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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

A BILL

To amend sections 905.324, 939.02, 940.06, 5713.30, 1
6119.06, 6119.09, and 6119.091 and to enact 2
sections 940.36, 940.37, and 940.38 of the 3
Revised Code to create the Statewide Watershed 4
Planning and Management Program under the 5
administration of the Director of Agriculture, 6
to make changes to the law governing regional 7
water and sewer districts, and to modify the 8
CAUV eligibility requirements for land used to 9
produce biofuels. 10

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

Section 1. That sections 905.324, 939.02, 940.06, 5713.30, 11
6119.06, 6119.09, and 6119.091 be amended and sections 940.36, 12
940.37, and 940.38 of the Revised Code be enacted to read as 13
follows: 14

Sec. 905.324. (A) Except as provided in division (B) of 15
this section, the director of agriculture, an employee of the 16
department of agriculture, the supervisors of a soil and water 17
conservation district, an employee of a district, and a 18
contractor of the department or a district shall not disclose 19
information, including data from geographic information systems 20
and global positioning systems, used in the development or 21
approval of or contained in a voluntary nutrient management 22
plan. 23

(B) The director or the supervisors of a district may 24
release or disclose information specified in division (A) of 25
this section to a person or a federal, state, or local agency 26
working in cooperation with the director or the supervisors in 27
the development or approval of a voluntary nutrient management 28
plan if the director or supervisors determine that the person or 29
federal, state, or local agency will not subsequently disclose 30
the information to another person who is not authorized by the 31
person who owns or operates agricultural land to receive the 32
information. The director or the supervisors of a district may 33
release or disclose information specified in division (A) of 34
this section to the extent required by the "Federal Water 35
Pollution Control Act" as defined in section 6111.01 of the 36
Revised Code. 37

(C) Information, data, and any associated record used in 38
the development, approval, implementation, review of, or 39
contained in a voluntary nutrient management plan or used to 40
determine compliance with such a plan are not a public record 41
subject to disclosure under section 149.43 of the Revised Code. 42

Sec. 939.02. The director of agriculture shall do all of 43
the following: 44

(A) Provide administrative leadership to soil and water conservation districts in planning, budgeting, staffing, and administering district programs and the training of district supervisors and personnel in their duties, responsibilities, and authorities as prescribed in this chapter and Chapter 940. of the Revised Code;

(B) Administer this chapter and Chapter 940. of the Revised Code pertaining to state responsibilities and provide staff assistance to the Ohio soil and water conservation commission in exercising its statutory responsibilities;

(C) Assist in expediting state responsibilities for watershed development and other ~~natural resource~~ soil and water conservation works of improvement, including assisting in watershed planning and management under section 940.36 of the Revised Code;

(D) Coordinate the development and implementation of cooperative programs and working agreements between soil and water conservation districts and the department of agriculture or other agencies of local, state, and federal government;

(E) Subject to the approval of the Ohio soil and water conservation commission, adopt rules in accordance with Chapter 119. of the Revised Code that do or comply with all of the following:

(1) Establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices in farming operations that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by residual farm products, manure, or soil sediment, including attached substances, and establish

criteria for determination of the acceptability of such	74
management and conservation practices;	75
(2) Establish procedures for administration of rules for	76
agricultural pollution abatement and for enforcement of those	77
rules;	78
(3) Specify the pollution abatement practices eligible for	79
state cost sharing and determine the conditions for eligibility,	80
the construction standards and specifications, the useful life,	81
the maintenance requirements, and the limits of cost sharing for	82
those practices. Eligible practices shall be limited to	83
practices that address agricultural operations and that require	84
expenditures that are likely to exceed the economic returns to	85
the owner or operator and that abate soil erosion or degradation	86
of the waters of the state by residual farm products, manure, or	87
soil sediment, including attached pollutants.	88
(4) Establish procedures for administering grants to	89
owners or operators of agricultural land or animal feeding	90
operations for the implementation of operation and management	91
plans;	92
(5) Do both of the following with regard to composting	93
conducted in conjunction with agricultural operations:	94
(a) Establish methods, techniques, or practices for	95
composting dead animals, or particular types of dead animals,	96
that are to be used at such operations, as the director	97
considers to be necessary or appropriate;	98
(b) Establish requirements and procedures governing the	99
review and approval or disapproval of composting plans by the	100
supervisors of soil and water conservation districts under	101
division (R) of section 940.06 of the Revised Code.	102

(6) Establish best management practices for inclusion in operation and management plans;	103 104
(7) Establish the amount of civil penalties assessed by the director under division (A) of section 939.07 of the Revised Code for violation of rules adopted under division (E) of this section;	105 106 107 108
(8) Not conflict with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. Compliance with rules adopted under this section does not affect liability for noncompliance with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. The application of a level of management and conservation practices recommended under this section to control windblown soil from farming operations creates a presumption of compliance with section 3704.03 of the Revised Code as that section applies to windblown soil.	109 110 111 112 113 114 115 116 117 118
(F) Cost share with landowners on practices established pursuant to division (E) (3) of this section as moneys are appropriated and available for that purpose. Any practice for which cost share is provided shall be maintained for its useful life. Failure to maintain a cost share practice for its useful life shall subject the landowner to full repayment to the department.	119 120 121 122 123 124 125
(G) Employ field assistants and other employees that are necessary for the performance of the work prescribed by Chapter 940. of the Revised Code, for performance of work of the department under this chapter, and as agreed to under working agreements or contractual arrangements with soil and water conservation districts, prescribe their duties, and fix their compensation in accordance with schedules that are provided by	126 127 128 129 130 131 132

law for the compensation of state employees. All such employees 133
of the department, unless specifically exempted by law, shall be 134
employed subject to the classified civil service laws in force 135
at the time of employment. 136

(H) In connection with new or relocated projects involving 137
highways, underground cables, pipelines, railroads, and other 138
improvements affecting soil and water resources, including 139
surface and subsurface drainage: 140

(1) Provide engineering ~~service~~ services that ~~is~~ are 141
mutually agreeable to the Ohio soil and water conservation 142
commission and the director to aid in the design and 143
installation of soil and water conservation practices as a 144
necessary component of such projects; 145

(2) Maintain close liaison between the owners of lands on 146
which the projects are executed, soil and water conservation 147
districts, and authorities responsible for such projects; 148

(3) Review plans for such projects to ensure their 149
compliance with standards developed under division (E) of this 150
section in cooperation with the department of transportation or 151
with any other interested agency that is engaged in soil or 152
water conservation projects in the state in order to minimize 153
adverse impacts on soil and water resources adjacent to or 154
otherwise affected by these projects; 155

(4) Recommend measures to retard erosion and protect soil 156
and water resources through the installation of water 157
impoundment or other soil and water conservation practices; 158

(5) Cooperate with other agencies and subdivisions of the 159
state to protect the agricultural status of rural lands adjacent 160
to such projects and control adverse impacts on soil and water 161

resources.	162
(I) Collect, analyze, inventory, and interpret all	163
available information pertaining to the origin, distribution,	164
extent, use, and conservation of the soil resources of the	165
state;	166
(J) Prepare and maintain up-to-date reports, maps, and	167
other materials pertaining to the soil resources of the state	168
and their use and make that information available to	169
governmental agencies, public officials, conservation entities,	170
and the public;	171
(K) Provide soil and water conservation districts with	172
technical assistance including on-site soil investigations and	173
soil interpretation reports on the suitability or limitations of	174
soil to support a particular use or to plan soil conservation	175
measures. The assistance shall be on terms that are mutually	176
agreeable to the districts and the department of agriculture.	177
(L) Assist local government officials in utilizing land	178
use planning and zoning, current agricultural use value	179
assessment, development reviews, and land management activities;	180
(M) When necessary for the purposes of this chapter or	181
Chapter 940. of the Revised Code, develop or approve operation	182
and management plans. The director may designate an employee of	183
the department to develop or approve operation and management	184
plans in lieu of the director.	185
This section does not restrict the manure of domestic or	186
farm animals defecated on land outside an animal feeding	187
operation or runoff from that land into the waters of the state.	188
Sec. 940.06. The supervisors of a soil and water	189
conservation district have the following powers in addition to	190

their other powers:	191
(A) To conduct surveys, investigations, and research	192
relating to the character of soil erosion, floodwater and	193
sediment damages, and the preventive and control measures and	194
works of improvement for flood prevention and the conservation,	195
development, utilization, and disposal of water needed within	196
the district, and to publish the results of those surveys,	197
investigations, or research, provided that no district shall	198
initiate any research program except in cooperation or after	199
consultation with the Ohio agricultural research and development	200
center;	201
(B) To develop plans for the conservation of soil	202
resources, for the control and prevention of soil erosion, and	203
for works of improvement for flood prevention and the	204
conservation, development, utilization, and disposal of water	205
within the district, and to publish those plans and information;	206
(C) To implement, construct, repair, maintain, and operate	207
preventive and control measures and other works of improvement	208
for natural resource conservation and development and flood	209
prevention, and the conservation, development, utilization, and	210
disposal of water within the district on lands owned or	211
controlled by this state or any of its agencies and on any other	212
lands within the district, which works may include any	213
facilities authorized under state or federal programs, and to	214
acquire, by purchase or gift, to hold, encumber, or dispose of,	215
and to lease real and personal property or interests in such	216
property for those purposes;	217
(D) To cooperate or enter into agreements with any	218
occupier of lands within the district in the carrying on of	219
natural resource conservation operations and works of	220

improvement for flood prevention and the conservation,	221
development, utilization, and management of natural resources	222
within the district, subject to such conditions as the	223
supervisors consider necessary;	224
(E) To accept donations, gifts, grants, and contributions	225
in money, service, materials, or otherwise, and to use or expend	226
them according to their terms;	227
(F) To adopt, amend, and rescind rules to carry into	228
effect the purposes and powers of the district;	229
(G) To sue and plead in the name of the district, and be	230
sued and impleaded in the name of the district, with respect to	231
its contracts and, as indicated in section 940.07 of the Revised	232
Code, certain torts of its officers, employees, or agents acting	233
within the scope of their employment or official	234
responsibilities, or with respect to the enforcement of its	235
obligations and covenants made under this chapter;	236
(H) To make and enter into all contracts, leases, and	237
agreements and execute all instruments necessary or incidental	238
to the performance of the duties and the execution of the powers	239
of the district under this chapter, provided that all of the	240
following apply:	241
(1) Except as provided in section 307.86 of the Revised	242
Code regarding expenditures by boards of county commissioners,	243
when the cost under any such contract, lease, or agreement,	244
other than compensation for personal services or rental of	245
office space, involves an expenditure of more than the amount	246
established in that section regarding expenditures by boards of	247
county commissioners, the supervisors shall make a written	248
contract with the lowest and best bidder after advertisement,	249

for not less than two nor more than four consecutive weeks 250
preceding the day of the opening of bids, in a newspaper of 251
general circulation within the district or as provided in 252
section 7.16 of the Revised Code and in such other publications 253
as the supervisors determine. The notice shall state the general 254
character of the work and materials to be furnished, the place 255
where plans and specifications may be examined, and the time and 256
place of receiving bids. 257

(2) Each bid for a contract shall contain the full name of 258
every person interested in it. 259

(3) Each bid for a contract for the construction, 260
demolition, alteration, repair, or reconstruction of an 261
improvement shall meet the requirements of section 153.54 of the 262
Revised Code. 263

(4) Each bid for a contract, other than a contract for the 264
construction, demolition, alteration, repair, or reconstruction 265
of an improvement, at the discretion of the supervisors, may be 266
accompanied by a bond or certified check on a solvent bank in an 267
amount not to exceed five per cent of the bid, conditioned that, 268
if the bid is accepted, a contract shall be entered into. 269

(5) The supervisors may reject any and all bids. 270

(I) To charge, alter, and collect rentals and other 271
charges for the use or services of any works of the district; 272

(J) To enter, either in person or by designated 273
representatives, upon lands, private or public, in the necessary 274
discharge of their duties; 275

(K) To enter into agreements or contracts with the 276
department of agriculture for the determination, implementation, 277
inspection, and funding of agricultural pollution abatement 278

measures whereby landowners, operators, managers, and developers 279
may meet adopted state standards for a quality environment, 280
except that failure of a district board of supervisors to 281
negotiate an agreement or contract with the department 282
authorizes the department to implement the required program; 283

(L) To conduct demonstrations and provide information to 284
the public regarding practices and methods for natural resource 285
conservation, development, and utilization; 286

(M) To enter into contracts or agreements with the 287
director of environmental protection in furtherance of actions 288
to abate urban sediment pollution; 289

(N) To develop operation and management plans as 290
necessary; 291

(O) To determine whether operation and management plans 292
developed under division (A) of section 939.03 of the Revised 293
Code comply with the standards established under division (E) (1) 294
of section 939.02 of the Revised Code and to approve or 295
disapprove the plans, based on such compliance. If an operation 296
and management plan is disapproved, the board shall provide a 297
written explanation to the person who submitted the plan. The 298
person may appeal the plan disapproval to the director of 299
agriculture or the director's designee, who shall afford the 300
person a hearing. Following the hearing, the director or the 301
director's designee shall uphold the plan disapproval or reverse 302
it. If the director or the director's designee reverses the plan 303
disapproval, the plan shall be deemed approved under this 304
division. In the event that any person operating or owning 305
agricultural land or an animal feeding operation in accordance 306
with an approved operation and management plan who, in good 307
faith, is following that plan, causes agricultural pollution, 308

the plan shall be revised in a fashion necessary to mitigate the 309
agricultural pollution, as determined and approved by the board 310
of supervisors of the soil and water conservation district. 311

(P) To develop timber harvest plans; 312

(Q) To determine whether timber harvest plans developed 313
under division (A) of section 1503.52 of the Revised Code comply 314
with the standards established under division (A)(1) of section 315
1503.51 of the Revised Code and to approve or disapprove the 316
plans based on such compliance. If a timber harvest plan is 317
disapproved, the board shall provide a written explanation to 318
the person who submitted the plan. The person may appeal the 319
plan disapproval to the chief of the division of forestry or the 320
chief's designee, who shall afford the person a hearing. 321
Following the hearing, the chief or the chief's designee shall 322
uphold the plan disapproval or reverse it. If the chief or the 323
chief's designee reverses the plan disapproval, the plan shall 324
be deemed approved under this division. 325

(R) With regard to composting conducted in conjunction 326
with agricultural operations, to do all of the following: 327

(1) Upon request or upon their own initiative, inspect 328
composting at any such operation to determine whether the 329
composting is being conducted in accordance with section 939.04 330
of the Revised Code; 331

(2) If the board determines that composting is not being 332
so conducted, request the director to take corrective actions 333
under section 939.07 of the Revised Code that require the person 334
who is conducting the composting to prepare a composting plan in 335
accordance with rules adopted under division (E)(5)(a) of 336
section 939.02 of the Revised Code and to operate in accordance 337

with that plan or to operate in accordance with a previously 338
prepared plan, as applicable; 339

(3) In accordance with rules adopted under division (E) (5) 340
(b) of section 939.02 of the Revised Code, review and approve or 341
disapprove any such composting plan. If a plan is disapproved, 342
the board shall provide a written explanation to the person who 343
submitted the plan. 344

As used in division (R) of this section, "composting" has 345
the same meaning as in section 939.01 of the Revised Code. 346

(S) With regard to conservation activities that are 347
conducted in conjunction with agricultural operations, to assist 348
the county auditor, upon request, in determining whether a 349
conservation activity is a conservation practice for purposes of 350
Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the 351
Revised Code. 352

As used in this division, "conservation practice" has the 353
same meaning as in section 5713.30 of the Revised Code. 354

(T) To develop and approve or disapprove voluntary 355
nutrient management plans in accordance with section 905.323 of 356
the Revised Code; 357

(U) To consult and work with the watershed planning and 358
management coordinator assigned to the watershed region in which 359
the soil and water conservation district is located under 360
section 940.36 of the Revised Code; 361

(V) To do all acts necessary or proper to carry out the 362
powers granted in this chapter. 363

The director shall make recommendations to reduce the 364
adverse environmental effects of each project that a soil and 365

water conservation district plans to undertake under division 366
(A), (B), (C), or (D) of this section and that will be funded in 367
whole or in part by moneys authorized under section 940.17 of 368
the Revised Code and shall disapprove any such project that the 369
director finds will adversely affect the environment without 370
equal or greater benefit to the public. The director's 371
disapproval or recommendations, upon the request of the district 372
filed in accordance with rules adopted by the Ohio soil and 373
water conservation commission, shall be reviewed by the 374
commission, which may confirm the director's decision, modify 375
it, or add recommendations to or approve a project the director 376
has disapproved. 377

Any instrument by which real property is acquired pursuant 378
to this section shall identify the agency of the state that has 379
the use and benefit of the real property as specified in section 380
5301.012 of the Revised Code. 381

Sec. 940.36. (A) As used in this section: 382

(1) "Nine-element plan" means a strategic implementation 383
plan that a political subdivision, organization, or individual 384
engaged in water quality improvements may utilize to obtain 385
funding through the federal "Clean Water Act," 33 U.S.C. 1251 et 386
seq., or the great lakes restoration initiative for projects to 387
address nonpoint source pollution. 388

(2) "Organization" means a public or private entity that 389
is engaged in water quality improvement activities. 390

(3) "Political subdivision" means a county, township, 391
municipal corporation, or any other body corporate and politic 392
that is responsible for government activities in a geographic 393
area smaller than that of the state. 394

(B) (1) There is hereby created a statewide watershed 395
planning and management program for the improvement and 396
protection of the state's watersheds to be administered by the 397
director of agriculture. 398

(2) Under the program, the director shall appoint at least 399
one watershed planning and management coordinator in each 400
watershed region categorized under division (D) of this section 401
to coordinate watershed planning in the watershed. A coordinator 402
shall have experience or education related to water quality 403
improvement or watershed planning and management. 404

(C) A watershed planning and management coordinator shall 405
do all of the following in the watershed region in which the 406
coordinator is appointed: 407

(1) Assist each soil and water conservation district to 408
identify sources and areas of water quality impairment, 409
including total phosphorous, dissolved reactive phosphorous, and 410
nitrogen nutrient loading. A coordinator also may assist any 411
political subdivision or organization in the watershed region to 412
address water quality impairment. 413

(2) Engage in watershed planning, restoration, protection, 414
and management activities, including assisting a political 415
subdivision or organization in the watershed region in 416
developing and formulating a nine-element plan or its 417
equivalent; 418

(3) Collaborate with state agencies engaged in water 419
quality activities; 420

(4) Provide an annual report to the director about water 421
quality. 422

(D) The director shall categorize watersheds in the state, 423

identified by the specified United States geological survey six- 424
digit hydrologic unit codes, into the following watershed 425
regions: 426

(1) Region One: Western Lake Erie basin watershed, 427
hydrologic unit code 041000; 428

(2) Region Two: Central Lake Erie basin watershed, 429
hydrologic unit code 041100, and Conneaut creek watershed, 430
hydrologic unit code 041201; 431

(3) Region Three: Wabash river basin watershed, hydrologic 432
unit code 051200; Great Miami river watershed, hydrologic unit 433
code 050800; and Little Miami river watershed, hydrologic unit 434
code 050902; 435

(4) Region Four: Scioto river watershed, hydrologic unit 436
code 050600; 437

(5) Region Five: Muskingum river watershed, hydrologic 438
unit code 050400; 439

(6) Region Six: Mahoning river watershed, hydrologic unit 440
code 050301; 441

(7) Region Seven: Hocking river and Ohio river tributaries 442
watershed, hydrologic unit code 050302, and raccoon creek 443
watershed, hydrologic unit code 050901. 444

(E) Nothing in this section shall be construed to prevent 445
or limit a watershed planning and management coordinator from 446
providing assistance for projects or activities that have been 447
determined to improve water quality impaired from point sources 448
of phosphorus, dissolved reactive phosphorus, and nitrogen 449
nutrients. 450

Sec. 940.37. (A) Data or records of a person's 451

agricultural operations, conservation or water quality 452
improvement practices, or proposed utilization of such practices 453
collected or maintained by the department of agriculture, a soil 454
or water conservation district, an institution of higher 455
education, as defined in section 3345.12 of the Revised Code, or 456
any other state agency are not a public record subject to 457
disclosure under section 149.43 of the Revised Code. 458

(B) The department may share such data or records with 459
state agencies and institutions of higher education, as defined 460
in section 3345.12 of the Revised Code, for the purpose of water 461
quality research if all of the following apply: 462

(1) The data or records of conservation or water quality 463
improvement practices are aggregated. 464

(2) The aggregated data or records do not include any 465
information that identifies an individual. 466

(3) The aggregated data or records include a description 467
of the conservation or water quality improvement practices. 468

(4) The aggregated data or records identify the watershed, 469
by the watershed's hydrologic unit code, where the conservation 470
or water quality improvement practices are being or have been 471
utilized. 472

Sec. 940.38. It is the intent of the general assembly to 473
collaborate with organizations representing agriculture, 474
conservation, and the environment and institutions of higher 475
education engaged in water quality research to establish a 476
certification program for farmers that utilize practices 477
designed to minimize impacts to water quality. The director of 478
agriculture shall undertake all actions necessary to ensure that 479
assistance and available funding are provided for farmers who 480

participate in the certification program. 481

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 482
5715.01 of the Revised Code: 483

(A) "Land devoted exclusively to agricultural use" means: 484

(1) Tracts, lots, or parcels of land totaling not less 485
than ten acres to which, during the three calendar years prior 486
to the year in which application is filed under section 5713.31 487
of the Revised Code, and through the last day of May of such 488
year, one or more of the following apply: 489

(a) The tracts, lots, or parcels of land were devoted 490
exclusively to commercial animal or poultry husbandry, 491
aquaculture, algaculture meaning the farming of algae, 492
apiculture, the cultivation of hemp by a person issued a hemp 493
cultivation license under section 928.02 of the Revised Code, 494
the production for a commercial purpose of timber, field crops, 495
tobacco, fruits, vegetables, nursery stock, ornamental trees, 496
sod, or flowers, or the growth of timber for a noncommercial 497
purpose, if the land on which the timber is grown is contiguous 498
to or part of a parcel of land under common ownership that is 499
otherwise devoted exclusively to agricultural use. 500

(b) The tracts, lots, or parcels of land were devoted 501
exclusively to biodiesel production, biomass energy production, 502
electric or heat energy production, or biologically derived 503
methane gas production if the land on which the production 504
facility is located is contiguous to or part of a parcel of land 505
under common ownership or leasehold that is otherwise devoted 506
exclusively to agricultural use, provided that (i) at least 507
fifty per cent of the feedstock used in the production is 508
agricultural feedstock, (ii) at least twenty per cent of the 509

agricultural feedstock used in the production ~~was~~ is derived 510
from parcels of land under common ownership or leasehold, and 511
(iii) none of the feedstock used in the production consists of 512
human waste. As used in this division, "agricultural feedstock" 513
means manure and food waste, and "human waste" includes sludge 514
as defined in section 6111.01 of the Revised Code. 515

(c) The tracts, lots, or parcels of land were devoted to 516
and qualified for payments or other compensation under a land 517
retirement or conservation program under an agreement with an 518
agency of the federal government. 519

(2) Tracts, lots, or parcels of land totaling less than 520
ten acres that, during the three calendar years prior to the 521
year in which application is filed under section 5713.31 of the 522
Revised Code and through the last day of May of such year, were 523
devoted exclusively to commercial animal or poultry husbandry, 524
aquaculture, algaculture meaning the farming of algae, 525
apiculture, the cultivation of hemp by a person issued a hemp 526
cultivation license under section 928.02 of the Revised Code, 527
the production for a commercial purpose of field crops, tobacco, 528
fruits, vegetables, timber, nursery stock, ornamental trees, 529
sod, or flowers where such activities produced an average yearly 530
gross income of at least twenty-five hundred dollars during such 531
three-year period or where there is evidence of an anticipated 532
gross income of such amount from such activities during the tax 533
year in which application is made, or were devoted to and 534
qualified for payments or other compensation under a land 535
retirement or conservation program under an agreement with an 536
agency of the federal government; 537

(3) Tracts, lots, or parcels of land, or portions thereof 538
that, during the previous three consecutive calendar years have 539

been designated as land devoted exclusively to agricultural use, 540
but such land has been lying idle or fallow for up to one year 541
and no action has occurred to such land that is either 542
inconsistent with the return of it to agricultural production or 543
converts the land devoted exclusively to agricultural use as 544
defined in this section. Such land shall remain designated as 545
land devoted exclusively to agricultural use provided that 546
beyond one year, but less than three years, the landowner proves 547
good cause as determined by the board of revision. 548

(4) Tracts, lots, or parcels of land, or portions thereof 549
that, during the previous three consecutive calendar years have 550
been designated as land devoted exclusively to agricultural use, 551
but such land has been lying idle or fallow because of dredged 552
material being stored or deposited on such land pursuant to a 553
contract between the land's owner and the department of natural 554
resources or the United States army corps of engineers and no 555
action has occurred to the land that is either inconsistent with 556
the return of it to agricultural production or converts the land 557
devoted exclusively to agricultural use. Such land shall remain 558
designated as land devoted exclusively to agricultural use until 559
the last year in which dredged material is stored or deposited 560
on the land pursuant to such a contract, but not to exceed five 561
years. 562

"Land devoted exclusively to agricultural use" includes 563
tracts, lots, or parcels of land or portions thereof that are 564
used for conservation practices, provided that the tracts, lots, 565
or parcels of land or portions thereof comprise twenty-five per 566
cent or less of the total of the tracts, lots, or parcels of 567
land that satisfy the criteria established in division (A) (1), 568
(2), (3), or (4) of this section together with the tracts, lots, 569
or parcels of land or portions thereof that are used for 570

conservation practices.	571
Notwithstanding any other provision of law to the	572
contrary, the existence of agritourism on a tract, lot, or	573
parcel of land that otherwise meets the definition of "land	574
devoted exclusively to agricultural use" as defined in this	575
division does not disqualify that tract, lot, or parcel from	576
valuation under sections 5713.30 to 5713.37 and 5715.01 of the	577
Revised Code.	578
A tract, lot, or parcel of land taxed under sections	579
5713.22 to 5713.26 of the Revised Code is not land devoted	580
exclusively to agricultural use.	581
A tract, lot, parcel, or portion thereof on which medical	582
marijuana, as defined by section 3796.01 of the Revised Code, is	583
cultivated or processed is not land devoted exclusively to	584
agricultural use.	585
(B) "Conversion of land devoted exclusively to	586
agricultural use" means any of the following:	587
(1) The failure of the owner of land devoted exclusively	588
to agricultural use during the next preceding calendar year to	589
file a renewal application under section 5713.31 of the Revised	590
Code without good cause as determined by the board of revision;	591
(2) The failure of the new owner of such land to file an	592
initial application under that section without good cause as	593
determined by the board of revision;	594
(3) The failure of such land or portion thereof to qualify	595
as land devoted exclusively to agricultural use for the current	596
calendar year as requested by an application filed under such	597
section;	598

(4) The failure of the owner of the land described in 599
division (A) (3) or (4) of this section to act on such land in a 600
manner that is consistent with the return of the land to 601
agricultural production after three years. 602

The construction or installation of an energy facility, as 603
defined in section 5727.01 of the Revised Code, on a portion of 604
a tract, lot, or parcel of land devoted exclusively to 605
agricultural use shall not cause the remaining portion of the 606
tract, lot, or parcel to be regarded as a conversion of land 607
devoted exclusively to agricultural use if the remaining portion 608
of the tract, lot, or parcel continues to be devoted exclusively 609
to agricultural use. 610

(C) "Tax savings" means the difference between the dollar 611
amount of real property taxes levied in any year on land valued 612
and assessed in accordance with its current agricultural use 613
value and the dollar amount of real property taxes that would 614
have been levied upon such land if it had been valued and 615
assessed for such year in accordance with Section 2 of Article 616
XII, Ohio Constitution. 617

(D) "Owner" includes, but is not limited to, any person 618
owning a fee simple, fee tail, or life estate or a buyer on a 619
land installment contract. 620

(E) "Conservation practices" are practices used to abate 621
soil erosion as required in the management of the farming 622
operation, and include, but are not limited to, the 623
installation, construction, development, planting, or use of 624
grass waterways, terraces, diversions, filter strips, field 625
borders, windbreaks, riparian buffers, wetlands, ponds, and 626
cover crops for that purpose. 627

(F) "Wetlands" has the same meaning as in section 6111.02 628
of the Revised Code. 629

(G) "Biodiesel" means a mono-alkyl ester combustible 630
liquid fuel that is derived from vegetable oils or animal fats 631
or any combination of those reagents and that meets the American 632
society for testing and materials specification D6751-03a for 633
biodiesel fuel (B100) blend stock distillate fuels. 634

(H) "Biologically derived methane gas" means gas from the 635
anaerobic digestion of organic materials, including animal waste 636
and agricultural crops and residues. 637

(I) "Biomass energy" means energy that is produced from 638
organic material derived from plants or animals and available on 639
a renewable basis, including, but not limited to, agricultural 640
crops, tree crops, crop by-products, and residues. 641

(J) "Electric or heat energy" means electric or heat 642
energy generated from manure, cornstalks, soybean waste, or 643
other agricultural feedstocks. 644

(K) "Dredged material" means material that is excavated or 645
dredged from waters of this state. "Dredged material" does not 646
include material resulting from normal farming, silviculture, 647
and ranching activities, such as plowing, cultivating, seeding, 648
and harvesting, for production of food, fiber, and forest 649
products. 650

(L) "Agritourism" has the same meaning as in section 651
901.80 of the Revised Code. 652

Sec. 6119.06. Upon the declaration of the court of common 653
pleas organizing the regional water and sewer district pursuant 654
to section 6119.04 of the Revised Code and upon the qualifying 655
of its board of trustees and the election of a president and a 656

secretary, said district shall exercise in its own name all the 657
rights, powers, and duties vested in it by Chapter 6119. of the 658
Revised Code, and, subject to such reservations, limitations and 659
qualifications as are set forth in this chapter, such district 660
may: 661

(A) Adopt bylaws for the regulation of its affairs, the 662
conduct of its business, and notice of its actions; 663

(B) Adopt an official seal; 664

(C) Maintain a principal office and suboffices at such 665
places within the district as it designates; 666

(D) Sue and plead in its own name; be sued and impleaded 667
in its own name with respect to its contracts or torts of its 668
members, employees, or agents acting within the scope of their 669
employment, or to enforce its obligations and covenants made 670
under sections 6119.09, 6119.12, and 6119.14 of the Revised 671
Code. Any such actions against the district shall be brought in 672
the court of common pleas of the county in which the principal 673
office of the district is located, or in the court of common 674
pleas of the county in which the cause of action arose, and all 675
summonses, exceptions, and notices of every kind shall be served 676
on the district by leaving a copy thereof at the principal 677
office with the person in charge thereof or with the secretary 678
of the district. 679

(E) Assume any liability or obligation of any person or 680
political subdivision, including a right on the part of such 681
district to indemnify and save harmless the other contracting 682
party from any loss, cost, or liability by reason of the 683
failure, refusal, neglect, or omission of such district to 684
perform any agreement assumed by it or to act or discharge any 685

such obligation;	686
(F) Make loans and grants to <u>any person or political</u>	687
subdivisions for the <u>design, acquisition,</u> or construction of	688
water resource projects by such <u>person or political</u> subdivisions	689
and adopt rules, regulations, and procedures for making such	690
loans and grants;	691
(G) Acquire, construct, reconstruct, enlarge, improve,	692
furnish, equip, maintain, repair, operate, lease or rent to or	693
from, or contract for operation by or for, a political	694
subdivision or person, water resource projects within or without	695
the district;	696
(H) Make available the use or service of any water	697
resource project to one or more persons, one or more political	698
subdivisions, or any combination thereof;	699
(I) Levy and collect taxes and special assessments;	700
(J) Issue bonds and notes and refunding bonds and notes as	701
provided in Chapter 6119. of the Revised Code;	702
(K) Acquire by gift or purchase, hold, and dispose of real	703
and personal property in the exercise of its powers and the	704
performance of its duties under Chapter 6119. of the Revised	705
Code;	706
(L) Dispose of, by public or private sale, or lease any	707
real or personal property determined by the board of trustees to	708
be no longer necessary or needed for the operation or purposes	709
of the district;	710
(M) Acquire, in the name of the district, by purchase or	711
otherwise, on such terms and in such manner as it considers	712
proper, or by the exercise of the right of condemnation in the	713

manner provided by section 6119.11 of the Revised Code, such 714
public or private lands, including public parks, playgrounds, or 715
reservations, or parts thereof or rights therein, rights-of-way, 716
property, rights, easements, and interests as it considers 717
necessary for carrying out Chapter 6119. of the Revised Code, 718
but excluding the acquisition by the exercise of the right of 719
condemnation of any waste water facility or water management 720
facility owned by any person or political subdivision, and 721
compensation shall be paid for public or private lands so taken; 722

(N) Adopt rules and regulations to protect augmented flow 723
by the district in waters of the state, to the extent augmented 724
by a water resource project, from depletion so it will be 725
available for beneficial use, to provide standards for the 726
withdrawal from waters of the state of the augmented flow 727
created by a water resource project which is not returned to the 728
waters of the state so augmented, and to establish reasonable 729
charges therefor, if considered necessary by the district; 730

(O) Make and enter into all contracts and agreements and 731
execute all instruments necessary or incidental to the 732
performance of its duties and the execution of its powers under 733
Chapter 6119. of the Revised Code; 734

(P) Enter into contracts with any person or any political 735
subdivision to render services to such contracting party for any 736
service the district is authorized to provide; 737

(Q) Enter into agreements for grants or the receipt and 738
repayment of loans from a board of township trustees under 739
section 505.705 of the Revised Code; 740

(R) Make provision for, contract for, or sell any of its 741
by-products or waste; 742

(S) Exercise the power of eminent domain in the manner	743
provided in Chapter 6119. of the Revised Code;	744
(T) Remove or change the location of any fence, building,	745
railroad, canal, or other structure or improvement located in or	746
out of the district, and in case it is not feasible or	747
economical to move any such building, structure, or improvement	748
situated in or upon lands required, and if the cost is	749
determined by the board to be less than that of purchase or	750
condemnation, to acquire land and construct, acquire, or install	751
therein or thereon buildings, structures, or improvements	752
similar in purpose, to be exchanged for such buildings,	753
structures, or improvements under contracts entered into between	754
the owner thereof and the district;	755
(U) Receive and accept, from any federal or state agency,	756
grants for or in aid of the construction of any water resource	757
project, and receive and accept aid or contributions from any	758
source of money, property, labor, or other things of value, to	759
be held, used, and applied only for the purposes for which such	760
grants and contributions are made;	761
(V) Purchase fire and extended coverage and liability	762
insurance for any water resource project and for the principal	763
office and suboffices of the district, insurance protecting the	764
district and its officers and employees against liability for	765
damage to property or injury to or death of persons arising from	766
its operations, and any other insurance the district may agree	767
to provide under any resolution authorizing its water resource	768
revenue bonds or in any trust agreement securing the same;	769
(W) (1) Charge, alter, and collect rentals and other	770
charges for the use of services of any water resource project as	771
provided in section 6119.09 of the Revised Code. Such district	772

may refuse the services of any of its projects if any of such 773
rentals or other charges, including penalties for late payment, 774
are not paid by the user thereof, and, if such rentals or other 775
charges are not paid when due and upon certification of 776
nonpayment to the county auditor, such rentals or other charges 777
constitute a lien upon the property so served, shall be placed 778
by the auditor upon the real property tax list and duplicate, 779
and shall be collected in the same manner as other taxes. 780

(2) A district shall not certify to the county auditor for 781
placement upon the tax list and duplicate and the county auditor 782
shall not place upon the tax list or duplicate as a charge 783
against the property the amount of unpaid rentals or other 784
charges including any penalties for late payment as described in 785
division (W) (1) of this section if any of the following apply: 786

(a) The property served has been transferred or sold to an 787
electing subdivision as defined in section 5722.01 of the 788
Revised Code, regardless of whether the electing subdivision is 789
still the owner of the property, and the unpaid rentals or other 790
charges including penalties for late payment have arisen from a 791
period of time prior to the transfer or confirmation of sale to 792
the electing subdivision. 793

(b) The property served has been sold to a purchaser at 794
sheriff's sale or auditor's sale, the unpaid rentals or other 795
charges including penalties for late payment have arisen from a 796
period of time prior to the confirmation of sale, and the 797
purchaser is not the owner of record of the property immediately 798
prior to the judgment of foreclosure nor any of the following: 799

(i) A member of that owner's immediate family; 800

(ii) A person with a power of attorney appointed by that 801

owner who subsequently transfers the property to the owner; 802

(iii) A sole proprietorship owned by that owner or a 803
member of that owner's immediate family; 804

(iv) A partnership, trust, business trust, corporation, or 805
association of which the owner or a member of the owner's 806
immediate family owns or controls directly or indirectly more 807
than fifty per cent. 808

(c) The property served has been forfeited to this state 809
for delinquent taxes, unless the owner of record redeems the 810
property. 811

(3) Upon valid written notice to the county auditor by any 812
owner possessing an ownership interest of record of the property 813
or an electing subdivision previously in the chain of title to 814
the property that the unpaid water rents or charges together 815
with any penalties have been certified for placement or placed 816
upon the tax list and duplicate as a charge against the property 817
in violation of division (W) (2) of this section, the county 818
auditor shall promptly remove such charge from the tax 819
duplicate. This written notice to the county auditor shall 820
include all of the following: 821

(a) The parcel number of the property; 822

(b) The common address of the property; 823

(c) The date of the recording of the transfer of the 824
property to the owner or electing subdivision; 825

(d) The charge allegedly placed in violation of division 826
(W) (2) of this section. 827

(4) When title to property is transferred to a county land 828
reutilization corporation, any lien placed on the property under 829

this division shall be extinguished, and the corporation shall 830
not be held liable for any rentals or charges certified under 831
this division with respect to the property, if the rentals or 832
charges were incurred before the date of the transfer to the 833
corporation and if the corporation did not incur the rentals or 834
charges, regardless of whether the rentals or charges were 835
certified, or the lien was attached, before the date of 836
transfer. In such a case, the corporation and its successors in 837
title shall take title to the property free and clear of any 838
such lien and shall be immune from liability in any collection 839
action brought with respect to such rentals or charges. If a 840
lien placed on property is extinguished as provided in this 841
division, the district shall retain the ability to recoup the 842
rents and charges incurred with respect to the property from any 843
owner, tenant, or other person liable to pay such rents and 844
charges before the property was transferred to the corporation. 845

(X) Provide coverage for its employees under Chapters 846
145., 4123., and 4141. of the Revised Code; 847

(Y) Merge or combine with any other regional water and 848
sewer district into a single district, which shall be one of the 849
constituent districts, on terms so that the surviving district 850
shall be possessed of all rights, capacity, privileges, powers, 851
franchises, and authority of the constituent districts and shall 852
be subject to all the liabilities, obligations, and duties of 853
each of the constituent districts and all rights of creditors of 854
such constituent districts shall be preserved unimpaired, 855
limited in lien to the property affected by such liens 856
immediately prior to the time of the merger and all debts, 857
liabilities, and duties of the respective constituent districts 858
shall thereafter attach to the surviving district and may be 859
enforced against it, and such other terms as are agreed upon, 860

provided two-thirds of the members of each of the boards consent 861
to such merger or combination. Such merger or combination shall 862
become legally effective unless, prior to the ninetieth day 863
following the later of the consents, qualified electors residing 864
in either district equal in number to a majority of the 865
qualified electors voting at the last general election in such 866
district file with the secretary of the board of trustees of 867
their regional water and sewer district a petition of 868
remonstrance against such merger or combination. The secretary 869
shall cause the board of elections of the proper county or 870
counties to check the sufficiency of the signatures on such 871
petition. 872

(Z) Exercise the powers of the district without obtaining 873
the consent of any other political subdivision, provided that 874
all public or private property damaged or destroyed in carrying 875
out the powers of the district shall be restored or repaired and 876
placed in its original condition as nearly as practicable or 877
adequate compensation made therefor by the district; 878

(AA) Require the owner of any premises located within the 879
district to connect the owner's premises to a water resource 880
project determined to be accessible to such premises and found 881
to require such connection so as to prevent or abate pollution 882
or protect the health and property of persons in the district. 883
Such connection shall be made in accordance with procedures 884
established by the board of trustees of such district and 885
pursuant to such orders as the board may find necessary to 886
ensure and enforce compliance with such procedures. 887

(BB) Do all acts necessary or proper to carry out the 888
powers granted in Chapter 6119. of the Revised Code. 889

Sec. 6119.09. A regional water and sewer district may 890

charge, alter, and collect rentals or other charges, including 891
penalties for late payment, for the use or services of any water 892
resource project or any benefit conferred thereby and contract 893
in the manner provided by this section with one or more persons, 894
one or more political subdivisions, or any combination thereof, 895
desiring the use or services thereof, and fix the terms, 896
conditions, rentals, or other charges, including penalties for 897
late payment, for such use or services. Such rentals or other 898
charges shall not be subject to supervision or regulation by any 899
authority, commission, board, bureau, or agency of the state or 900
any political subdivision, and such contract may provide for 901
acquisition by such political subdivision of all or any part of 902
such water resource project for such consideration payable over 903
the period of the contract or otherwise as the district in its 904
sole discretion determines to be appropriate, but subject to the 905
provisions of any resolution authorizing the issuance of water 906
resource revenue bonds or notes or water resource revenue 907
refunding bonds of the district or any trust agreement securing 908
the same. Any political subdivision, which has power to 909
construct, operate, and maintain waste water facilities or water 910
management facilities may enter into a contract or lease with 911
the district whereby the use or services of any water resource 912
project of the district will be made available to such political 913
subdivision and pay for such use or services such rentals or 914
other charges as may be agreed to by the district and such 915
political subdivision. 916

Any political subdivision, person, or combination thereof 917
may cooperate with the district in the acquisition or 918
construction of a water resource project and shall enter into 919
such agreements with the district as are necessary, with a view 920
to effective cooperative action and safeguarding of the 921

respective interests of the parties thereto, which agreements 922
shall provide for such contributions by the parties thereto in 923
such proportion as may be agreed upon and such other terms as 924
may be mutually satisfactory to the parties, including without 925
limitation the authorization of the construction of the project 926
by one of the parties acting as agent for all of the parties and 927
the ownership and control of the project by the district or one 928
or more of the other parties or any combination thereof to the 929
extent determined necessary or appropriate. Any political 930
subdivision may provide the funds for the payment of such 931
contribution as is required under such agreements by the levy of 932
taxes, assessments, or rentals and other charges for the use of 933
the system of which the water resource project is a part or to 934
which it is connected, if otherwise authorized by the laws 935
governing such political subdivision in the construction of the 936
type of water resource project provided for in the agreements, 937
and may pay the proceeds from the collection of such taxes, 938
assessments, rentals, or other charges to the district pursuant 939
to such agreements; or the political subdivision may issue bonds 940
or notes, if authorized by such laws, in anticipation of the 941
collection of such taxes, assessments, rentals or other charges 942
and may pay the proceeds of such bonds or notes to the district 943
pursuant to such agreements. In addition, any political 944
subdivision may provide the funds for the payment of such 945
contribution by the appropriation of money or, if otherwise 946
authorized by law, by the issuance of bonds or notes and may pay 947
such appropriated money or the proceeds of such bonds or notes 948
to the district pursuant to such agreements. The agreement by 949
the political subdivision to provide such contribution, whether 950
from appropriated money or from the proceeds of such taxes, 951
assessments, rentals, or other charges, or such bonds or notes, 952
or any combination thereof, is not subject to Chapter 133. of 953

the Revised Code. The proceeds from the collection of such taxes 954
or assessments, and any interest earned thereon, shall be paid 955
into a special fund immediately upon the collection thereof by 956
the political subdivision for the purpose of providing such 957
contribution at the times required under such agreements. 958

When the contribution of any political subdivision is to 959
be made over a period of time from the proceeds of the 960
collection of special assessments, the interest accrued and to 961
accrue before the first installment of such assessments is 962
collected, which is payable by such political subdivision on 963
such contribution under the terms of such an agreement, shall be 964
treated as part of the cost of the improvement for which such 965
assessments are levied, and that portion of such assessments as 966
is collected in installments shall bear interest at the same 967
rate as such political subdivision is obligated to pay on such 968
contribution under the terms and provisions of such agreement 969
and for the same period of time as the contribution is to be 970
made under such agreement. If the assessment or any installment 971
thereof is not paid when due, it shall bear interest until the 972
payment thereof at the same rate as such contribution and the 973
county auditor shall annually place on the tax list and 974
duplicate the interest applicable to such assessment and the 975
penalty and any additional interest thereon as otherwise 976
authorized by law. 977

Any political subdivision, pursuant to a favorable vote of 978
the electors in an election held before or after November 19, 979
1971, for the purpose of issuing bonds to provide funds to 980
acquire, construct, or equip, or provide real estate and 981
interests in real estate for, a waste water facility or a water 982
management facility, whether or not the political subdivision, 983
at the time of such election, had the authority to pay the 984

proceeds from such bonds or notes issued in anticipation thereof 985
to a regional water and sewer district as provided in this 986
section, may issue such bonds or notes in anticipation of the 987
issuance thereof and pay the proceeds thereof to the district in 988
accordance with its agreement with the district; provided, that 989
the legislative authority of the political subdivision 990
determines that the water resource project to be acquired or 991
constructed by the district in cooperation with such political 992
subdivision will serve the same public purpose and meet 993
substantially the same public need as the facility otherwise 994
proposed to be acquired or constructed by the political 995
subdivision with the proceeds of such bonds or notes. 996

Sec. 6119.091. When fixing rentals or other charges under 997
section 6119.09 of the Revised Code, a board of trustees of a 998
regional water and sewer district may establish discounted 999
rentals or charges or may establish another mechanism for 1000
providing a reduction in rentals or charges ~~for persons who are~~ 1001
~~sixty-five years of age or older.~~ The If the board does so, the 1002
board shall establish eligibility requirements for such 1003
discounted or reduced rentals or charges, including a 1004
requirement that a person be eligible for the homestead 1005
exemption or qualify as a low- and moderate-income person. 1006

Section 2. That existing sections 905.324, 939.02, 940.06, 1007
5713.30, 6119.06, 6119.09, and 6119.091 of the Revised Code are 1008
hereby repealed. 1009

Section 3. The Department of Agriculture, in consultation 1010
with the Lake Erie Commission, the Ohio Soil and Water 1011
Conservation Commission, and the Ohio State University 1012
Extension, may establish a pilot program not later than one 1013
hundred twenty days after the effective date of this section 1014

that assists farmers, agricultural retailers, and soil and water 1015
conservation districts in reducing phosphorus and dissolved 1016
reactive phosphorous in a watershed determined by the Director 1017
of Agriculture. If established, the program shall be supported 1018
by appropriations under the Department of Agriculture's budget 1019
that fund water quality initiatives. 1020

Funding under the program shall be used to pay for, but is 1021
not limited to, the following: (1) equipment for subsurface 1022
placement of nutrients into the soil; (2) equipment for nutrient 1023
placement based on geographic information system data; (3) soil 1024
testing; (4) implementation of variable rate technology; (5) 1025
equipment involved with manure transformation and manure 1026
conversion technologies; (6) tributary monitoring; (7) water 1027
management and edge-of-field drainage management strategies; and 1028
(8) implementation of nutrient best management practices 1029
according to data collected by soil and water conservation 1030
districts under division (C) (2) of section 940.36 of the Revised 1031
Code. 1032

Data and any associated records under this pilot program 1033
are not a public record subject to disclosure under section 1034
149.43 of the Revised Code. 1035

Section 4. The amendment by this act of section 5713.30 of 1036
the Revised Code applies to tax years beginning on and after the 1037
effective date of that amendment. 1038