

**As Passed by the House**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Am. Sub. H. B. No. 7**

**Representatives Ghanbari, Patterson**

**Cosponsors: Representatives Carfagna, Crawley, Edwards, Hambley, Hoops, Howse, Rogers, West, Arndt, Baldrige, Blair, Boyd, Brent, Brown, Callender, Cera, Clites, Cross, Crossman, Denson, DeVitis, Galonski, Greenspan, Grendell, Hicks-Hudson, Hillyer, Holmes, A., Ingram, Jones, Kelly, Kick, Leland, Lepore-Hagan, Lightbody, Liston, Manning, G., McClain, Miller, A., Miller, J., Miranda, O'Brien, Patton, Plummer, Reineke, Richardson, Riedel, Robinson, Roemer, Russo, Seitz, Smith, K., Smith, T., Sobeki, Stein, Stoltzfus, Sweeney, Sykes, Upchurch, Weinstein, Wiggam**

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**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

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| <u>(3) Administrative expenses incurred by the H2Ohio</u>               | 42 |
| <u>advisory council;</u>  | 43 |
| <u>(4) Administrative expenses incurred by the Ohio water</u>           | 44 |
| <u>development authority that are related to the administration of</u>  | 45 |
| <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 |

may establish a partnership, trust, limited liability company, 70  
corporation, including a corporation exempt from taxation under 71  
the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, or any 72  
other legal entity authorized to transact business in this 73  
state. 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

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| <u>authority:</u>   | 100  |
| <u>(i) Minority owned and controlled firms;</u>   | 101  |
| <u>(ii) Firms owned and controlled by women;</u>  | 102  |
| <u>(iii) Ventures involving minority owned and controlled</u><br><u>firms and firms owned and controlled by women.</u>  | 103<br>104   |
| <u>The authority shall adopt any amendments and additions to</u><br><u>the policies and criteria in a regular meeting. The authority</u><br><u>shall publish its policies, objectives, and criteria at least</u><br><u>once annually and shall make copies available to interested</u><br><u>parties.</u>   | 105<br>106<br>107<br>108<br>109  |
| <u>(4) When reporting on the performance of investments, the</u><br><u>authority shall comply with the performance presentation</u><br><u>standards established by the association for investment</u><br><u>management and research.</u>  | 110<br>111<br>112<br>113   |
| <u>(5) All investments shall be purchased at current market</u><br><u>prices and the evidences of title of the investments shall be</u><br><u>placed in the hands of the treasurer of state, who is hereby</u><br><u>designated as custodian thereof, or in the hands of the</u><br><u>treasurer of state's authorized agent. The treasurer of state</u><br><u>may deposit evidences of title of the investments so purchased</u><br><u>for safekeeping with an authorized agent, selected by the</u><br><u>treasurer of state, who is a qualified trustee under section</u><br><u>135.18 of the Revised Code. The treasurer of state or agent</u><br><u>shall collect the principal, dividends, distributions, and</u><br><u>interest thereon as they become due and payable and place them</u><br><u>when so collected into the fund.</u> | 114<br>115<br>116<br>117<br>118<br>119<br>120<br>121<br>122<br>123<br>124<br>125 |
| <u>(6) The treasurer of state shall pay for investments</u><br><u>purchased by the authority on receipt of written or electronic</u><br><u>instructions from the authority or the authority's designated</u>  | 126<br>127<br>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

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| <u>designee;</u>  | 158 |
| <u>(4) The executive director of the Ohio Lake Erie</u>                 | 159 |
| <u>commission created in section 1506.21 of the Revised Code who</u>    | 160 |
| <u>shall serve as a nonvoting, ex officio member;</u>                   | 161 |
| <u>(5) Two members appointed by the president of the senate,</u>        | 162 |
| <u>one member of the majority party and one member of the minority</u>  | 163 |
| <u>party;</u>   | 164 |
| <u>(6) Two members appointed by the speaker of the house of</u>         | 165 |
| <u>representatives, one member of the majority party and one member</u> | 166 |
| <u>of the minority party;</u>   | 167 |
| <u>(7) One member appointed by the governor with the advice</u>         | 168 |
| <u>and consent of the senate to represent the interests of</u>          | 169 |
| <u>counties;</u>  | 170 |
| <u>(8) One member appointed by the governor with the advice</u>         | 171 |
| <u>and consent of the senate to represent the interests of</u>          | 172 |
| <u>townships;</u>   | 173 |
| <u>(9) One member appointed by the governor with the advice</u>         | 174 |
| <u>and consent of the senate to represent the interests of</u>          | 175 |
| <u>municipal corporations;</u>  | 176 |
| <u>(10) One member appointed by the governor with the advice</u>        | 177 |
| <u>and consent of the senate to represent the interests of public</u>   | 178 |
| <u>health;</u>  | 179 |
| <u>(11) Two members appointed by the governor with the advice</u>       | 180 |
| <u>and consent of the senate to represent the interests of business</u> | 181 |
| <u>or tourism;</u>  | 182 |
| <u>(12) Two members appointed by the governor with the advice</u>       | 183 |
| <u>and consent of the senate to represent agricultural interests;</u>   | 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  
accordance with the rules of the office of budget and 250  
management. 251

(E) Members appointed by the governor to represent the 252  
interests of institutions of higher education, counties, 253  
townships, and municipal corporations do not have a conflict of 254  
interest by virtue of their service on the council. For the 255  
purposes of this division, "conflict of interest" means the 256  
taking of any action as a member of the council that affects a 257  
public body the person serves as an officer or employee. 258

(F) Sections 101.82 to 101.87 of the Revised Code do not 259  
apply to the council. 260

**Sec. 126.62.** (A) The H2Ohio advisory council shall adopt 261  
bylaws governing its operation, including bylaws that establish 262  
all of the following: 263

(1) The frequency of meetings; 264

(2) Procedures for reviewing annual plans submitted by the 265  
directors of agriculture, natural resources, and environmental 266  
protection under section 126.64 of the Revised Code; 267

(3) Procedures for approving or disapproving annual plans 268  
submitted by the directors of agriculture, natural resources, 269  
and environmental protection under section 126.64 of the Revised 270  
Code. The procedures shall include a process for resubmitting 271  
disapproved plans or disapproved portions of plans. 272

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| <u>(4) Procedures for applicants to apply for loans and grants from the H2Ohio trust fund;</u>   | 273 |
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| <u>(5) Procedures for notifying the public how to apply for loans and grants from the H2Ohio trust fund;</u>   | 275 |
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| <u>(6) A statewide strategic vision and comprehensive periodic water protection and restoration strategy that sets forth the priorities for use of the H2Ohio trust fund;</u>  | 277 |
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| <u>(7) Any other policy or procedure that the council determines is necessary to carry out its duties.</u>   | 280 |
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| <u>(B) The council may establish a subcommittee comprised of experts in the appropriate fields of science to advise the council.</u>   | 282 |
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| <b><u>Sec. 126.63.</u></b> <u>(A) In accordance with the priorities established by the H2Ohio advisory council under section 126.62 of the Revised Code and after receiving notification from the council that a use for the fund has been approved, the Ohio water development authority created in section 6121.02 of the Revised Code shall disburse money from the fund for any of the following purposes:</u> | 285 |
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| <u>(1) Grants or loans, or purchases for the development and implementation of projects and programs, including remediation projects, that are designed to address water quality priorities;</u>   | 292 |
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| <u>(2) Funding cooperative research, data gathering and monitoring, and demonstration projects related to water quality priorities;</u>  | 295 |
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|  | 297 |
| <u>(3) Encouraging cooperation with and among leaders from state legislatures, state agencies, political subdivisions, business and industry, labor, agriculture, institutions of</u>  | 298 |
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higher education, environmental organizations, and water 301  
conservation districts; 302

(4) Other purposes, policies, programs, and priorities 303  
identified by the Ohio Lake Erie commission in coordination with 304  
state agencies or boards responsible for water protection and 305  
water management, provided that the purposes, policies, 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  
of obligations, interest and other accreted amounts, interest 393  
equivalent, and any redemption premium, payable on obligations. 394  
If not prohibited by the applicable bond proceedings, debt 395  
service may include costs relating to credit enhancement 396  
facilities that are related to and represent, or are intended to 397  
provide a source of payment of or limitation on, other debt 398  
service. 399

(D) "Issuing authority" means the treasurer of state. 400

(E) "Net proceeds" means amounts received from the sale of 401  
obligations, excluding amounts used to refund or retire 402  
outstanding obligations, amounts required to be deposited into 403  
special funds pursuant to the applicable bond proceedings, and 404  
amounts to be used to pay financing costs. 405

(F) "Obligations" means bonds, notes, or other evidences 406  
of obligation, including any appertaining interest coupons, 407  
issued under section 126.67 of the Revised Code to pay the costs 408  
of projects. 409

(G) "Pledged receipts" means, as and to the extent 410  
provided in the bond proceedings: 411

(1) Repayments of loans made from the H2Ohio trust fund 412  
including interest, if any; 413

(2) Moneys received from the lease, sale, or other 414

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| <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 |
| <u>(5) Any gifts, grants, donations, or pledges, and receipts</u>       | 421 |
| <u>therefrom, available for the payment of debt service;</u>            | 422 |
| <u>(6) Additional or any other specific revenues or receipts</u>        | 423 |
| <u>lawfully available to be pledged, and pledged, pursuant to</u>       | 424 |
| <u>further authorization by the general assembly, to the payment of</u> | 425 |
| <u>debt service.</u>  | 426 |
| <u>(H) "Projects" means projects for the protection,</u>                | 427 |
| <u>preservation, and restoration of water quality, including</u>        | 428 |
| <u>projects for water pollution control and abatement.</u>              | 429 |
| <u>(I) "Special funds" or "funds," unless the context</u>               | 430 |
| <u>indicates otherwise, means the bond service fund created in</u>      | 431 |
| <u>section 126.68 of the Revised Code, and any other funds,</u>         | 432 |
| <u>including any reserve funds, created under the bond proceedings</u>  | 433 |
| <u>and stated to be special funds in those proceedings, including</u>   | 434 |
| <u>moneys and investments, and earnings from investments, credited</u>  | 435 |
| <u>and to be credited to the particular fund.</u>                       | 436 |
| <u>(J) "Credit enhancement facilities," "financing costs,"</u>          | 437 |
| <u>and "interest" or "interest equivalent" have the same meanings</u>   | 438 |
| <u>as in section 133.01 of the Revised Code.</u>                        | 439 |
| <u>Sec. 126.67. (A) The issuing authority shall issue</u>               | 440 |
| <u>obligations under this section to pay costs of projects. Those</u>   | 441 |
| <u>obligations are authorized to be issued for the public purposes</u>  | 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  
fund revenues for the preceding fiscal year; 538

(b) "Ending fund balance," which means one-half of one per 539  
cent of general revenue fund revenues for the preceding fiscal 540  
year; 541

(c) "Carryover balance," which means, with respect to a 542  
fiscal biennium, the excess, if any, of the estimated general 543  
revenue fund appropriation and transfer requirement for the 544  
second fiscal year of the biennium over the estimated general 545  
revenue fund revenue for that fiscal year; 546

(d) "Capital appropriation reserve," which means the 547  
amount, if any, of general revenue fund capital appropriations 548  
made for the current biennium that the director of budget and 549  
management has determined will be encumbered or disbursed; 550

(e) "Income tax reduction impact reserve," which means an 551  
amount equal to the reduction projected by the director of 552  
budget and management in income tax revenue in the current 553  
fiscal year attributable to the previous reduction in the income 554  
tax rate made by the tax commissioner pursuant to division (B) 555  
of section 5747.02 of the Revised Code. 556

(4) "Estimated general revenue fund appropriation and 557  
transfer requirement" means the most recent adjusted 558  
appropriations made by the general assembly from the general 559

revenue fund and includes both of the following: 560

(a) Appropriations made and transfers of appropriations 561  
from the first fiscal year to the second fiscal year of the 562  
biennium in provisions of acts of the general assembly signed by 563  
the governor but not yet effective; 564

(b) Transfers of appropriations from the first fiscal year 565  
to the second fiscal year of the biennium approved by the 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, and approved by the 585  
controlling board, that is up to the amount requested by the 586  
treasurer of state in accordance with division (B) of section 587  
126.65 of the Revised Code; 588

(c) Lastly, to the income tax reduction fund, which is 589  
hereby created in the state treasury, an amount equal to the 590  
surplus revenue. 591

(2) Not later than the thirty-first day of July each year, 592  
the director shall determine the percentage that the balance in 593  
the income tax reduction fund is of the amount of revenue that 594  
the director estimates will be received from the tax levied 595  
under section 5747.02 of the Revised Code in the current fiscal 596  
year without regard to any reduction under division (B) of that 597  
section. If that percentage exceeds thirty-five one hundredths 598  
of one per cent, the director shall certify the percentage to 599  
the tax commissioner not later than the thirty-first day of 600  
July. 601

(C) The director of budget and management shall transfer 602  
money in the income tax reduction fund to the general revenue 603  
fund, the local government fund, and the public library fund as 604  
necessary to offset revenue reductions resulting from the 605  
reductions in taxes required under division (B) of section 606  
5747.02 of the Revised Code in the respective amounts and 607  
percentages prescribed by division (A) of section 5747.03 and 608  
divisions (A) and (B) of section 131.51 of the Revised Code as 609  
if the amount transferred had been collected as taxes under 610  
Chapter 5747. of the Revised Code. If no reductions in taxes are 611  
made under that division that affect revenue received in the 612  
current fiscal year, the director shall not transfer money from 613  
the income tax reduction fund to the general revenue fund, the 614  
local government fund, and the public library fund. 615

**Sec. 6121.04.** The Ohio water development authority may do 616  
any or all of the following: 617

(A) Adopt bylaws for the regulation of its affairs and the 618

conduct of its business; 619

(B) Adopt an official seal; 620

(C) Maintain a principal office and suboffices at places 621  
within the state that it designates; 622

(D) Sue and plead in its own name and be sued and 623  
impleaded in its own name with respect to its contracts or torts 624  
of its members, employees, or agents acting within the scope of 625  
their employment, or to enforce its obligations and covenants 626  
made under sections 6121.06, 6121.08, and 6121.13 of the Revised 627  
Code. Any such actions against the authority shall be brought in 628  
the court of common pleas of the county in which the principal 629  
office of the authority is located or in the court of common 630  
pleas of the county in which the cause of action arose, provided 631  
that the county is located within this state, and all summonses, 632  
exceptions, and notices of every kind shall be served on the 633  
authority by leaving a copy thereof at the principal office with 634  
the person in charge thereof or with the secretary-treasurer of 635  
the authority. 636

(E) Make loans and grants to governmental agencies for the 637  
acquisition or construction of water development projects by any 638  
such governmental agency and adopt rules and procedures for 639  
making such loans and grants; 640

(F) Acquire, construct, reconstruct, enlarge, improve, 641  
furnish, equip, maintain, repair, operate, or lease or rent to, 642  
or contract for operation by, a governmental agency or person, 643  
water development projects, and establish rules for the use of 644  
those projects; 645

(G) Make available the use or services of any water 646  
development project to one or more persons, one or more 647

governmental agencies, or any combination thereof; 648

(H) Issue water development revenue bonds and notes and 649  
water development revenue refunding bonds of the state, payable 650  
solely from revenues as provided in section 6121.06 of the 651  
Revised Code, unless the bonds are refunded by refunding bonds, 652  
for the purpose of paying any part of the cost of one or more 653  
water development projects or parts thereof; 654

(I) Acquire by gift or purchase, hold, and dispose of real 655  
and personal property in the exercise of its powers and the 656  
performance of its duties under this chapter; 657

(J) Acquire, in the name of the state, by purchase or 658  
otherwise, on terms and in the manner that it considers proper, 659  
or by the exercise of the right of condemnation in the manner 660  
provided by section 6121.18 of the Revised Code, public or 661  
private lands, including public parks, playgrounds, or 662  
reservations, or parts thereof or rights therein, rights-of-way, 663  
property, rights, easements, and interests that it considers 664  
necessary for carrying out this chapter, but excluding the 665  
acquisition by the exercise of the right of condemnation of any 666  
waste water facility or water management facility owned by any 667  
person or governmental agency, and compensation shall be paid 668  
for public or private lands so taken, except that a government- 669  
owned waste water facility may be appropriated in accordance 670  
with section 6121.041 of the Revised Code; 671

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

to establish reasonable charges therefor if considered necessary 678  
by the authority; 679

(L) Make and enter into all contracts and agreements and 680  
execute all instruments necessary or incidental to the 681  
performance of its duties and the execution of its powers under 682  
this chapter in accordance with the following requirements: 683

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

reasonable and proper in the circumstances and in the best 709  
interests of proper operation or of efficient acquisition or 710  
construction of the project. 711

(2) Each bid for a contract for the construction, 712  
demolition, alteration, repair, or reconstruction of an 713  
improvement shall contain the full name of every person 714  
interested in it and shall meet the requirements of section 715  
153.54 of the Revised Code. 716

(3) Each bid for a contract except as provided in division 717  
(L) (2) of this section shall contain the full name of every 718  
person or company interested in it and shall be accompanied by a 719  
sufficient bond or certified check on a solvent bank that if the 720  
bid is accepted, a contract will be entered into and the 721  
performance thereof secured. 722

(4) The authority may reject any and all bids. 723

(5) A bond with good and sufficient surety, approved by 724  
the authority, shall be required of every contractor awarded a 725  
contract except as provided in division (L) (2) of this section, 726  
in an amount equal to at least fifty per cent of the contract 727  
price, conditioned upon the faithful performance of the 728  
contract. 729

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

|  |     |
|--|-----|
| appropriated for that purpose by the general assembly.           | 738 |
| (N) Receive and accept from any federal agency, subject to       | 739 |
| the approval of the governor, grants for or in aid of the        | 740 |
| construction of any water development project or for research    | 741 |
| and development with respect to waste water or water management  | 742 |
| facilities, and receive and accept aid or contributions from any | 743 |
| source of money, property, labor, or other things of value, to   | 744 |
| be held, used, and applied only for the purposes for which the   | 745 |
| grants and contributions are made;                               | 746 |
| (O) Engage in research and development with respect to           | 747 |
| waste water or water management facilities;                      | 748 |
| (P) Purchase fire and extended coverage and liability            | 749 |
| insurance for any water development project and for the          | 750 |
| principal office and suboffices of the authority, insurance      | 751 |
| protecting the authority and its officers and employees against  | 752 |
| liability for damage to property or injury to or death of        | 753 |
| persons arising from its operations, and any other insurance the | 754 |
| authority may agree to provide under any resolution authorizing  | 755 |
| its water development revenue bonds or in any trust agreement    | 756 |
| securing the same;   | 757 |
| (Q) Charge, alter, and collect rentals and other charges         | 758 |
| for the use or services of any water development project as      | 759 |
| provided in section 6121.13 of the Revised Code;                 | 760 |
| (R) Provide coverage for its employees under Chapters            | 761 |
| 145., 4123., and 4141. of the Revised Code;                      | 762 |
| (S) Assist in the implementation and administration of the       | 763 |
| drinking water assistance fund and program created in section    | 764 |
| 6109.22 of the Revised Code and the water pollution control loan | 765 |
| fund and program created in section 6111.036 of the Revised      | 766 |

Code, including, without limitation, performing or providing 767  
fiscal management for the funds and investing and disbursing 768  
moneys in the funds, and enter into all necessary and 769  
appropriate agreements with the director of environmental 770  
protection for those purposes; 771

(T) Issue water development revenue bonds and notes of the 772  
state in principal amounts that are necessary for the purpose of 773  
raising moneys for the sole benefit of the water pollution 774  
control loan fund created in section 6111.036 of the Revised 775  
Code, including moneys to meet the requirement for providing 776  
matching moneys under division (D) of that section. The bonds 777  
and notes may be secured by appropriate trust agreements and 778  
repaid from moneys credited to the fund from payments of 779  
principal and interest on loans made from the fund, as provided 780  
in division (F) of section 6111.036 of the Revised Code. 781

(U) Issue water development revenue bonds and notes of the 782  
state in principal amounts that are necessary for the purpose of 783  
raising moneys for the sole benefit of the drinking water 784  
assistance fund created in section 6109.22 of the Revised Code, 785  
including moneys to meet the requirement for providing matching 786  
moneys under divisions (B) and (F) of that section. The bonds 787  
and notes may be secured by appropriate trust agreements and 788  
repaid from moneys credited to the fund from payments of 789  
principal and interest on loans made from the fund, as provided 790  
in division (F) of section 6109.22 of the Revised Code. 791

(V) Make loans to and enter into agreements with boards of 792  
county commissioners for the purposes of section 1506.44 of the 793  
Revised Code and adopt rules establishing requirements and 794  
procedures for making the loans and entering into the 795  
agreements; 796

(W) Disburse money from the H2Ohio trust fund created in 797  
section 126.601 of the Revised Code, invest money from that fund 798  
in accordance with that section, request the treasurer of state 799  
to issue obligations under section 126.67 of the Revised Code, 800  
and execute any other power or duty established in sections 801  
126.601 to 126.68 of the Revised Code. 802

(X) Do all acts necessary or proper to carry out the 803  
powers expressly granted in this chapter and in sections 126.601 804  
to 126.68 of the Revised Code. 805

Any instrument by which real property is acquired pursuant 806  
to this section shall identify the agency of the state that has 807  
the use and benefit of the real property as specified in section 808  
5301.012 of the Revised Code. 809

**Section 2.** That existing sections 131.44 and 6121.04 of 810  
the Revised Code are hereby repealed. 811

**Section 3.** (A) The Director of Natural Resources shall 812  
establish a pilot program to study the environmental impact of 813  
water withdrawals on stream flow using continuous stream flow 814  
monitoring technology. The study shall conclude on or before 815  
December 31, 2021. 816

(B) The Director shall adopt policies and procedures for 817  
the administration and implementation of the pilot program. 818

(C) After the conclusion of the study, the Director shall 819  
submit a report of the study's findings to the General Assembly 820  
in accordance with section 101.68 of the Revised Code. 821