

**As Reported by the Senate Energy and Public Utilities Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Sub. H. B. No. 364**

**Representative Patton**

**Cosponsors: Representatives Carruthers, Ginter, Hoops, Jones, Loychik,  
Manning, Seitz, Stephens, Troy**

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**A BILL**

To amend sections 3734.123, 4909.172, 5721.10, 1  
6109.01, 6109.072, and 6109.24 and to enact 2  
section 5301.93 of the Revised Code to make 3  
changes to the application process for the 4  
waterworks infrastructure improvement surcharge 5  
and to residential PACE lien priority, to create 6  
exceptions to the moratorium on modifications to 7  
hazardous waste incinerator installation and 8  
operation permits, and to eliminate public water 9  
system asset management program requirements for 10  
transient noncommunity water systems. 11

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

**Section 1.** That sections 3734.123, 4909.172, 5721.10, 12  
6109.01, 6109.072, and 6109.24 be amended and section 5301.93 of 13  
the Revised Code be enacted to read as follows: 14

**Sec. 3734.123.** (A) As used in this section and section 15  
3734.124 of the Revised Code, "commercial hazardous waste 16  
incinerator" means an enclosed device that treats hazardous 17  
waste by means of controlled flame combustion and that accepts 18

for treatment hazardous waste that is generated off the premises 19  
on which the device is located by any person other than the one 20  
who owns or operates the device or one who controls, is 21  
controlled by, or is under common control with the person who 22  
owns or operates the device. "Commercial hazardous waste 23  
incinerator" does not include any "boiler" or "industrial 24  
furnace" as those terms are defined in rules adopted under 25  
section 3734.12 of the Revised Code. 26

(B) Not sooner than three years after April 15, 1993, and 27  
triennially thereafter, the director of environmental protection 28  
shall prepare, publish, and issue as a final action an 29  
assessment of commercial hazardous waste incinerator capacity in 30  
this state. However, after the issuance as a final action of a 31  
determination under division (A) of section 3734.124 of the 32  
Revised Code that terminates the restrictions established in 33  
division (C) of this section, the director shall cease 34  
preparing, publishing, and issuing the periodic assessments 35  
required under this division. The assessment shall determine the 36  
amount of commercial hazardous waste incinerator capacity needed 37  
to manage the hazardous waste expected to be generated in this 38  
state and imported into this state for incineration at 39  
commercial hazardous waste incinerators during the next 40  
succeeding twenty calendar years. The assessment shall include 41  
at least all of the following: 42

(1) A determination of the aggregate treatment capacity 43  
authorized at commercial hazardous waste incinerators located in 44  
this state; 45

(2) A determination of the quantity of hazardous waste 46  
generated in this state that is being treated at commercial 47  
hazardous waste incinerators located in this state and 48

projections of the quantity of hazardous waste generated in this state that will be treated at those facilities;

(3) A determination of the quantity of hazardous waste generated outside this state that is being treated at commercial hazardous waste incinerators located in this state and projections of the quantity of hazardous waste generated outside this state that will be treated at those facilities;

(4) A determination of the quantity of hazardous waste generated in this state that is being treated at commercial hazardous waste incinerators located outside this state, and projections of the quantity of hazardous waste generated in this state that will be treated at those facilities;

(5) The amount of commercial hazardous waste incinerator capacity that the director reasonably anticipates will be needed during the first three years of the planning period to treat hazardous waste generated from the remediation of sites in this state that are on the national priority list required under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a result of corrective actions implemented under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; and as a result of clean-up activities conducted at sites listed on the master sites list prepared by the environmental protection agency;

(6) Based upon available data, provided that the data are reliable and are compatible with the data base of the environmental protection agency, an identification of any hazardous waste first listed as a hazardous waste in regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after

April 15, 1993, and of any hazardous waste that has been 79  
proposed for such listing by publication of a notice in the 80  
federal register on or before December 1 of the year immediately 81  
preceding the triennial assessment; 82

(7) An analysis of other factors that may result in 83  
capacity changes over the period addressed by the assessment. 84

(C) Except as otherwise provided in section 3734.124 of 85  
the Revised Code, none of the following shall occur on or after 86  
April 15, 1993: 87

(1) The director shall not do any of the following: 88

(a) Issue any hazardous waste facility installation and 89  
operation permit under division (D) of section 3734.05 of the 90  
Revised Code for the establishment of a new commercial hazardous 91  
waste incinerator, or issue any modified hazardous waste 92  
facility installation and operation permit under division (I) of 93  
that section that would authorize an increase in either the 94  
treatment capacity of a commercial hazardous waste incinerator 95  
or the quantity of hazardous waste authorized to be treated by 96  
it; 97

(b) Issue any permit pursuant to rules adopted under 98  
division (F) of section 3704.03 of the Revised Code, division 99  
(J) of section 6111.03 of the Revised Code, or the solid waste 100  
provisions of this chapter and rules adopted under those 101  
provisions, that is necessary for the establishment, 102  
modification, or operation of any appurtenant facility or 103  
equipment that is necessary for the operation of a new 104  
commercial hazardous waste incinerator, or the modification of 105  
such an existing incinerator to increase either the treatment 106  
capacity of the incinerator or the quantity of hazardous waste 107

that is authorized to be treated by it. Upon determining that an application for any permit pertains to the establishment, modification, or operation of any appurtenant facility or equipment, the director shall cease reviewing the application and return the application and accompanying materials to the applicant along with a written notice that division (C) (1) (b) of this section precludes the director from reviewing and acting upon the application.

(c) Issue any exemption order under division (G) of section 3734.02 of the Revised Code exempting the establishment of a new commercial hazardous waste incinerator; the modification of an existing facility to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it; or the establishment, modification, or operation of any facility or equipment appurtenant to a new or modified commercial hazardous waste incinerator, from divisions (C) (1) (a) or (b) or (C) (2) of this section.

(2) If the director determines that an application for a hazardous waste facility installation and operation permit submitted under division (D) of section 3734.05 of the Revised Code pertains to the establishment of a new commercial hazardous waste incinerator, or a request for a modification of an existing incinerator submitted under division (I) of that section pertains to an increase of either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it, the director shall cease reviewing the application or request and shall return it and the accompanying materials to the applicant along with a written notice that division (C) (2) of this section precludes the review of the application or request.

(D) Division (C) of this section does not apply to an 139  
application for a modified hazardous waste facility installation 140  
and operation permit under division (I) of section 3734.05 of 141  
the Revised Code for any hazardous waste incinerator in 142  
operation before April 15, 1993, if both of the following apply 143  
to the application: 144

(1) The application seeks to install an improved air 145  
emission control system designed to achieve compliance with 40 146  
C.F.R. 63, Subpart EEE. 147

(2) The application does not seek to increase the 148  
treatment capacity of the hazardous waste incinerator or the 149  
quantity of waste to be treated by it. 150

(E) Division (C) of this section does not apply to an 151  
application for a modified hazardous waste facility installation 152  
and operation permit under division (I) of section 3734.05 of 153  
the Revised Code for any hazardous waste incinerator in 154  
operation before April 15, 1993, if all of the following apply 155  
to the application: 156

(1) The application seeks to increase the treatment 157  
capacity of the hazardous waste incineration operations or the 158  
quantity of waste to be treated by it. 159

(2) The hazardous waste incinerator is at or near its 160  
actual maximum operating capacity on the effective date of this 161  
amendment. 162

(3) The application seeks to install an improved air 163  
emission control system designed to achieve compliance with 40 164  
C.F.R. 63, Subpart EEE. 165

(4) The owner or operator of the hazardous waste 166  
incinerator has not been issued any other permit allowing for 167

the expansion of the hazardous waste incinerator or construction 168  
of a new hazardous waste incinerator prior to the effective date 169  
of this amendment. 170

**Sec. 4909.172.** (A) A waterworks company, or a sewage 171  
disposal system company, that is a public utility may file an 172  
application with the public utilities commission for approval to 173  
collect an infrastructure improvement surcharge, determined in 174  
accordance with this section, from customers located in the 175  
company's affected service areas and subject to affected 176  
schedules filed by the company under section 4905.32 of the 177  
Revised Code. The application shall be in such form and contain 178  
such information as the commission prescribes. At the time of 179  
filing, the company shall serve a copy of the application upon 180  
the chief executive of each municipal corporation, the board of 181  
township trustees of each township, and the board of county 182  
commissioners of each county in which affected customers are 183  
located. A company for which an infrastructure improvement 184  
surcharge is authorized under this section may file an 185  
application for another such surcharge not sooner than twelve 186  
months after the filing date of its most recent infrastructure 187  
improvement surcharge application. 188

(B) The commission shall provide an opportunity for the 189  
filing of comments on an application filed under division (A) of 190  
this section. After considering those comments, the commission 191  
may authorize an infrastructure improvement surcharge for the 192  
company that is just and reasonable and is sufficient, but does 193  
not exceed, the revenue requirement necessary to do both of the 194  
following: 195

(1) Cover such infrastructure plant costs of the company 196  
as are described in division (C) of this section, incurred after 197

March 1, 2003, and before the date of filing, and not already 198  
reflected in the affected schedules filed by the company under 199  
section 4905.32 of the Revised Code; 200

(2) Provide a fair and reasonable rate of return on the 201  
filing date valuation of that particular infrastructure plant. 202

Each infrastructure improvement surcharge chargeable to 203  
each affected customer class within any single tariff of the 204  
company shall not exceed three per cent, for a sewage disposal 205  
system company, and four and ~~one quarter~~ one-quarter per cent, 206  
for a waterworks company, of the rates and charges applicable to 207  
the class and for the tariff in effect on the date the 208  
application was filed and, as to the allowed percentage 209  
increase, shall be uniform for each such class. The commission 210  
shall not authorize a company to have more than three 211  
infrastructure improvement surcharges for any single company 212  
tariff in effect at any time. 213

Additionally, the commission shall not authorize an 214  
infrastructure improvement surcharge under this section if it 215  
determines that the surcharge causes the company to earn an 216  
excessive rate of return on its valuation under section 4909.15 217  
of the Revised Code. 218

(C) For purposes of this section, a company's costs of 219  
infrastructure plant may include depreciation expenses. Such 220  
infrastructure plant may consist of the following capital 221  
improvements that the commission determines are prudent and used 222  
and useful in rendering public utility service and that are 223  
properly classified in the uniform system of accounts adopted by 224  
the National Association of Regulatory Utility Commissioners as 225  
identified in rule 4901:1-15-32 of the Administrative Code: 226



(1) In the case of a waterworks company, replacement of <u>an</u>	227
existing plant <del>including chemical feed systems, filters, pumps,</del>	228
<del>motors, plant generators, meters, service lines, hydrants,</del>	229
<del>mains, and valves,</del> <u>included in accounts 323, 324, 325, 326, 327,</u>	230
<u>328, 332, 342, 343, 345, 346, 347, and 348, as well as main</u>	231
extensions that eliminate dead ends to resolve documented water	232
supply problems presenting significant health or safety issues	233
to then existing customers, and main cleaning or relining;	234
(2) In the case of a sewage disposal system company,	235
replacement of <u>an</u> existing <del>infrastructure including chemical</del>	236
<del>feed systems, filters, pumps, motors, sludge handling equipment,</del>	237
<del>plant generators, mains and lift stations,</del> <u>plant included in</u>	238
<u>accounts 352, 352.1, 352.2, 353, 354, 355, 356, 362, 363, 364,</u>	239
<u>365, 372, 373, 374, and 375, as well as main extensions that</u>	240
resolve documented sewage disposal problems presenting	241
significant health or safety issues to then existing customers,	242
and main cleaning, inflow and infiltration elimination, or	243
relining;	244
(3) Unreimbursed capital expenditures made by the	245
waterworks company, or the sewage disposal system company, for	246
waterworks, or sewage disposal, facility relocation required by	247
a governmental entity due to a street or highway project;	248
(4) <u>Capital expenditures made by the waterworks company or</u>	249
<u>sewage disposal system company to comply with any consent</u>	250
<u>decree, final order, or final rule of the United States</u>	251
<u>environmental protection agency or the Ohio environmental</u>	252
<u>protection agency.</u>	253
(5) <u>Minimum land or land rights acquired by the company as</u>	254
necessary for any service line, equipment, or facility described	255
in divisions (C) (1) to <del>(3)</del> <u>(4)</u> of this section.	256

As used in divisions (C) (1) and (2) of this section, 257  
"replacement of an existing plant" includes replacements that 258  
result in an upgrade or improvement of the previously existing 259  
plant, provided that the replacement plant is prudent, qualifies 260  
for recovery under this section, and performs the same or 261  
similar function or purpose as it did prior to the replacement. 262

(D) (1) If the commission fails to issue a final order 263  
within one hundred eighty days after the date the application is 264  
filed under this section, and at the waterworks or sewage 265  
disposal company's discretion, a surcharge not to exceed the 266  
proposed surcharge shall go into effect upon the filing of the 267  
revised affected rate schedules by the company, subject to 268  
refund of amounts collected that exceed those authorized by the 269  
final order of the commission. 270

(2) All refunds shall include interest at the rate stated 271  
in section 1343.03 of the Revised Code and shall be accomplished 272  
in a manner as prescribed by the commission in its final order. 273  
The commission may require an undertaking to secure the refund 274  
under this division if it finds it is warranted by the financial 275  
condition of the waterworks or sewage disposal system company. 276

(3) This division shall only apply to applications filed 277  
by a waterworks or sewage disposal system company that has 278  
annual operating revenues of two hundred fifty thousand dollars 279  
or more. 280

(E) During the period that an authorized infrastructure 281  
improvement surcharge is in effect, the commission, by order and 282  
on its own motion or upon good cause shown, may reduce the 283  
amount of or terminate an infrastructure improvement surcharge 284  
if it determines that the surcharge causes the company to earn 285  
an excessive rate of return on its valuation under section 286

4909.15 of the Revised Code.	287
<del>(E)</del> <u>(F)</u> An order issued by the commission deciding an	288
application by a waterworks company or a sewage disposal system	289
company for an increase in rates and charges pursuant to an	290
application filed by the company under section 4909.18 of the	291
Revised Code shall provide for the termination, as of the	292
earlier of the effective date of the increase or the date	293
specified in division (F) of this section, of any infrastructure	294
improvement surcharges of the company authorized under this	295
section.	296
<del>(F)</del> <u>(G)</u> All surcharges authorized under this section shall	297
terminate by operation of law not later than December 31,	298
<del>2025</del> <u>2036</u> .	299
<del>(G)</del> <u>(H)</u> The company shall provide notice of any	300
infrastructure improvement surcharge authorized under this	301
section to each affected customer with or on the customer's	302
first bill containing the surcharge.	303
<del>(H)</del> <u>(I)</u> The commission may adopt such rules as it	304
considers necessary to carry out this section.	305
<b><u>Sec. 5301.93.</u></b> (A) As used in this section:	306
<u>(1) "PACE" means property assessed clean energy.</u>	307
<u>(2) "Qualifying residential real property" means a single</u>	308
<u>family residential dwelling, or other residential dwelling of</u>	309
<u>three or fewer units.</u>	310
<u>(3) "Residential PACE lien" means the encumbrance on the</u>	311
<u>qualifying residential real property created by the special</u>	312
<u>assessment for a residential PACE loan.</u>	313
<u>(4) "Residential PACE loan" means the extension of</u>	314

financing that is offered to pay for the installation of cost 315  
effective energy improvements on a homeowner's qualifying 316  
residential real property and is repayable by the homeowner 317  
through a special assessment under section 717.25 or Chapter 318  
1710. of the Revised Code. 319

(B) Notwithstanding any provision of law to the contrary, 320  
a residential PACE lien shall be all of the following: 321

(1) Subordinate to all liens on the qualifying residential 322  
real property recorded prior to the time the residential PACE 323  
lien is recorded; 324

(2) Subordinate to a first mortgage on the qualifying 325  
property recorded after the residential PACE lien is recorded; 326

(3) Subject to division (B)(2) of this section, superior 327  
to any other lien on the qualifying residential real property 328  
recorded after the residential PACE lien is recorded. 329

(C) Notwithstanding any other law to the contrary, in the 330  
event of a foreclosure sale of a qualifying residential real 331  
property, the holders of any mortgages or other liens, including 332  
delinquent special assessments secured by residential PACE 333  
liens, shall receive proceeds in accordance with the priorities 334  
established under division (B) of this section. 335

**Sec. 5721.10.** Except as otherwise provided under section 336  
5301.93 or sections 5721.30 to 5721.43 of the Revised Code, the 337  
state shall have the first lien on the lands and lots described 338  
in the delinquent land list, for the amount of taxes, 339  
assessments, interest, and penalty charged prior to the delivery 340  
of such list. If the taxes have not been paid for one year after 341  
having been certified as delinquent, the state shall institute 342  
foreclosure proceedings in the manner provided by section 343

323.25, sections 323.65 to 323.79, or sections 5721.01 to 344  
5721.28 of the Revised Code, unless a tax certificate respecting 345  
that property has been sold or assigned under section 5721.32 or 346  
5721.33 of the Revised Code, or unless such taxes are the 347  
subject of a valid delinquent tax contract under section 323.31 348  
of the Revised Code for which the county treasurer has not made 349  
certification to the county auditor that the delinquent tax 350  
contract has become void. The court shall levy, as costs in the 351  
foreclosure proceedings instituted on the certification of 352  
delinquency, the cost of an abstract or certificate of title to 353  
the property described in the certification, if it is required 354  
by the court, to be paid into the general fund of the county. 355  
Sections 5721.01 to 5721.28 of the Revised Code do not prevent 356  
the partial payment of such delinquent taxes, assessments, 357  
interest, and penalty during the period the delinquency is being 358  
discharged in accordance with a delinquent tax contract under 359  
section 323.31 of the Revised Code, but the partial payments may 360  
be made and received as provided by law without prejudice to the 361  
right of the state to institute foreclosure proceedings for any 362  
amount then remaining unpaid, if the county treasurer certifies 363  
to the county auditor that the delinquent tax contract has 364  
become void. 365

**Sec. 6109.01.** As used in this chapter: 366

(A) "Public water system" means a system for the provision 367  
to the public of water for human consumption through pipes or 368  
other constructed conveyances if the system has at least fifteen 369  
service connections or regularly serves at least twenty-five 370  
individuals. "Public water system" includes any collection, 371  
treatment, storage, and distribution facilities under control of 372  
the operator of the system and used primarily in connection with 373  
the system, any collection or pretreatment storage facilities 374

not under such control that are used primarily in connection 375  
with the system, and any water supply system serving an 376  
agricultural labor camp as defined in section 3733.41 of the 377  
Revised Code. 378

(B) "Contaminant" means any physical, chemical, 379  
biological, or radiological substance or matter in water. 380

(C) "Person" means the state, any political subdivision, 381  
agency, institution, or instrumentality thereof, any federal 382  
agency, and any person as defined in section 1.59 of the Revised 383  
Code. 384

(D) "Safe Drinking Water Act" means the "Safe Drinking 385  
Water Act," 88 Stat. 1660 (1974), 42 U.S.C. 300(f), as amended 386  
by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 387  
42 U.S.C. 300(f), the "Safe Drinking Water Act Amendments of 388  
1986," 100 Stat. 642, 42 U.S.C. 300(f), and the "Safe Drinking 389  
Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C. 300(f), 390  
and regulations adopted under those acts. 391

(E) "Community water system" means a public water system 392  
that has at least fifteen service connections used by year-round 393  
residents or that regularly serves at least twenty-five year- 394  
round residents. 395

(F) "Small system" means a public water system serving a 396  
population of ten thousand or fewer individuals. 397

(G) "Technical assistance" means nonfinancial assistance 398  
provided by the state to public water systems and other eligible 399  
applicants, including, without limitation, assistance for 400  
planning and design, development, and implementation of source 401  
water quality protection programs; locating alternative supplies 402  
of drinking water; operational training; restructuring or 403

consolidation of small systems; providing treatment information 404  
in order to assist compliance with a national primary drinking 405  
water standard; and other nonfinancial assistance authorized by 406  
the requirements governing the funds established under this 407  
chapter. 408

(H) "Disadvantaged community" means the service area or 409  
portion of a service area of a public water system that meets 410  
affordability and other criteria established by the director of 411  
environmental protection in rules adopted under division (M) of 412  
section 6109.22 of the Revised Code and may include the service 413  
area or portion of a service area of a public water system 414  
located in a distressed area as defined in section 122.19 of the 415  
Revised Code. 416

(I) "Director of environmental protection" or "director" 417  
includes an authorized representative of the director. 418

(J) "Federal Water Pollution Control Act" has the same 419  
meaning as in section 6111.01 of the Revised Code. 420

(K) "Nontransient noncommunity water system" means a 421  
public water system that regularly serves at least twenty-five 422  
of the same persons over six months per year and is not a 423  
community water system. 424

(L) "Transient noncommunity water system" means a 425  
noncommunity public water system that does not regularly serve 426  
at least twenty-five of the same persons over six months per 427  
year and is not a community water system or a nontransient 428  
noncommunity water system. 429

**Sec. 6109.072.** (A) No person shall install a public water 430  
system well without an approved well siting application issued 431  
by the director of environmental protection in accordance with 432

this chapter and any rules adopted under it.	433
(B) In addition to meeting the siting requirements	434
established under section 6109.04 of the Revised Code and the	435
rules adopted under it, a person that submits a well siting	436
application for a public water system well shall include all of	437
the following in the application:	438
(1) For a new public water system or an existing public	439
water system that proposes an increase in the withdrawal of	440
waters of the state, an evaluation of alternatives for the	441
provision of drinking water, including the potential for tie-in	442
to a regional water system;	443
(2) For a new public water system or an existing public	444
water system that proposes an increase in the withdrawal of	445
waters of the state, asset management program information in	446
accordance with section 6109.24 of the Revised Code and the	447
rules adopted under it;	448
(3) For an existing public water system, a description of	449
the asset management program impacts of installing the well,	450
including impacts to any existing asset management program and	451
the potential for tie-in to a regional water system;	452
(4) For a public water system well that has the capacity	453
to withdraw waters of the state in an amount requiring	454
registration pursuant to section 1521.16 of the Revised Code, a	455
general plan, subject to approval of the director, that includes	456
both of the following:	457
(a) The information required to be submitted under section	458
6109.07 of the Revised Code and the rules adopted under it;	459
(b) Verification of registration pursuant to section	460
1521.16 of the Revised Code.	461



(5) For a public water system well that has new or increased capacities for withdrawal or consumptive use that require a permit issued under either section 1521.29 or 1522.12 of the Revised Code, a permit approved by the chief of the division of water resources in the department of natural resources pursuant to section 1521.29 or 1522.12 of the Revised Code.

(C) Divisions (B) (2) and (3) of this section do not apply to a transient noncommunity water system.

(D) If the director approves a well siting application for an applicant that meets the requirements of division (B) (5) of this section, the applicant then shall submit to the director a copy of any certification, continuing monitoring, or other data or reports required by the chief of the division of water resources pursuant to a permit issued under either section 1521.29 or 1522.12 of the Revised Code and any revised ground water model required by the chief.

~~(D)~~ (E) The director may require the well site applicant to include, in the application, additional information, including but not limited to hydrologic information, in a form prescribed by the director for any public water system that is not required to obtain a permit under either section 1521.23 or 1522.12 of the Revised Code.

~~(E)~~ (F) The director may adopt rules in accordance with Chapter 119. of the Revised Code as is necessary for the implementation of this section.

**Sec. 6109.24.** (A) The director of environmental protection shall adopt, and may amend and rescind, rules pursuant to section 6109.04 of the Revised Code establishing requirements

governing the demonstration of technical, managerial, and 491  
financial capability for the purposes of this section. 492

(B) (1) A public water system shall demonstrate the 493  
technical, managerial, and financial capability of the system to 494  
comply with this chapter and rules adopted under it by 495  
implementing an asset management program not later than October 496  
1, 2018. 497

(2) Notwithstanding division (B) (1) of this section, the 498  
director may require a public water system to complete an asset 499  
management program prior to October 1, 2018. 500

(3) A public water system shall include in the asset 501  
management program all of the following: 502

(a) An inventory and evaluation of all public water system 503  
assets; 504

(b) Public water system operation and maintenance 505  
programs; 506

(c) A public water system emergency preparedness and 507  
contingency planning program; 508

(d) Criteria and timelines for public water system 509  
infrastructure rehabilitation and replacement; 510

(e) Approved public water system capacity projections and 511  
public water system capital improvement planning; 512

(f) A long-term funding strategy to support the public 513  
water system's asset management program implementation. 514

(C) If requested by the director, a public water system 515  
shall submit a written description of the system's asset 516  
management program to the director. The system shall submit the 517

written description not later than thirty days after the date of 518  
the request. A small public water system may meet the written 519  
description requirement by doing both of the following: 520

(1) Submitting the template made available by the director 521  
under division (F) (1) of this section; 522

(2) Including with the completed template a statement that 523  
the activities described in the template are being implemented. 524

(D) If a public water system fails to submit an acceptable 525  
written description of the system's asset management program or 526  
otherwise fails to demonstrate technical, managerial, and 527  
financial capability in accordance with this section and rules 528  
adopted under it, the director may request the owner or operator 529  
of the system to revise and resubmit the written description. 530  
Environmental protection agency staff may provide technical 531  
guidance to a public water system in preparing the asset 532  
management program or while addressing deficiencies noted in the 533  
asset management program. 534

(E) If a public water system fails to demonstrate 535  
technical, managerial, and financial capability in accordance 536  
with this section and rules adopted under it, the director may 537  
take any action authorized by this chapter or rules adopted 538  
under it to improve and ensure the capability of the public 539  
water system, including denying a plan submitted under section 540  
6109.07 of the Revised Code. 541

(F) The director shall make available both of the 542  
following either on the environmental protection agency's web 543  
site or via another public forum: 544

(1) A template for small public water systems to prepare 545  
an asset management program; 546

(2) Information about sources of funding available to 547  
assist public water systems with preparing and completing an 548  
asset management program. 549

(G)(1) The director shall not adopt or enforce rules that 550  
require a transient noncommunity water system to prepare, 551  
implement, or complete an asset management program, including a 552  
demonstration of technical, managerial, and financial 553  
capability. 554

(2) Divisions (B) to (E) of this section do not apply to a 555  
transient noncommunity water system. 556

**Section 2.** That existing sections 3734.123, 4909.172, 557  
5721.10, 6109.01, 6109.072, and 6109.24 of the Revised Code are 558  
hereby repealed. 559