

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 7

Representatives Ghanbari, Patterson

A BILL

To amend section 131.44 and to enact sections 1
126.601, 126.61, 126.62, 126.63, 126.64, 126.65,
2
126.66, and 126.67 of the Revised Code to create 3
the H2Ohio Trust Fund for the protection and 4
preservation of Ohio's water quality, to create 5
the H2Ohio Advisory Council to disburse money 6
from the Fund for water quality programs, and to 7
create the H2Ohio Endowment Board to make 8
recommendations to the Treasurer of State 9
regarding the issuance of securities to pay for 10
costs related to the purposes of the Fund. 11

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

Section 1. That section 131.44 be amended and sections 12
126.601, 126.61, 126.62, 126.63, 126.64, 126.65, 126.66, and 13
126.67 of the Revised Code be enacted to read as follows: 14

Sec. 126.601. (A) There is hereby created the H2Ohio trust 15
fund, which is in the custody of the treasurer of state, but is 16
not a part of the state treasury. The fund shall be irrevocable 17
and consist of all of the following: 18

(1) Money appropriated to it; 19

<u>(2) Proceeds from the issuance of securities by the</u>	20
<u>treasurer of state under section 126.66 of the Revised Code;</u>	21
<u>(3) Proceeds from real property transactions authorized</u>	22
<u>under section 126.65 of the Revised Code and loan repayments</u>	23
<u>made under section 126.63 of the Revised Code that are not</u>	24
<u>pledged revenues required to be deposited in the H2Ohio security</u>	25
<u>repayment fund created in section 126.67 of the Revised Code;</u>	26
<u>(4) Money received from gifts, donations, and bequests;</u>	27
<u>(5) Any other money contributed to the fund.</u>	28
<u>(B) The purpose of the fund is to provide for the</u>	29
<u>protection, preservation, and restoration of the water quality</u>	30
<u>of this state's lakes and rivers. Money in the fund may be used</u>	31
<u>for all of the following purposes:</u>	32
<u>(1) The disbursement of money by the H2Ohio advisory</u>	33
<u>council, established under section 126.61 of the Revised Code,</u>	34
<u>in accordance with section 126.63 of the Revised Code;</u>	35
<u>(2) The acquisition of real property by the H2Ohio</u>	36
<u>endowment board under section 126.65 of the Revised Code;</u>	37
<u>(3) Administrative expenses incurred by the H2Ohio</u>	38
<u>advisory council;</u>	39
<u>(4) Administrative expenses incurred by the H2Ohio</u>	40
<u>endowment board, including the employment of an executive</u>	41
<u>director under section 126.65 of the Revised Code;</u>	42
<u>(5) Costs and expenses related to the issuance of</u>	43
<u>securities by the treasurer of state under section 126.66 of the</u>	44
<u>Revised Code;</u>	45
<u>(6) Costs and expenses related to the functions of the</u>	46

H2Ohio endowment board. 47

(C) The treasurer of state shall act as trustee of the 48
fund. The treasurer shall have full power to invest money in the 49
fund. The treasurer shall discharge the treasurer's duties with 50
respect to the fund solely in the interest of the fund's 51
purposes with care, skill, prudence, and diligence. The 52
treasurer of state shall diversify the investments of the fund 53
so as to minimize the risk of large losses, unless under the 54
circumstances it is clearly prudent not to do so. All investment 55
earnings of the fund shall be credited to the fund. 56

Sec. 126.61. (A) There is hereby created the H2Ohio 57
advisory council consisting of the following members: 58

(1) The director of agriculture or the director's 59
designee; 60

(2) The director of environmental protection or the 61
director's designee; 62

(3) The director of natural resources or the director's 63
designee; 64

(4) The executive director of the Ohio Lake Erie 65
commission who shall serve as a nonvoting, ex officio member; 66

(5) Two members appointed by the president of the senate, 67
one member of the majority party and one member of the minority 68
party; 69

(6) Two members appointed by the speaker of the house of 70
representatives, one member of the majority party and one member 71
of the minority party; 72

(7) One member appointed by the governor with the advice 73
and consent of the senate who represents the interests of 74

<u>counties;</u>	75
<u>(8) One member appointed by the governor with the advice</u>	76
<u>and consent of the senate who represents the interests of</u>	77
<u>townships;</u>	78
<u>(9) One member appointed by the governor with the advice</u>	79
<u>and consent of the senate who represents the interests of</u>	80
<u>municipal corporations;</u>	81
<u>(10) One member appointed by the governor with the advice</u>	82
<u>and consent of the senate who represents the interests of public</u>	83
<u>health;</u>	84
<u>(11) Two members appointed by the governor with the advice</u>	85
<u>and consent of the senate who represent the interests of</u>	86
<u>business or tourism;</u>	87
<u>(12) Two members appointed by the governor with the advice</u>	88
<u>and consent of the senate who represent agricultural interests;</u>	89
<u>(13) Two members appointed by the governor with the advice</u>	90
<u>and consent of the senate who represent statewide environmental</u>	91
<u>advocacy organizations.</u>	92
<u>All appointing authorities shall make appointments to the</u>	93
<u>council not later than one hundred twenty days after the</u>	94
<u>effective date of this section.</u>	95
<u>(B) (1) The members appointed by the president of the</u>	96
<u>senate and speaker of the house of representatives shall serve</u>	97
<u>at the pleasure of their appointing authorities. Of the initial</u>	98
<u>members appointed by the governor, five shall be appointed for</u>	99
<u>two years and four shall be appointed for one year. Thereafter,</u>	100
<u>terms of office for members appointed by the governor shall be</u>	101
<u>for two years, with each term ending on the same day of the same</u>	102

month as did the term that it succeeds. The members appointed by 103
the governor shall reflect the demographic and economic 104
diversity of the population of the state. Additionally, the 105
governor's appointments shall be from geographically diverse 106
areas of the state so that all areas of the state have 107
representation on the council. The governor may remove a member 108
appointed by the governor for misfeasance, nonfeasance, or 109
malfeasance in office. 110

(2) Each member appointed by the governor shall hold 111
office from the date of appointment until the end of the term 112
for which the member is appointed. Such members may be 113
reappointed. Vacancies shall be filled in the same manner as 114
provided for original appointments. Any member appointed to fill 115
a vacancy occurring prior to the expiration date of the term for 116
which the member was appointed shall hold office for the 117
remainder of that term. A member shall continue in office after 118
the expiration date of the member's term until the member's 119
successor takes office or until a period of sixty days has 120
elapsed, whichever occurs first. 121

(C) The governor shall appoint a member of the council to 122
serve as the chairperson of the council. The executive director 123
of the Ohio Lake Erie commission shall serve as the vice- 124
chairperson of the council unless the governor appoints the 125
executive director as the chairperson. If the executive director 126
is appointed chairperson, the council annually shall select a 127
person from among its members to serve as vice-chairperson while 128
the director is chairperson. The council annually shall select 129
from among its members a secretary to keep a record of its 130
proceedings. A majority vote of a quorum of the members of the 131
council is necessary to take action on any matter. 132

(D) (1) Members of the council are public officials or 133
officers only for the purposes of section 9.86 and Chapters 102. 134
and 2921. of the Revised Code. Serving as a member of the 135
council does not constitute holding a public office or position 136
of employment so as to constitute grounds for removal of public 137
officers or employees serving as members of the council from 138
their offices or positions of employment. 139

(2) Members of the council shall file with the Ohio ethics 140
commission the disclosure statement described in division (A) of 141
section 102.02 of the Revised Code on the form prescribed by the 142
commission. Members are subject to divisions (C) and (D) of that 143
section. 144

(3) Members of the council shall serve without 145
compensation for attending council meetings, but shall receive 146
their actual and necessary traveling and other expenses incurred 147
in the performance of their official duties in accordance with 148
the rules of the office of budget and management. 149

(E) Members appointed by the governor to represent the 150
interests of counties, townships, and municipal corporations do 151
not have a conflict of interest by virtue of their service on 152
the council. For the purposes of this division, "conflict of 153
interest" means the taking of any action as a member of the 154
council that affects a public agency the person serves as an 155
officer or employee. 156

(F) The Ohio Lake Erie commission, department of 157
agriculture, and environmental protection agency shall provide 158
administrative support to the council. The Ohio Lake Erie 159
commission, in addition to providing administrative 160
support, shall provide the location for council meetings. 161

(G) Sections 101.82 to 101.87 of the Revised Code do not 162
apply to the council. 163

Sec. 126.62. The H2Ohio advisory council shall adopt 164
bylaws governing its operation, including bylaws that establish 165
all of the following: 166

(A) The frequency of meetings; 167

(B) Procedures for reviewing annual plans submitted by the 168
directors of agriculture, natural resources, and environmental 169
protection under section 126.64 of the Revised Code; 170

(C) Procedures for approving or disapproving annual plans 171
submitted by the directors of agriculture, natural resources, 172
and environmental protection under section 126.64 of the Revised 173
Code. The procedures shall include a process for resubmitting 174
disapproved plans. 175

(D) Procedures for applicants to apply for loans and 176
grants from the H2Ohio trust fund; 177

(E) Any other policy or procedure that the council 178
determines is necessary to carry out its duties. 179

Sec. 126.63. (A) The H2Ohio advisory council, created in 180
section 126.61 of the Revised Code, shall disburse money from 181
the H2Ohio trust fund, created in section 126.601 of the Revised 182
Code for any of the following purposes: 183

(1) Awarding or allocating grants or money, issuing loans, 184
or making purchases for the development and implementation of 185
projects and programs, including remediation projects, that are 186
designed to address water quality priorities; 187

(2) Funding cooperative research, data gathering and 188
monitoring, and demonstration projects related to water quality 189

<u>priorities;</u>	190
<u>(3) Encouraging cooperation with and among leaders from</u>	191
<u>state legislatures, state agencies, political subdivisions,</u>	192
<u>business and industry, labor, agriculture, institutions of</u>	193
<u>higher education, environmental organizations, and water</u>	194
<u>conservation districts;</u>	195
<u>(4) Other purposes, policies, programs, and priorities</u>	196
<u>identified by the Ohio Lake Erie commission in coordination with</u>	197
<u>state agencies or boards responsible for water protection and</u>	198
<u>water management, provided that the purposes, policies,</u>	199
<u>programs, and priorities align with a statewide strategic vision</u>	200
<u>and comprehensive periodic water protection and restoration</u>	201
<u>strategy.</u>	202
<u>(B) The council shall not disburse more than the amount</u>	203
<u>approved by the H2Ohio endowment board under section 126.65 of</u>	204
<u>the Revised Code.</u>	205
<u>(C) The council shall notify the public of available</u>	206
<u>H2Ohio trust fund money and of how to apply to receive loans and</u>	207
<u>grants from the fund.</u>	208
<u>(D) Not later than August 31, 2020, and annually</u>	209
<u>thereafter, the H2Ohio advisory council, in coordination with</u>	210
<u>the Ohio Lake Erie commission, shall do both of the following:</u>	211
<u>(1) Prepare a report of the activities that were</u>	212
<u>undertaken with respect to the H2Ohio trust fund during the</u>	213
<u>immediately preceding fiscal year, including the revenues and</u>	214
<u>expenses of the fund for the preceding fiscal year;</u>	215
<u>(2) Submit the report to the general assembly and to the</u>	216
<u>governor.</u>	217

Sec. 126.64. (A) The directors of agriculture, natural resources, and environmental protection each shall prepare an annual plan governing the expenditure of money appropriated to each agency from the H2Ohio trust fund created in section 126.601 of the Revised Code that, at a minimum, describes the following: 218
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(1) Funding priorities; 224

(2) The specific programs, projects, or entities proposed to receive funding; 225
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(3) The internal controls and external accountability measures that will be put in place to ensure that the funding is properly used. 227
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(B) Not later than the first day of March of each year, the directors shall deliver their respective annual plans to the H2Ohio advisory council. 230
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(C) The council shall review and shall approve or disapprove each agency's annual plan in accordance with the council's policies and procedures. 233
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(D) An agency shall not expend any money appropriated from the H2Ohio trust fund to the agency unless the council approves the plan submitted by the agency under this section. 236
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Sec. 126.65. (A) There is hereby created the H2Ohio endowment board, which shall consist of the following twelve members: 239
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(1) Three members appointed by the governor who shall serve ten-year terms; 242
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(2) Three members appointed by the governor, one of whom shall serve a seven-year term, one of whom shall serve a five- 244
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year term, and one of whom shall serve a three-year term; 246

(3) Three members appointed by the speaker of the house of 247
representatives, one of whom shall serve a seven-year term, one 248
of whom shall serve a five-year term, and one of whom shall 249
serve a three-year term; 250

(4) Three members appointed by the president of the 251
senate, one of whom shall serve a seven-year term, one of whom 252
shall serve a five-year term, and one of whom shall serve a 253
three-year term. 254

(B) (1) Each member of the board shall serve the member's 255
respective term, commencing on the fifteenth day of October and 256
ending on the fourteenth day of October, except as provided in 257
division (B) (2) of this section. 258

(2) Notwithstanding division (A) (1) of this section, of 259
the initial three members appointed under that division, one 260
member shall serve a term of three years, one member shall serve 261
a term of six years, and one member shall serve a term of nine 262
years, as designated by the governor at the time of the 263
appointment. Thereafter, all members appointed under division 264
(A) (1) of this section shall serve ten-year terms. 265

(C) Each member shall hold office from the date of 266
appointment until the end of the term for which the member was 267
appointed. Any member appointed to fill a vacancy occurring 268
prior to the expiration of the term for which the member's 269
predecessor was appointed shall hold office for the remainder of 270
that term. Any member shall continue in office subsequent to the 271
expiration date of the member's term until the member's 272
successor takes office, or until a period of sixty days has 273
elapsed, whichever occurs first. Each vacancy of an appointed 274

member occurring on the board shall be filled by the appropriate 275
appointing authority within sixty days after the vacancy occurs. 276

(D) Members of the board shall receive no compensation as 277
board members, but shall be reimbursed for their necessary 278
expenses incurred in the performance of their official duties. 279
The board shall select from among its members a chairperson, a 280
vice-chairperson, and a secretary. These officers shall serve a 281
one-year term and may be reappointed. The appropriate appointing 282
authority may remove any member of the board from office for 283
inefficiency, neglect of duty, malfeasance, misfeasance, or 284
nonfeasance. 285

(E) (1) The board shall employ an executive director to 286
serve at the pleasure of the board. The board shall prescribe 287
the powers and duties of an executive director, including 288
coordinating efforts between the board, the H2Ohio advisory 289
council, and the treasurer of state. The executive director 290
shall serve in the unclassified civil service at a salary fixed 291
pursuant to section 124.14 of the Revised Code. 292

(2) The executive director shall submit to the director of 293
budget and management, by the first day of June of each year, a 294
request for surplus revenue to be transferred into the H2Ohio 295
trust fund created in section 126.601 of the Revised Code in an 296
amount determined by the board. 297

(F) The board shall make recommendations to the treasurer 298
of state regarding the issuance of securities to pay for costs 299
related to disbursing money from the H2Ohio trust fund by the 300
H2Ohio advisory council. The board also may adopt an investment 301
policy to be submitted to the treasurer of state. 302

(G) The board may appoint or provide for the appointment 303

of agents, consultants, independent contractors, or any other 304
type of administrative, investment, financial, or accounting 305
experts as are necessary, in the judgment of the board, to carry 306
out the board's duties under this section. 307

(H) The board may buy, sell, and lease real property. 308

(I) Each fiscal year, the board shall approve an amount, 309
not to exceed fifty million dollars, that the H2Ohio advisory 310
council may disburse from the H2Ohio trust fund under section 311
126.63 of the Revised Code. 312

(J) The board is not subject to sections 101.82 to 101.87 313
of the Revised Code. 314

Sec. 126.66. (A) (1) Based on recommendations made by the 315
H2Ohio endowment board, the treasurer of state may issue 316
securities to pay for costs related to disbursing money from the 317
H2Ohio trust fund by the H2Ohio advisory council. The securities 318
shall be secured by repayments of loans issued from the fund and 319
any other pledged revenues. All pledged revenues shall be 320
deposited in the H2Ohio security repayment fund created in 321
section 126.67 of the Revised Code. 322

(2) Securities issued under division (A) (1) of this 323
section are special obligation securities and are not general 324
obligations of the state. Such securities do not constitute debt 325
for which the full faith and credit of the state may be pledged. 326
The holder or owner of such securities has no right to have 327
money raised by taxation by the state or any political 328
subdivision of the state obligated or pledged, and money so 329
raised shall not be obligated or pledged, for the payment of 330
principal or interest on such securities, and each security 331
shall bear on its face a statement to that effect. 332

(B) The treasurer of state shall deposit the proceeds from 333
the issuance of securities under this section into the H2Ohio 334
trust fund created in section 126.601 of the Revised Code. 335

(C) The treasurer of state may issue securities to fund or 336
refund the securities issued under division (A) (1) of this 337
section. The treasurer of state also may issue securities in 338
anticipation of the proceeds of the securities issued pursuant 339
to this section. 340

(D) When issuing securities under this section, the 341
treasurer of state shall do so under just, reasonable, and 342
financially sound procedures, terms, and conditions. 343

(E) (1) The treasurer of state shall take all actions 344
necessary to pay debt incurred by the issuance of securities and 345
shall execute all necessary documents to provide for the pledge, 346
protection, and disposition of the pledged revenues, including 347
pledged revenues raised from the repayment of loans issued from 348
the H2Ohio trust fund. Those necessary documents include the 349
issued securities, trust agreements, leases, and other financing 350
documents. 351

(2) The treasurer of state may use all allowable revenue 352
sources to pay debt incurred by the issuance of securities. 353

(F) The treasurer of state shall determine the maximum 354
maturity of securities issued under this section. 355

(G) Except for sections 9.98 to 9.983 and sections 123.25 356
and 123.34 of the Revised Code, the securities issued under this 357
section are not subject to any other provision of the Revised 358
Code governing the issuance of securities by the state or any 359
political subdivision of the state. 360

Sec. 126.67. There is hereby created the H2Ohio security 361

repayment fund consisting of revenues pledged under section 362
126.66 of the Revised Code. The fund shall be in the custody of 363
the treasurer of state, but is not a part of the state treasury. 364
The treasurer of state shall use pledged revenues deposited in 365
the fund to pay the costs and expenses related to the issuance 366
and repayment of securities issued under section 126.66 of the 367
Revised Code. 368

Sec. 131.44. (A) As used in this section: 369

(1) "Surplus revenue" means the excess, if any, of the 370
total fund balance over the required year-end balance. 371

(2) "Total fund balance" means the sum of the unencumbered 372
balance in the general revenue fund on the last day of the 373
preceding fiscal year plus the balance in the budget 374
stabilization fund. 375

(3) "Required year-end balance" means the sum of the 376
following: 377

(a) Eight and one-half per cent of the general revenue 378
fund revenues for the preceding fiscal year; 379

(b) "Ending fund balance," which means one-half of one per 380
cent of general revenue fund revenues for the preceding fiscal 381
year; 382

(c) "Carryover balance," which means, with respect to a 383
fiscal biennium, the excess, if any, of the estimated general 384
revenue fund appropriation and transfer requirement for the 385
second fiscal year of the biennium over the estimated general 386
revenue fund revenue for that fiscal year; 387

(d) "Capital appropriation reserve," which means the 388
amount, if any, of general revenue fund capital appropriations 389

made for the current biennium that the director of budget and	390
management has determined will be encumbered or disbursed;	391
(e) "Income tax reduction impact reserve," which means an	392
amount equal to the reduction projected by the director of	393
budget and management in income tax revenue in the current	394
fiscal year attributable to the previous reduction in the income	395
tax rate made by the tax commissioner pursuant to division (B)	396
of section 5747.02 of the Revised Code.	397
(4) "Estimated general revenue fund appropriation and	398
transfer requirement" means the most recent adjusted	399
appropriations made by the general assembly from the general	400
revenue fund and includes both of the following:	401
(a) Appropriations made and transfers of appropriations	402
from the first fiscal year to the second fiscal year of the	403
biennium in provisions of acts of the general assembly signed by	404
the governor but not yet effective;	405
(b) Transfers of appropriations from the first fiscal year	406
to the second fiscal year of the biennium approved by the	407
controlling board.	408
(5) "Estimated general revenue fund revenue" means the	409
most recent such estimate available to the director of budget	410
and management.	411
(B)(1) Not later than the thirty-first day of July each	412
year, the director of budget and management shall determine the	413
surplus revenue that existed on the preceding thirtieth day of	414
June and transfer from the general revenue fund, to the extent	415
of the unobligated, unencumbered balance on the preceding	416
thirtieth day of June in excess of one-half of one per cent of	417
the general revenue fund revenues in the preceding fiscal year,	418

the following: 419

(a) First, to the budget stabilization fund, any amount 420
necessary for the balance of the budget stabilization fund to 421
equal eight and one-half per cent of the general revenue fund 422
revenues of the preceding fiscal year; 423

(b) Then, an amount determined by the director of budget 424
and management that is up to the amount requested by the 425
executive director of the H2Ohio endowment board in accordance 426
with division (E)(2) of section 126.65 of the Revised Code; 427

(c) Lastly, to the income tax reduction fund, which is 428
hereby created in the state treasury, an amount equal to the 429
surplus revenue. 430

(2) Not later than the thirty-first day of July each year, 431
the director shall determine the percentage that the balance in 432
the income tax reduction fund is of the amount of revenue that 433
the director estimates will be received from the tax levied 434
under section 5747.02 of the Revised Code in the current fiscal 435
year without regard to any reduction under division (B) of that 436
section. If that percentage exceeds thirty-five one hundredths 437
of one per cent, the director shall certify the percentage to 438
the tax commissioner not later than the thirty-first day of 439
July. 440

(C) The director of budget and management shall transfer 441
money in the income tax reduction fund to the general revenue 442
fund, the local government fund, and the public library fund as 443
necessary to offset revenue reductions resulting from the 444
reductions in taxes required under division (B) of section 445
5747.02 of the Revised Code in the respective amounts and 446
percentages prescribed by division (A) of section 5747.03 and 447

divisions (A) and (B) of section 131.51 of the Revised Code as 448
if the amount transferred had been collected as taxes under 449
Chapter 5747. of the Revised Code. If no reductions in taxes are 450
made under that division that affect revenue received in the 451
current fiscal year, the director shall not transfer money from 452
the income tax reduction fund to the general revenue fund, the 453
local government fund, and the public library fund. 454

Section 2. That existing section 131.44 of the Revised 455
Code is hereby repealed. 456