsible bidder, in accordance with section 9.312 of the 687
Revised Code, after advertisement for not less than two 688
consecutive weeks in a newspaper of general circulation in 689
Franklin county, and in other publications that the authority 690
determines, which shall state the general character of the work 691
and the general character of the materials to be furnished, the 692
place where plans and specifications therefor may be examined, 693
and the time and place of receiving bids, provided that a 694
contract or lease for the operation of a water development 695
project constructed and owned by the authority or an agreement 696
for cooperation in the acquisition or construction of a water 697
development project pursuant to section 6121.13 of the Revised 698
Code or any contract for the construction of a water development 699
project that is to be leased by the authority to, and operated 700
by, persons who are not governmental agencies and the cost of 701
the project is to be amortized exclusively from rentals or other 702
charges paid to the authority by persons who are not 703
governmental agencies is not subject to the foregoing 704
requirements and the authority may enter into such a contract or 705
lease or such an agreement pursuant to negotiation and upon 706
terms and conditions and for the period that it finds to be 707
reasonable and proper in the circumstances and in the best 708
interests of proper operation or of efficient acquisition or 709
construction of the project. 710

(2) Each bid for a contract for the construction, 711
demolition, alteration, repair, or reconstruction of an 712
improvement shall contain the full name of every person 713
interested in it and shall meet the requirements of section 714

153.54 of the Revised Code. 715

(3) Each bid for a contract except as provided in division 716
(L) (2) of this section shall contain the full name of every 717
person or company interested in it and shall be accompanied by a 718
sufficient bond or certified check on a solvent bank that if the 719
bid is accepted, a contract will be entered into and the 720
performance thereof secured. 721

(4) The authority may reject any and all bids. 722

(5) A bond with good and sufficient surety, approved by 723
the authority, shall be required of every contractor awarded a 724
contract except as provided in division (L) (2) of this section, 725
in an amount equal to at least fifty per cent of the contract 726
price, conditioned upon the faithful performance of the 727
contract. 728

(M) Employ managers, superintendents, and other employees 729
and retain or contract with consulting engineers, financial 730
consultants, accounting experts, architects, attorneys, and 731
other consultants and independent contractors that are necessary 732
in its judgment to carry out this chapter, and fix the 733
compensation thereof. All expenses thereof shall be payable 734
solely from the proceeds of water development revenue bonds or 735
notes issued under this chapter, from revenues, or from funds 736
appropriated for that purpose by the general assembly. 737

(N) Receive and accept from any federal agency, subject to 738
the approval of the governor, grants for or in aid of the 739
construction of any water development project or for research 740
and development with respect to waste water or water management 741
facilities, and receive and accept aid or contributions from any 742
source of money, property, labor, or other things of value, to 743

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| be held, used, and applied only for the purposes for which the | 744 |
| grants and contributions are made; | 745 |
| (O) Engage in research and development with respect to | 746 |
| waste water or water management facilities; | 747 |
| (P) Purchase fire and extended coverage and liability | 748 |
| insurance for any water development project and for the | 749 |
| principal office and suboffices of the authority, insurance | 750 |
| protecting the authority and its officers and employees against | 751 |
| liability for damage to property or injury to or death of | 752 |
| persons arising from its operations, and any other insurance the | 753 |
| authority may agree to provide under any resolution authorizing | 754 |
| its water development revenue bonds or in any trust agreement | 755 |
| securing the same; | 756 |
| (Q) Charge, alter, and collect rentals and other charges | 757 |
| for the use or services of any water development project as | 758 |
| provided in section 6121.13 of the Revised Code; | 759 |
| (R) Provide coverage for its employees under Chapters | 760 |
| 145., 4123., and 4141. of the Revised Code; | 761 |
| (S) Assist in the implementation and administration of the | 762 |
| drinking water assistance fund and program created in section | 763 |
| 6109.22 of the Revised Code and the water pollution control loan | 764 |
| fund and program created in section 6111.036 of the Revised | 765 |
| Code, including, without limitation, performing or providing | 766 |
| fiscal management for the funds and investing and disbursing | 767 |
| moneys in the funds, and enter into all necessary and | 768 |
| appropriate agreements with the director of environmental | 769 |
| protection for those purposes; | 770 |
| (T) Issue water development revenue bonds and notes of the | 771 |
| state in principal amounts that are necessary for the purpose of | 772 |

raising moneys for the sole benefit of the water pollution 773
control loan fund created in section 6111.036 of the Revised 774
Code, including moneys to meet the requirement for providing 775
matching moneys under division (D) of that section. The bonds 776
and notes may be secured by appropriate trust agreements and 777
repaid from moneys credited to the fund from payments of 778
principal and interest on loans made from the fund, as provided 779
in division (F) of section 6111.036 of the Revised Code. 780

(U) Issue water development revenue bonds and notes of the 781
state in principal amounts that are necessary for the purpose of 782
raising moneys for the sole benefit of the drinking water 783
assistance fund created in section 6109.22 of the Revised Code, 784
including moneys to meet the requirement for providing matching 785
moneys under divisions (B) and (F) of that section. The bonds 786
and notes may be secured by appropriate trust agreements and 787
repaid from moneys credited to the fund from payments of 788
principal and interest on loans made from the fund, as provided 789
in division (F) of section 6109.22 of the Revised Code. 790

(V) Make loans to and enter into agreements with boards of 791
county commissioners for the purposes of section 1506.44 of the 792
Revised Code and adopt rules establishing requirements and 793
procedures for making the loans and entering into the 794
agreements; 795

(W) Disburse money from the H2Ohio trust fund created in 796
section 126.601 of the Revised Code, invest money from that fund 797
in accordance with that section, request the treasurer of state 798
to issue obligations under section 126.67 of the Revised Code, 799
and execute any other power or duty established in sections 800
126.601 to 126.68 of the Revised Code. 801

(X) Do all acts necessary or proper to carry out the 802

powers expressly granted in this chapter and in sections 126.601 803
to 126.68 of the Revised Code. 804

Any instrument by which real property is acquired pursuant 805
to this section shall identify the agency of the state that has 806
the use and benefit of the real property as specified in section 807
5301.012 of the Revised Code. 808

Section 2. That existing sections 131.44 and 6121.04 of 809
the Revised Code are hereby repealed. 810

Section 3. (A) The Director of Natural Resources shall 811
establish a pilot program to study the environmental impact of 812
water withdrawals on stream flow using continuous stream flow 813
monitoring technology. The study shall conclude on or before 814
December 31, 2021. 815

(B) The Director shall adopt policies and procedures for 816
the administration and implementation of the pilot program. 817

(C) After the conclusion of the study, the Director shall 818
submit a report of the study's findings to the General Assembly 819
in accordance with section 101.68 of the Revised Code. 820