

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

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

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

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

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

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

(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 management and conservation practices;

(2) Establish procedures for administration of rules for agricultural pollution abatement and for enforcement of those rules;

(3) Specify the pollution abatement practices eligible for state cost sharing and determine the conditions for eligibility, the construction standards and specifications, the useful life, the maintenance requirements, and the limits of cost sharing for those practices. Eligible practices shall be limited to practices that address agricultural operations and that require expenditures that are likely to exceed the economic returns to the owner or operator and that abate soil erosion or degradation of the waters of the state by residual farm products, manure, or soil sediment, including attached pollutants.

(4) Establish procedures for administering grants to owners or operators of agricultural land or animal feeding operations for the implementation of operation and management plans;

(5) Do both of the following with regard to composting conducted in conjunction with agricultural operations:

(a) Establish methods, techniques, or practices for composting dead animals, or particular types of dead animals, that are to be used at such operations, as the director considers to be necessary or appropriate;

(b) Establish requirements and procedures governing the review and approval or disapproval of composting plans by the supervisors of soil and water conservation districts under division (R) of section 940.06 of the Revised Code.

(6) Establish best management practices for inclusion in operation and management plans;

(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;

(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.

(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.

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

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

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

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

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

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

(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.

(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;

(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;

(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.

(L) Assist local government officials in utilizing land use planning and zoning, current

agricultural use value assessment, development reviews, and land management activities;

(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.

This section does not restrict the manure of domestic or farm animals defecated on land outside an animal feeding operation or runoff from that land into the waters of the state.

Sec. 940.06. The supervisors of a soil and water conservation district have the following powers in addition to their other powers:

(A) To conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damages, and the preventive and control measures and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water needed within the district, and to publish the results of those surveys, investigations, or research, provided that no district shall initiate any research program except in cooperation or after consultation with the Ohio agricultural research and development center;

(B) To develop plans for the conservation of soil resources, for the control and prevention of soil erosion, and for works of improvement for flood prevention and the conservation, development, utilization, and disposal of water within the district, and to publish those plans and information;

(C) To implement, construct, repair, maintain, and operate preventive and control measures and other works of improvement for natural resource conservation and development and flood prevention, and the conservation, development, utilization, and disposal of water within the district on lands owned or controlled by this state or any of its agencies and on any other lands within the district, which works may include any facilities authorized under state or federal programs, and to acquire, by purchase or gift, to hold, encumber, or dispose of, and to lease real and personal property or interests in such property for those purposes;

(D) To cooperate or enter into agreements with any occupier of lands within the district in the carrying on of natural resource conservation operations and works of improvement for flood prevention and the conservation, development, utilization, and management of natural resources within the district, subject to such conditions as the supervisors consider necessary;

(E) To accept donations, gifts, grants, and contributions in money, service, materials, or otherwise, and to use or expend them according to their terms;

(F) To adopt, amend, and rescind rules to carry into effect the purposes and powers of the district;

(G) To sue and plead in the name of the district, and be sued and impleaded in the name of the district, with respect to its contracts and, as indicated in section 940.07 of the Revised Code, certain torts of its officers, employees, or agents acting within the scope of their employment or official responsibilities, or with respect to the enforcement of its obligations and covenants made under this chapter;

(H) To make and enter into all contracts, leases, and agreements and execute all instruments necessary or incidental to the performance of the duties and the execution of the powers of the district under this chapter, provided that all of the following apply:

(1) Except as provided in section 307.86 of the Revised Code regarding expenditures by boards of county commissioners, when the cost under any such contract, lease, or agreement, other

than compensation for personal services or rental of office space, involves an expenditure of more than the amount established in that section regarding expenditures by boards of county commissioners, the supervisors shall make a written contract with the lowest and best bidder after advertisement, for not less than two nor more than four consecutive weeks preceding the day of the opening of bids, in a newspaper of general circulation within the district or as provided in section 7.16 of the Revised Code and in such other publications as the supervisors determine. The notice shall state the general character of the work and materials to be furnished, the place where plans and specifications may be examined, and the time and place of receiving bids.

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

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

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

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

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

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

(K) To enter into agreements or contracts with the department of agriculture for the determination, implementation, inspection, and funding of agricultural pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a district board of supervisors to negotiate an agreement or contract with the department authorizes the department to implement the required program;

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

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

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

(O) To determine whether operation and management plans developed under division (A) of section 939.03 of the Revised Code comply with the standards established under division (E)(1) of section 939.02 of the Revised Code and to approve or disapprove the plans, based on such compliance. If an operation and management plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the director of agriculture or the director's designee, who shall afford the person a hearing. Following the hearing, the director or the director's designee shall uphold the plan disapproval or reverse it. If the director or the director's designee reverses the plan disapproval, the plan shall be deemed approved under this division. In the event that any person operating or owning agricultural land or an animal feeding operation in accordance with an approved operation and management plan who, in good faith, is following that plan, causes agricultural pollution, the plan shall be revised in a fashion necessary to mitigate the agricultural pollution, as determined and approved by the board of

supervisors of the soil and water conservation district.

(P) To develop timber harvest plans;

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

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

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

(2) If the board determines that composting is not being so conducted, request the director to take corrective actions under section 939.07 of the Revised Code that require the person who is conducting the composting to prepare a composting plan in accordance with rules adopted under division (E)(5)(a) of section 939.02 of the Revised Code and to operate in accordance with that plan or to operate in accordance with a previously prepared plan, as applicable;

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

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

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

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

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

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

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

The director shall make recommendations to reduce the adverse environmental effects of each project that a soil and water conservation district plans to undertake under division (A), (B), (C), or (D) of this section and that will be funded in whole or in part by moneys authorized under section 940.17 of the Revised Code and shall disapprove any such project that the director finds will adversely affect the environment without equal or greater benefit to the public. The director's

disapproval or recommendations, upon the request of the district filed in accordance with rules adopted by the Ohio soil and water conservation commission, shall be reviewed by the commission, which may confirm the director's decision, modify it, or add recommendations to or approve a project the director has disapproved.

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

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

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

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

(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.

(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.

(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.

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

(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.

(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;

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

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

(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:

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

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

(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:

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

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

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

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

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

Sec. 940.37. (A) Data or records of a person's agricultural operations, conservation or water quality improvement practices, or proposed utilization of such practices collected or maintained by the department of agriculture, a soil or water conservation district, an institution of higher education, as defined in section 3345.12 of the Revised Code, or any other state agency are not a public record subject to disclosure under section 149.43 of the Revised Code.

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

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

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

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

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

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

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

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

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

(a) The tracts, lots, or parcels of land were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the cultivation of hemp by a person issued a hemp cultivation license under section 928.02 of the Revised Code, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land

on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use.

(b) The tracts, lots, or parcels of land were devoted exclusively to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production if the land on which the production facility is located is contiguous to or part of a parcel of land under common ownership or leasehold that is otherwise devoted exclusively to agricultural use, provided that (i) at least fifty per cent of the feedstock used in the production is agricultural feedstock, (ii) at least twenty per cent of the agricultural feedstock used in the production was is derived from parcels of land under common ownership or leasehold, and (iii) none of the feedstock used in the production consists of human waste. As used in this division, "agricultural feedstock" means manure and food waste, and "human waste" includes sludge as defined in section 6111.01 of the Revised Code.

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

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

(3) Tracts, lots, or parcels of land, or portions thereof that, during the previous three consecutive calendar years have been designated as land devoted exclusively to agricultural use, but such land has been lying idle or fallow for up to one year and no action has occurred to such land that is either inconsistent with the return of it to agricultural production or converts the land devoted exclusively to agricultural use as defined in this section. Such land shall remain designated as land devoted exclusively to agricultural use provided that beyond one year, but less than three years, the landowner proves good cause as determined by the board of revision.

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

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

Notwithstanding any other provision of law to the contrary, the existence of agritourism on a tract, lot, or parcel of land that otherwise meets the definition of "land devoted exclusively to agricultural use" as defined in this division does not disqualify that tract, lot, or parcel from valuation under sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

A tract, lot, or parcel of land taxed under sections 5713.22 to 5713.26 of the Revised Code is not land devoted exclusively to agricultural use.

A tract, lot, parcel, or portion thereof on which medical marijuana, as defined by section 3796.01 of the Revised Code, is cultivated or processed is not land devoted exclusively to agricultural use.

(B) "Conversion of land devoted exclusively to agricultural use" means any of the following:

(1) The failure of the owner of land devoted exclusively to agricultural use during the next preceding calendar year to file a renewal application under section 5713.31 of the Revised Code without good cause as determined by the board of revision;

(2) The failure of the new owner of such land to file an initial application under that section without good cause as determined by the board of revision;

(3) The failure of such land or portion thereof to qualify as land devoted exclusively to agricultural use for the current calendar year as requested by an application filed under such section;

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6119.06. Upon the declaration of the court of common pleas organizing the regional water and sewer district pursuant to section 6119.04 of the Revised Code and upon the qualifying of its board of trustees and the election of a president and a secretary, said district shall exercise in its own name all the rights, powers, and duties vested in it by Chapter 6119. of the Revised Code, and, subject to such reservations, limitations and qualifications as are set forth in this chapter, such district may:

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

(B) Adopt an official seal;

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

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

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

(F) Make loans and grants to any person or political subdivisions for the design, acquisition, or construction of water resource projects by such person or political subdivisions and adopt rules, regulations, and procedures for making such loans and grants;

(G) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to or from, or contract for operation by or for, a political subdivision or person, water resource projects within or without the district;

(H) Make available the use or service of any water resource project to one or more persons, one or more political subdivisions, or any combination thereof;

(I) Levy and collect taxes and special assessments;

(J) Issue bonds and notes and refunding bonds and notes as provided in Chapter 6119. of the Revised Code;

(K) Acquire by gift or purchase, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under Chapter 6119. of the Revised Code;

(L) Dispose of, by public or private sale, or lease any real or personal property determined by the board of trustees to be no longer necessary or needed for the operation or purposes of the district;

(M) Acquire, in the name of the district, by purchase or otherwise, on such terms and in such manner as it considers proper, or by the exercise of the right of condemnation in the manner provided by section 6119.11 of the Revised Code, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests as it considers necessary for carrying out Chapter 6119. of the Revised Code, but excluding the acquisition by the exercise of the right of condemnation of any waste water facility or water management facility owned by any person or political subdivision, and compensation shall be paid for public or private lands so taken;

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

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

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

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

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

(S) Exercise the power of eminent domain in the manner provided in Chapter 6119. of the Revised Code;

(T) Remove or change the location of any fence, building, railroad, canal, or other structure or improvement located in or out of the district, and in case it is not feasible or economical to move any such building, structure, or improvement situated in or upon lands required, and if the cost is determined by the board to be less than that of purchase or condemnation, to acquire land and construct, acquire, or install therein or thereon buildings, structures, or improvements similar in purpose, to be exchanged for such buildings, structures, or improvements under contracts entered into between the owner thereof and the district;

(U) Receive and accept, from any federal or state agency, grants for or in aid of the construction of any water resource project, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;

(V) Purchase fire and extended coverage and liability insurance for any water resource project and for the principal office and suboffices of the district, insurance protecting the district and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the district may agree to provide under any resolution authorizing its water resource revenue bonds or in any trust agreement securing the same;

(W)(1) Charge, alter, and collect rentals and other charges for the use of services of any water resource project as provided in section 6119.09 of the Revised Code. Such district may refuse the services of any of its projects if any of such rentals or other charges, including penalties for late payment, are not paid by the user thereof, and, if such rentals or other charges are not paid when due and upon certification of nonpayment to the county auditor, such rentals or other charges constitute a lien upon the property so served, shall be placed by the auditor upon the real property tax list and duplicate, and shall be collected in the same manner as other taxes.

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

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

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

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

(ii) A person with a power of attorney appointed by that owner who subsequently transfers the property to the owner;

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

(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.

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

(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:

- (a) The parcel number of the property;
- (b) The common address of the property;
- (c) The date of the recording of the transfer of the property to the owner or electing subdivision;

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

(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 enforced against it, and such other terms as are agreed upon, provided two-thirds of the members of each of the boards consent to such merger or combination. Such merger or combination shall become legally effective unless, prior to the ninetieth day following the later of the consents, qualified electors residing in either district equal in number to a majority of the qualified electors voting at the last general election in such district file with the secretary of the board of trustees of their regional water and sewer district a petition of remonstrance against such merger or combination. The secretary shall cause the board of elections of the proper county or counties to check the sufficiency of the signatures on such petition.

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

(AA) Require the owner of any premises located within the district to connect the owner's premises to a water resource project determined to be accessible to such premises and found to require such connection so as to prevent or abate pollution or protect the health and property of

persons in the district. Such connection shall be made in accordance with procedures established by the board of trustees of such district and pursuant to such orders as the board may find necessary to ensure and enforce compliance with such procedures.

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

Sec. 6119.09. A regional water and sewer district may charge, alter, and collect rentals or other charges, including penalties for late payment, for the use or services of any water resource project or any benefit conferred thereby and contract in the manner provided by this section with one or more persons, one or more political subdivisions, or any combination thereof, desiring the use or services thereof, and fix the terms, conditions, rentals, or other charges, including penalties for late payment, for such use or services. Such rentals or other charges shall not be subject to supervision or regulation by any authority, commission, board, bureau, or agency of the state or any political subdivision, and such contract may provide for acquisition by such political subdivision of all or any part of such water resource project for such consideration payable over the period of the contract or otherwise as the district in its sole discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of water resource revenue bonds or notes or water resource revenue refunding bonds of the district or any trust agreement securing the same. Any political subdivision, which has power to construct, operate, and maintain waste water facilities or water management facilities may enter into a contract or lease with the district whereby the use or services of any water resource project of the district will be made available to such political subdivision and pay for such use or services such rentals or other charges as may be agreed to by the district and such political subdivision.

Any political subdivision, person, or combination thereof may cooperate with the district in the acquisition or construction of a water resource project and shall enter into such agreements with the district as are necessary, with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for such contributions by the parties thereto in such proportion as may be agreed upon and such other terms as may be mutually satisfactory to the parties, including without limitation the authorization of the construction of the project by one of the parties acting as agent for all of the parties and the ownership and control of the project by the district or one or more of the other parties or any combination thereof to the extent determined necessary or appropriate. Any political subdivision may provide the funds for the payment of such contribution as is required under such agreements by the levy of taxes, assessments, or rentals and other charges for the use of the system of which the water resource project is a part or to which it is connected, if otherwise authorized by the laws governing such political subdivision in the construction of the type of water resource project provided for in the agreements, and may pay the proceeds from the collection of such taxes, assessments, rentals, or other charges to the district pursuant to such agreements; or the political subdivision may issue bonds or notes, if authorized by such laws, in anticipation of the collection of such taxes, assessments, rentals or other charges and may pay the proceeds of such bonds or notes to the district pursuant to such agreements. In addition, any political subdivision may provide the funds for the payment of such contribution by the appropriation of money or, if otherwise authorized by law, by the issuance of bonds or notes and may pay such appropriated money or the proceeds of such bonds or notes to the district pursuant to such

agreements. The agreement by the political subdivision to provide such contribution, whether from appropriated money or from the proceeds of such taxes, assessments, rentals, or other charges, or such bonds or notes, or any combination thereof, is not subject to Chapter 133. of the Revised Code. The proceeds from the collection of such taxes or assessments, and any interest earned thereon, shall be paid into a special fund immediately upon the collection thereof by the political subdivision for the purpose of providing such contribution at the times required under such agreements.

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

Any political subdivision, pursuant to a favorable vote of the electors in an election held before or after November 19, 1971, for the purpose of issuing bonds to provide funds to acquire, construct, or equip, or provide real estate and interests in real estate for, a waste water facility or a water management facility, whether or not the political subdivision, at the time of such election, had the authority to pay the proceeds from such bonds or notes issued in anticipation thereof to a regional water and sewer district as provided in this section, may issue such bonds or notes in anticipation of the issuance thereof and pay the proceeds thereof to the district in accordance with its agreement with the district; provided, that the legislative authority of the political subdivision determines that the water resource project to be acquired or constructed by the district in cooperation with such political subdivision will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the political subdivision with the proceeds of such bonds or notes.

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

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

SECTION 3. The Department of Agriculture, in consultation with the Lake Erie Commission, the Ohio Soil and Water Conservation Commission, and the Ohio State University Extension, may establish a pilot program not later than one hundred twenty days after the effective date of this section that assists farmers, agricultural retailers, and soil and water conservation districts in reducing phosphorus and dissolved reactive phosphorous in a watershed determined by the Director of Agriculture. If established, the program shall be supported by appropriations under the Department of Agriculture's budget that fund water quality initiatives.

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

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

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

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____