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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

Senators Antonio, Blessing, Brenner, Burke, Coley, Craig, Dolan, Eklund, Fedor, Gavarone, Hackett, Hoagland, Huffman, S., Johnson, Kunze, Manning, Obhof, Peterson, Rulli, Schaffer, Schuring, Sykes, Thomas, Wilson, Yuko

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 45
conservation districts in planning, budgeting, staffing, and 46
administering district programs and the training of district 47
supervisors and personnel in their duties, responsibilities, and 48
authorities as prescribed in this chapter and Chapter 940. of 49
the Revised Code; 50

(B) Administer this chapter and Chapter 940. of the 51
Revised Code pertaining to state responsibilities and provide 52
staff assistance to the Ohio soil and water conservation 53
commission in exercising its statutory responsibilities; 54

(C) Assist in expediting state responsibilities for 55
watershed development and other ~~natural resource~~ soil and water 56
conservation works of improvement, including assisting in 57
watershed planning and management under section 940.36 of the 58
Revised Code; 59

(D) Coordinate the development and implementation of 60
cooperative programs and working agreements between soil and 61
water conservation districts and the department of agriculture 62
or other agencies of local, state, and federal government; 63

(E) Subject to the approval of the Ohio soil and water 64
conservation commission, adopt rules in accordance with Chapter 65
119. of the Revised Code that do or comply with all of the 66
following: 67

(1) Establish technically feasible and economically 68
reasonable standards to achieve a level of management and 69
conservation practices in farming operations that will abate 70

wind or water erosion of the soil or abate the degradation of 71
the waters of the state by residual farm products, manure, or 72
soil sediment, including attached substances, and establish 73
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 103
operation and management plans; 104

(7) Establish the amount of civil penalties assessed by 105
the director under division (A) of section 939.07 of the Revised 106
Code for violation of rules adopted under division (E) of this 107
section; 108

(8) Not conflict with air or water quality standards 109
adopted pursuant to section 3704.03 or 6111.041 of the Revised 110
Code. Compliance with rules adopted under this section does not 111
affect liability for noncompliance with air or water quality 112
standards adopted pursuant to section 3704.03 or 6111.041 of the 113
Revised Code. The application of a level of management and 114
conservation practices recommended under this section to control 115
windblown soil from farming operations creates a presumption of 116
compliance with section 3704.03 of the Revised Code as that 117
section applies to windblown soil. 118

(F) Cost share with landowners on practices established 119
pursuant to division (E) (3) of this section as moneys are 120
appropriated and available for that purpose. Any practice for 121
which cost share is provided shall be maintained for its useful 122
life. Failure to maintain a cost share practice for its useful 123
life shall subject the landowner to full repayment to the 124
department. 125

(G) Employ field assistants and other employees that are 126
necessary for the performance of the work prescribed by Chapter 127
940. of the Revised Code, for performance of work of the 128

department under this chapter, and as agreed to under working 129
agreements or contractual arrangements with soil and water 130
conservation districts, prescribe their duties, and fix their 131
compensation in accordance with schedules that are provided by 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 state to protect the agricultural status of rural lands adjacent to such projects and control adverse impacts on soil and water resources.	159 160 161 162
(I) Collect, analyze, inventory, and interpret all available information pertaining to the origin, distribution, extent, use, and conservation of the soil resources of the state;	163 164 165 166
(J) Prepare and maintain up-to-date reports, maps, and other materials pertaining to the soil resources of the state and their use and make that information available to governmental agencies, public officials, conservation entities, and the public;	167 168 169 170 171
(K) Provide soil and water conservation districts with technical assistance including on-site soil investigations and soil interpretation reports on the suitability or limitations of soil to support a particular use or to plan soil conservation measures. The assistance shall be on terms that are mutually agreeable to the districts and the department of agriculture.	172 173 174 175 176 177
(L) Assist local government officials in utilizing land use planning and zoning, current agricultural use value assessment, development reviews, and land management activities;	178 179 180
(M) When necessary for the purposes of this chapter or Chapter 940. of the Revised Code, develop or approve operation and management plans. The director may designate an employee of the department to develop or approve operation and management plans in lieu of the director.	181 182 183 184 185
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, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state. 391
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(B) (1) There is hereby created a statewide watershed planning and management program for the improvement and protection of the state's watersheds to be administered by the director of agriculture. 395
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(2) Under the program, the director shall appoint at least one watershed planning and management coordinator in each watershed region categorized under division (D) of this section to coordinate watershed planning in the watershed. A coordinator shall have experience or education related to water quality improvement or watershed planning and management. 399
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(C) A watershed planning and management coordinator shall do all of the following in the watershed region in which the coordinator is appointed: 405
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(1) Assist each soil and water conservation district to identify sources and areas of water quality impairment, including total phosphorous, dissolved reactive phosphorous, and nitrogen nutrient loading. A coordinator also may assist any political subdivision or organization in the watershed region to address water quality impairment. 408
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(2) Engage in watershed planning, restoration, protection, and management activities, including assisting a political subdivision or organization in the watershed region in developing and formulating a nine-element plan or its equivalent; 414
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(3) Collaborate with state agencies engaged in water 419

<u>quality activities;</u>	420
<u>(4) Provide an annual report to the director about water quality.</u>	421 422
<u>(D) The director shall categorize watersheds in the state, identified by the specified United States geological survey six-digit hydrologic unit codes, into the following watershed regions:</u>	423 424 425 426
<u>(1) Region One: Western Lake Erie basin watershed, hydrologic unit code 041000;</u>	427 428
<u>(2) Region Two: Central Lake Erie basin watershed, hydrologic unit code 041100, and Conneaut creek watershed, hydrologic unit code 041201;</u>	429 430 431
<u>(3) Region Three: Wabash river basin watershed, hydrologic unit code 051200; Great Miami river watershed, hydrologic unit code 050800; and Little Miami river watershed, hydrologic unit code 050902;</u>	432 433 434 435
<u>(4) Region Four: Scioto river watershed, hydrologic unit code 050600;</u>	436 437
<u>(5) Region Five: Muskingum river watershed, hydrologic unit code 050400;</u>	438 439
<u>(6) Region Six: Mahoning river watershed, hydrologic unit code 050301;</u>	440 441
<u>(7) Region Seven: Hocking river and Ohio river tributaries watershed, hydrologic unit code 050302, and raccoon creek watershed, hydrologic unit code 050901.</u>	442 443 444
<u>(E) Nothing in this section shall be construed to prevent or limit a watershed planning and management coordinator from</u>	445 446

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 any person or political 687
subdivisions for the design, acquisition, or construction of 688
water resource projects by such person or political 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 owner who subsequently transfers the property to the owner;	801 802
(iii) A sole proprietorship owned by that owner or a member of that owner's immediate family;	803 804
(iv) A partnership, trust, business trust, corporation, or association of which the owner or a member of the owner's immediate family owns or controls directly or indirectly more than fifty per cent.	805 806 807 808
(c) The property served has been forfeited to this state for delinquent taxes, unless the owner of record redeems the property.	809 810 811
(3) Upon valid written notice to the county auditor by any owner possessing an ownership interest of record of the property or an electing subdivision previously in the chain of title to the property that the unpaid water rents or charges together with any penalties have been certified for placement or placed upon the tax list and duplicate as a charge against the property in violation of division (W) (2) of this section, the county auditor shall promptly remove such charge from the tax duplicate. This written notice to the county auditor shall include all of the following:	812 813 814 815 816 817 818 819 820 821
(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 property to the owner or electing subdivision;	824 825
(d) The charge allegedly placed in violation of division (W) (2) of this section.	826 827

(4) When title to property is transferred to a county land reutilization corporation, any lien placed on the property under this division shall be extinguished, and the corporation shall not be held liable for any rentals or charges certified under this division with respect to the property, if the rentals or charges were incurred before the date of the transfer to the corporation and if the corporation did not incur the rentals or charges, regardless of whether the rentals or charges were certified, or the lien was attached, before the date of transfer. In such a case, the corporation and its successors in title shall take title to the property free and clear of any such lien and shall be immune from liability in any collection action brought with respect to such rentals or charges. If a lien placed on property is extinguished as provided in this division, the district shall retain the ability to recoup the rents and charges incurred with respect to the property from any owner, tenant, or other person liable to pay such rents and charges before the property was transferred to the corporation.

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

(Y) Merge or combine with any other regional water and sewer district into a single district, which shall be one of the constituent districts, on terms so that the surviving district shall be possessed of all rights, capacity, privileges, powers, franchises, and authority of the constituent districts and shall be subject to all the liabilities, obligations, and duties of each of the constituent districts and all rights of creditors of such constituent districts shall be preserved unimpaired, limited in lien to the property affected by such liens immediately prior to the time of the merger and all debts, liabilities, and duties of the respective constituent districts

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