

As Passed by the Senate

133rd General Assembly

Regular Session

2019-2020

Sub. H. B. No. 264

Representatives Wilkin, O'Brien

Cosponsors: Representatives Riedel, Miranda, Ginter, Smith, K., Hambley, Lang, Stein, Miller, A., Scherer, Arndt, Smith, T., Abrams, Baldrige, Blair, Brent, Brown, Carfagna, Carruthers, Cera, Clites, Crawley, Cross, Crossman, Cupp, Dean, Denson, Edwards, Fraizer, Galonski, Ghanbari, Green, Hicks-Hudson, Hillyer, Hoops, Jones, Kick, Koehler, Lanese, LaRe, Lepore-Hagan, Liston, Manning, D., McClain, Patterson, Patton, Perales, Plummer, Reineke, Richardson, Robinson, Roemer, Rogers, Seitz, Sheehy, Sobecki, Stephens, Strahorn, Swearingen, Upchurch, Weinstein, West, Wiggam

Senators Antonio, Blessing, Burke, Craig, Hackett, Peterson, Rulli, Sykes, Thomas, Wilson, Yuko

A BILL

To amend sections 3706.49, 6121.03, and 6121.04 and 1
to enact sections 3706.491 and 3706.551 of the 2
Revised Code to allow the Ohio Water Development 3
Authority to provide for the refinancing of 4
loans for certain public water and waste water 5
infrastructure projects, to waive certain 6
deadlines for qualifying renewable resources 7
that applied for renewable energy credits before 8
March 1, 2020, and to provide for payment of 9
Ohio Air Quality Development Authority 10
administrative costs under the law governing 11
nuclear resource and renewable energy credits. 12

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

Section 1. That sections 3706.49, 6121.03, and 6121.04 be 13
amended and sections 3706.491 and 3706.551 of the Revised Code 14
be enacted to read as follows: 15

Sec. 3706.49. (A) There is hereby created the nuclear 16
generation fund and the renewable generation fund. Each fund 17
shall be in the custody of the treasurer of state but shall not 18
be part of the state treasury. Each fund shall consist of the 19
charges collected under section 3706.46 of the Revised Code and 20
deposited in accordance with section 3706.53 of the Revised 21
Code. The interest generated by each fund shall be retained by 22
each respective fund and used for the purposes set forth in 23
sections 3706.40 to 3706.65 of the Revised Code. 24

(B) The treasurer of state shall distribute the moneys in 25
the funds in accordance with directions provided by the Ohio air 26
quality development authority. ~~Before giving directions under~~ 27
~~this division~~Except with regard to the administrative costs 28
described in section 3706.491 of the Revised Code, the authority 29
shall consult with the public utilities commission before giving 30
directions under this division. 31

Sec. 3706.491. (A) Except as provided in division (B) of 32
this section, each fiscal year, beginning July 1, 2021, and 33
ending June 30, 2028, and subject to controlling board approval, 34
the Ohio air quality development authority may use, from the 35
renewable generation fund and nuclear generation fund, created 36
under section 3706.49 of the Revised Code, up to one hundred 37
fifty thousand dollars from each fund, for a maximum total of 38
three hundred thousand dollars, to pay for the authority's 39
administrative costs for that year under sections 3706.40 to 40
3706.65 of the Revised Code. 41

(B) Amounts approved under division (A) of this section 42

for fiscal year 2021 may be used for costs incurred in both 43
fiscal years 2020 and 2021 but may not exceed three hundred 44
thousand dollars per fiscal year. 45

Sec. 3706.551. (A) Notwithstanding the renewable energy 46
credit application deadlines for qualifying renewable resources 47
under sections 3706.41 and 3706.43 of the Revised Code, the Ohio 48
air quality development authority shall accept, review, and 49
approve an application from a qualifying renewable resource if 50
the resource submitted the application before March 1, 2020. 51

(B) The April 7, 2020, deadline for the first quarterly 52
report required under section 3706.45 of the Revised Code shall 53
not apply to a qualifying renewable resource whose application 54
for renewable energy credits is approved under division (A) of 55
this section. 56

Sec. 6121.03. (A) It is hereby declared to be the public 57
policy of the state through the operations of the Ohio water 58
development authority under this chapter to contribute toward 59
one or more of the following: ~~to~~ 60

(1) To preserve, protect, upgrade, conserve, develop, 61
utilize, and manage the water resources of the state, ~~to;~~ 62

(2) To prevent or abate the pollution of water resources, ~~to;~~ 63
~~to;~~ 64

(3) To promote the beneficial use of waters of the state 65
for the protection and preservation of the public health, 66
safety, convenience, and welfare, ~~to;~~ 67

(4) To assist in the financing of waste water facilities 68
and water management facilities for industry, commerce, 69
distribution, and research, including public utility companies, ~~to;~~ 70
~~to;~~ 71

(5) To create or preserve jobs and employment 72
opportunities or improve the economic welfare of the people of 73
the state, or to assist and cooperate with governmental agencies 74
in achieving such purposes. 75

(B) In furtherance of such public policy, the Ohio water 76
development authority may ~~initiate~~ do all of the following: 77

(1) Initiate, acquire, construct, maintain, repair, and 78
operate water development projects or cause the same to be 79
operated pursuant to a lease, sublease, or agreement with any 80
person or governmental agency; ~~may make~~ 81

(2) Make loans and grants to governmental agencies for the 82
acquisition ~~or,~~ construction, or refinancing of waste water or 83
water management facilities by such governmental agencies and 84
provide for the financing and refinancing of such loans; ~~may~~ 85
~~make~~ 86

(3) Make loans to persons for the acquisition ~~or,~~ 87
construction, or refinancing of waste water facilities or water 88
management facilities by such persons; ~~and may issue~~ 89

(4) Issue water development revenue bonds of this state 90
payable solely from revenues, to pay the cost of or refinance 91
such projects, provided that, except for facilities for 92
pollution control or solid waste disposal, no such financing 93
assistance shall be made for facilities to be constructed for 94
the purpose of providing electric or gas utility service to the 95
public. 96

(C) Any water development project shall be determined by 97
the authority to be consistent with any applicable comprehensive 98
plan of water management approved by the director of 99
environmental protection or in the process of preparation by 100

such director and to be not inconsistent with the standards set 101
for the waters of the state affected thereby by the director of 102
environmental protection. Any resolution of the authority 103
providing for acquiring or constructing such projects or for 104
making a loan or grant for such projects shall include a finding 105
by the authority that such determinations have been made. 106
Determinations by resolution of the authority that a project is 107
a waste water facility or a water management facility under this 108
chapter and is consistent with the purposes of Section 13 of 109
Article VIII, Ohio Constitution, and this chapter shall be 110
conclusive as to the validity and enforceability of the water 111
development revenue bonds issued to finance or refinance such 112
project and of the resolutions, trust agreements or indentures, 113
leases, subleases, sale agreements, loan agreements and other 114
agreements made in connection therewith, all in accordance with 115
their terms. 116

Sec. 6121.04. The Ohio water development authority may do 117
any or all of the following: 118

(A) Adopt bylaws for the regulation of its affairs and the 119
conduct of its business; 120

(B) Adopt an official seal; 121

(C) Maintain a principal office and suboffices at places 122
within the state that it designates; 123

(D) Sue and plead in its own name and be sued and 124
impleaded in its own name with respect to its contracts or torts 125
of its members, employees, or agents acting within the scope of 126
their employment, or to enforce its obligations and covenants 127
made under sections 6121.06, 6121.08, and 6121.13 of the Revised 128
Code. Any such actions against the authority shall be brought in 129

the court of common pleas of the county in which the principal 130
office of the authority is located or in the court of common 131
pleas of the county in which the cause of action arose, provided 132
that the county is located within this state, and all summonses, 133
exceptions, and notices of every kind shall be served on the 134
authority by leaving a copy thereof at the principal office with 135
the person in charge thereof or with the secretary-treasurer of 136
the authority. 137

(E) Make loans and grants to governmental agencies for the 138
acquisition ~~or~~, construction, or refinancing of water 139
development projects by any such governmental agency and adopt 140
rules and procedures for making such loans and grants, including 141
rules governing the financing and refinancing of such loans; 142

(F) Acquire, construct, reconstruct, enlarge, improve, 143
furnish, equip, maintain, repair, operate, or lease or rent to, 144
or contract for operation by, a governmental agency or person, 145
water development projects, and establish rules for the use of 146
those projects; 147

(G) Make available the use or services of any water 148
development project to one or more persons, one or more 149
governmental agencies, or any combination thereof; 150

(H) Issue water development revenue bonds and notes and 151
water development revenue refunding bonds of the state, payable 152
solely from revenues as provided in section 6121.06 of the 153
Revised Code, unless the bonds are refunded by refunding bonds, 154
for the purpose of paying any part of the cost of or refinancing 155
one or more water development projects or parts thereof; 156

(I) Acquire by gift or purchase, hold, and dispose of real 157
and personal property in the exercise of its powers and the 158

performance of its duties under this chapter; 159

(J) Acquire, in the name of the state, by purchase or 160
otherwise, on terms and in the manner that it considers proper, 161
or by the exercise of the right of condemnation in the manner 162
provided by section 6121.18 of the Revised Code, public or 163
private lands, including public parks, playgrounds, or 164
reservations, or parts thereof or rights therein, rights-of-way, 165
property, rights, easements, and interests that it considers 166
necessary for carrying out this chapter, but excluding the 167
acquisition by the exercise of the right of condemnation of any 168
waste water facility or water management facility owned by any 169
person or governmental agency, and compensation shall be paid 170
for public or private lands so taken, except that a government- 171
owned waste water facility may be appropriated in accordance 172
with section 6121.041 of the Revised Code; 173

(K) Adopt rules to protect augmented flow in waters of the 174
state, to the extent augmented by a water development project, 175
from depletion so it will be available for beneficial use, and 176
to provide standards for the withdrawal from waters of the state 177
of the augmented flow created by a water development project 178
that is not returned to the waters of the state so augmented and 179
to establish reasonable charges therefor if considered necessary 180
by the authority; 181

(L) Make and enter into all contracts and agreements and 182
execute all instruments necessary or incidental to the 183
performance of its duties and the execution of its powers under 184
this chapter in accordance with the following requirements: 185

(1) When the cost under any such contract or agreement, 186
other than compensation for personal services, involves an 187
expenditure of more than fifty thousand dollars, the authority 188

shall make a written contract with the lowest responsive and 189
responsible bidder, in accordance with section 9.312 of the 190
Revised Code, after advertisement for not less than two 191
consecutive weeks in a newspaper of general circulation in 192
Franklin county, and in other publications that the authority 193
determines, which shall state the general character of the work 194
and the general character of the materials to be furnished, the 195
place where plans and specifications therefor may be examined, 196
and the time and place of receiving bids, provided that a 197
contract or lease for the operation of a water development 198
project constructed and owned by the authority or an agreement 199
for cooperation in the acquisition or construction of a water 200
development project pursuant to section 6121.13 of the Revised 201
Code or any contract for the construction of a water development 202
project that is to be leased by the authority to, and operated 203
by, persons who are not governmental agencies and the cost of 204
the project is to be amortized exclusively from rentals or other 205
charges paid to the authority by persons who are not 206
governmental agencies is not subject to the foregoing 207
requirements and the authority may enter into such a contract or 208
lease or such an agreement pursuant to negotiation and upon 209
terms and conditions and for the period that it finds to be 210
reasonable and proper in the circumstances and in the best 211
interests of proper operation or of efficient acquisition or 212
construction of the project. 213

(2) Each bid for a contract for the construction, 214
demolition, alteration, repair, or reconstruction of an 215
improvement shall contain the full name of every person 216
interested in it and shall meet the requirements of section 217
153.54 of the Revised Code. 218

(3) Each bid for a contract except as provided in division 219

(L) (2) of this section shall contain the full name of every 220
person or company interested in it and shall be accompanied by a 221
sufficient bond or certified check on a solvent bank that if the 222
bid is accepted, a contract will be entered into and the 223
performance thereof secured. 224

(4) The authority may reject any and all bids. 225

(5) A bond with good and sufficient surety, approved by 226
the authority, shall be required of every contractor awarded a 227
contract except as provided in division (L) (2) of this section, 228
in an amount equal to at least fifty per cent of the contract 229
price, conditioned upon the faithful performance of the 230
contract. 231

(M) Employ managers, superintendents, and other employees 232
and retain or contract with consulting engineers, financial 233
consultants, accounting experts, architects, attorneys, and 234
other consultants and independent contractors that are necessary 235
in its judgment to carry out this chapter, and fix the 236
compensation thereof. All expenses thereof shall be payable 237
solely from the proceeds of water development revenue bonds or 238
notes issued under this chapter, from revenues, or from funds 239
appropriated for that purpose by the general assembly. 240

(N) Receive and accept from any federal agency, subject to 241
the approval of the governor, grants for or in aid of the 242
construction of any water development project or for research 243
and development with respect to waste water or water management 244
facilities, and receive and accept aid or contributions from any 245
source of money, property, labor, or other things of value, to 246
be held, used, and applied only for the purposes for which the 247
grants and contributions are made; 248

(O) Engage in research and development with respect to	249
waste water or water management facilities;	250
(P) Purchase fire and extended coverage and liability	251
insurance for any water development project and for the	252
principal office and suboffices of the authority, insurance	253
protecting the authority and its officers and employees against	254
liability for damage to property or injury to or death of	255
persons arising from its operations, and any other insurance the	256
authority may agree to provide under any resolution authorizing	257
its water development revenue bonds or in any trust agreement	258
securing the same;	259
(Q) Charge, alter, and collect rentals and other charges	260
for the use or services of any water development project as	261
provided in section 6121.13 of the Revised Code;	262
(R) Provide coverage for its employees under Chapters	263
145., 4123., and 4141. of the Revised Code;	264
(S) Assist in the implementation and administration of the	265
drinking water assistance fund and program created in section	266
6109.22 of the Revised Code and the water pollution control loan	267
fund and program created in section 6111.036 of the Revised	268
Code, including, without limitation, performing or providing	269
fiscal management for the funds and investing and disbursing	270
moneys in the funds, and enter into all necessary and	271
appropriate agreements with the director of environmental	272
protection for those purposes;	273
(T) Issue water development revenue bonds and notes of the	274
state in principal amounts that are necessary for the purpose of	275
raising moneys for the sole benefit of the water pollution	276
control loan fund created in section 6111.036 of the Revised	277

Code, including moneys to meet the requirement for providing 278
matching moneys under division (D) of that section. The bonds 279
and notes may be secured by appropriate trust agreements and 280
repaid from moneys credited to the fund from payments of 281
principal and interest on loans made from the fund, as provided 282
in division (F) of section 6111.036 of the Revised Code. 283

(U) Issue water development revenue bonds and notes of the 284
state in principal amounts that are necessary for the purpose of 285
raising moneys for the sole benefit of the drinking water 286
assistance fund created in section 6109.22 of the Revised Code, 287
including moneys to meet the requirement for providing matching 288
moneys under divisions (B) and (F) of that section. The bonds 289
and notes may be secured by appropriate trust agreements and 290
repaid from moneys credited to the fund from payments of 291
principal and interest on loans made from the fund, as provided 292
in division (F) of section 6109.22 of the Revised Code. 293

(V) Make loans to and enter into agreements with boards of 294
county commissioners for the purposes of section 1506.44 of the 295
Revised Code and adopt rules establishing requirements and 296
procedures for making the loans and entering into the 297
agreements; 298

(W) Do all acts necessary or proper to carry out the 299
powers expressly granted in this chapter. 300

Any instrument by which real property is acquired pursuant 301
to this section shall identify the agency of the state that has 302
the use and benefit of the real property as specified in section 303
5301.012 of the Revised Code. 304

Section 2. That existing sections 3706.49, 6121.03, and 305
6121.04 of the Revised Code are hereby repealed. 306