

As Introduced

**136th General Assembly
Regular Session
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S. B. No. 378

**Senators Blackshear, Weinstein
Cosponsor: Senator Smith**

To amend sections 1521.01 and 1521.99 and to enact
sections 9.72 and 1521.232 of the Revised Code
regarding the withdrawal and consumptive use of
water by data centers and to name the act the
Responsible Water Use by Data Centers Act.

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

Section 1. That sections 1521.01 and 1521.99 be amended
and sections 9.72 and 1521.232 of the Revised Code be enacted to
read as follows:

Sec. 9.72. (A) As used in this section:

(1) "Water or sewer system" means a system operated by an
entity authorized to provide water services to consumers or
authorized to provide sewer services to consumers under Chapter
504., 729., 735., 743., 4905., 4909., 6101., 6103., 6115.,
6117., or 6119. of the Revised Code.

(2) "Data center" means a facility consisting of one or
more buildings dedicated to housing computer systems, servers,
storage, and network equipment to collect, process, store, and
distribute large amounts of data.

(3) "Infrastructure costs" means direct and indirect water

and sewer services infrastructure costs. 20

(B) The owner or operator of a data center is responsible 21
for payment to a water and sewer system of all infrastructure 22
costs incurred by the water and sewer system that are 23
attributable to the establishment and operation of the data 24
center. The water and sewer system may collect payment for such 25
costs from the data center in a manner determined appropriate by 26
the system. No other ratepayer within the service area of the 27
water and sewer system is responsible for payment of 28
infrastructure costs that are the responsibility of the owner or 29
operator of the data center under this division. 30

Sec. 1521.01. As used in this chapter: 31

(A) "Consumptive use" means a use of water resources, 32
other than a diversion, that results in a loss of that water to 33
the basin from which it is withdrawn and includes, but is not 34
limited to, evaporation, evapotranspiration, and incorporation 35
of water into a product or agricultural crop. 36

(B) "Diversion" means a withdrawal of water resources from 37
either the Lake Erie or Ohio river drainage basin and transfer 38
to another basin without return. "Diversion" does not include 39
evaporative loss within the basin of withdrawal. 40

(C) "Other great lakes states and provinces" means states 41
other than this state that are parties to the great lakes basin 42
compact under Chapter 6161. of the Revised Code and the Canadian 43
provinces of Ontario and Quebec. 44

(D) "Water resources" means any waters of the state that 45
are available or may be made available to agricultural, 46
industrial, commercial, and domestic users. 47

(E) "Waters of the state" includes all streams, lakes, 48

ponds, marshes, watercourses, waterways, wells, springs, 49
irrigation systems, drainage systems, and other bodies or 50
accumulations of water, surface and underground, natural or 51
artificial, regardless of the depth of the strata in which 52
underground water is located, that are situated wholly or partly 53
within or bordering upon this state or are within its 54
jurisdiction. 55

(F) "Well" means any excavation, regardless of design or 56
method of construction, created for any of the following 57
purposes: 58

(1) Removing ground water from or recharging water into an 59
aquifer, excluding subsurface drainage systems installed to 60
enhance agricultural crop production or urban or suburban 61
landscape management or to control seepage in dams and levees; 62

(2) Determining the quantity, quality, level, or movement 63
of ground water in or the stratigraphy of an aquifer, excluding 64
borings for instrumentation in dams, levees, or highway 65
embankments; 66

(3) Removing or exchanging heat from ground water, 67
excluding horizontal trenches that are installed for water 68
source heat pump systems. 69

(G) "Aquifer" means a consolidated or unconsolidated 70
geologic formation or series of formations that are 71
hydraulically interconnected and that have the ability to 72
receive, store, or transmit water. 73

(H) "Ground water" means all water occurring in an 74
aquifer. 75

(I) "Ground water stress area" means a definable 76
geographic area in which ground water quantity is being affected 77

by human activity or natural forces to the extent that	78
continuous availability of supply is jeopardized by withdrawals.	79
(J) "Person" has the same meaning as in section 1.59 of	80
the Revised Code and also includes the United States, the state,	81
any political subdivision of the state, and any department,	82
division, board, commission, agency, or instrumentality of the	83
United States, the state, or a political subdivision of the	84
state.	85
(K) "State agency" or "agency of the state" has the same	86
meaning as "agency" in section 111.15 of the Revised Code.	87
(L) "Cone of depression" means a depression or low point	88
in the water table or potentiometric surface of a body of ground	89
water that develops around a location from which ground water is	90
being withdrawn.	91
(M) "Facility" has the same meaning as in section 1522.10	92
of the Revised Code.	93
(N) "Hydrologic study area" means the area within a four-	94
mile radius from the boundary of the withdrawal area.	95
(O) "Well field" means a contiguous land area containing	96
two or more wells that provide water to a facility.	97
(P) "Withdrawal area" means the proposed well or well	98
field location or locations.	99
(Q) "Development" means any artificial change to improved	100
or unimproved real estate, including the construction of	101
buildings and other structures, any substantial improvement of a	102
structure, mining, dredging, filling, grading, paving,	103
excavating, and drilling operations, and storage of equipment or	104
materials.	105

(R) "Floodplain" means the area adjoining any river, 106
stream, watercourse, or lake that has been or may be covered by 107
flood water. 108

(S) "Floodplain management" means the implementation of an 109
overall program of corrective and preventive measures for 110
reducing flood damage, including the collection and 111
dissemination of flood information, construction of flood 112
control works, nonstructural flood damage reduction techniques, 113
and adoption of rules, ordinances, or resolutions governing 114
development in floodplains. 115

(T) "One-hundred-year flood" means a flood having a one 116
per cent chance of being equaled or exceeded in any given year. 117

(U) "One-hundred-year floodplain" means that portion of a 118
floodplain inundated by a one-hundred-year flood. 119

(V) "Structure" means a walled and roofed building, 120
including, without limitation, gas or liquid storage tanks and 121
manufactured homes. 122

(W) "Substantial improvement" means any reconstruction, 123
rehabilitation, addition, or other improvement of a structure, 124
the cost of which equals or exceeds fifty per cent of the market 125
value of the structure before the start of construction of the 126
improvement. "Substantial improvement" includes repairs to 127
structures that have incurred substantial damage regardless of 128
the actual repair work performed. "Substantial improvement" does 129
not include either of the following: 130

(1) Any project for the improvement of a structure to 131
correct existing violations of state or local health, sanitary, 132
or safety code specifications that have been identified by the 133
state or local code enforcement official having jurisdiction and 134

that are the minimum necessary to ensure safe living conditions; 135

(2) Any alteration of an historic structure designated or 136
listed pursuant to federal or state law, provided that the 137
alteration will not preclude the structure's continued listing 138
or designation as an historic structure. 139

(X) "Substantial damage" means damage of any origin that 140
is sustained by a structure if the cost of restoring the 141
structure to its condition prior to the damage would equal or 142
exceed fifty per cent of the market value of the structure 143
before the damage occurred. 144

(Y) "National flood insurance program" means the national 145
flood insurance program established in the "National Flood 146
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C. 4001, as 147
amended, and regulations adopted under it. 148

(Z) "Conservancy district" means a conservancy district 149
established under Chapter 6101. of the Revised Code. 150

(AA) "Data center" has the same meaning as in section 9.72 151
of the Revised Code. 152

Sec. 1521.232. (A) In addition to any other applicable 153
permit required under this chapter or Chapter 1522. of the 154
Revised Code, no person shall allow a data center that the 155
person owns or operates to withdraw waters of the state that 156
results in the consumptive use of any amount of water without 157
first obtaining a data center consumptive use permit from the 158
chief of the division of water resources under this section. 159

(B) An owner or operator of a data center shall submit an 160
application for a data center consumptive use permit to the 161
chief on a form the chief prescribes. In the application, the 162
applicant shall declare and document all of the information 163

specified in division (B) of section 1521.23 of the Revised Code 164
and any other information the chief may require by rule. 165

(C) The chief shall adopt rules in accordance with Chapter 166
119. of the Revised Code that establishes criteria for issuing a 167
data center consumptive use permit under this section. Such 168
rules shall include all criteria described in division (A) of 169
section 1521.29 and any other criteria the chief may require. 170

(D) (1) The chief shall determine the period for which each 171
permit approved under this section will be valid and specify the 172
expiration date. 173

(2) The chief shall establish rules providing for the 174
transfer of permits. A permit may be transferred on the 175
conditions that the quantity of water withdrawn not be increased 176
and that the purpose of the withdrawal not be changed. 177

(E) The chief may hold public hearings upon any 178
application for a permit. 179

(F) (1) Within a time established by rule, the chief shall 180
do one of the following: 181

(a) Notify the applicant that an application the applicant 182
filed under this section is approved or denied and, if denied, 183
the reason for denial; 184

(b) Notify the applicant of any modification necessary to 185
qualify the application for approval. 186

(2) Any person who receives notice of a denial or 187
modification under division (F) (1) of this section is entitled 188
to a hearing under Chapter 119. of the Revised Code if the 189
person sends a written request for a hearing to the chief within 190
thirty days after the date on which the notice is mailed or 191

otherwise provided to the applicant. 192

(3) The chief shall issue a permit to an applicant whose 193
application is approved under this section. However, the chief 194
shall not issue a permit to a data center that proposes to 195
withdraw waters of the state in an amount that would result in a 196
new or increased consumptive use of more than an average of five 197
million gallons of water per day in any thirty-day period. 198

(G) No person shall allow a data center that the person 199
owns or operates to withdraw waters of the state in an amount 200
that would result in a new or increased consumptive use of more 201
than an average of five million gallons of water per day in any 202
thirty-day period. 203

(H) (1) The chief shall revoke a permit under this section 204
without a prior hearing if the chief determines that the 205
quantity of water being withdrawn exceeds the quantity stated in 206
the permit application. 207

(2) The chief may suspend a permit if the chief determines 208
that the continued withdrawal of water will endanger the public 209
health, safety, or welfare. Before suspending a permit, the 210
chief shall make a reasonable attempt to notify the permittee 211
that the chief intends to suspend the permit. If the attempt 212
fails, notification shall be given as soon as practicable 213
following the suspension. Within five days after the suspension, 214
the chief shall provide the permittee an opportunity to be heard 215
and to present evidence that the continued withdrawal of water 216
will not endanger the public health, safety, or welfare. 217

If the chief determines before the expiration date of a 218
suspended permit that the withdrawal of water can be resumed 219
without danger to the public health, safety, or welfare, the 220

chief shall, upon request of the permittee, reinstate the 221
permit. 222

(I) Any six or more residents of this state may petition 223
the chief for an investigation of a withdrawal of water 224
resources that they allege is in violation of a permit issued 225
under this section. 226

The petition shall identify the permittee and detail the 227
reasons why the petitioners believe that grounds exist for the 228
revocation or suspension of the permit under this section. 229

Upon receipt of the petition, the chief shall send a copy 230
to the permittee and, within sixty days, make a determination 231
whether grounds exist for revocation or suspension of the permit 232
under this section. 233

(J) Each permittee shall submit to the chief an annual 234
report containing such information as the chief may require by 235
rule. 236

Sec. 1521.99. (A) Whoever violates division (E) (1) of 237
section 1521.05 or division (E) (1) of section 1521.16 of the 238
Revised Code is guilty of a misdemeanor of the fourth degree. 239
All fines collected pursuant to this division shall be deposited 240
in the state treasury to the credit of the water management fund 241
created in section 1521.22 of the Revised Code. 242

(B) Whoever violates section 1521.06 or 1521.062 of the 243
Revised Code shall be fined not less than one hundred dollars 244
nor more than one thousand dollars for each offense. Each day of 245
violation constitutes a separate offense. All fines collected 246
pursuant to this division shall be deposited in the state 247
treasury to the credit of the dam safety fund created in section 248
1521.06 of the Revised Code. 249

(C) Whoever violates section 1521.22 of the Revised Code 250
or the terms or conditions of a permit issued under that section 251
shall be fined not more than ten thousand dollars for each day 252
of violation. All fines collected pursuant to this division 253
shall be deposited in the state treasury to the credit of the 254
water management fund created in section 1521.22 of the Revised 255
Code. 256

(D) Whoever violates section 1521.23 or 1521.232 of the 257
Revised Code or the terms or conditions of a permit issued under 258
section 1521.232 or 1521.29 of the Revised Code is guilty of a 259
misdemeanor of the fourth degree. All fines collected pursuant 260
to this division shall be deposited in the state treasury to the 261
credit of the water management fund created in section 1521.22 262
of the Revised Code. 263

Section 2. That existing sections 1521.01 and 1521.99 of 264
the Revised Code are hereby repealed. 265

Section 3. This act shall be known as the Responsible 266
Water Use by Data Centers Act. 267