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Sub. H. B. No. 364

Representative Patton

**Cosponsors: Representatives Carruthers, Ginter, Hoops, Jones, Loychik,
Manning, Seitz, Stephens, Troy
Senators Reineke, Cirino, McColley**

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 49
state that will be treated at those facilities; 50

(3) A determination of the quantity of hazardous waste 51
generated outside this state that is being treated at commercial 52
hazardous waste incinerators located in this state and 53
projections of the quantity of hazardous waste generated outside 54
this state that will be treated at those facilities; 55

(4) A determination of the quantity of hazardous waste 56
generated in this state that is being treated at commercial 57
hazardous waste incinerators located outside this state, and 58
projections of the quantity of hazardous waste generated in this 59
state that will be treated at those facilities; 60

(5) The amount of commercial hazardous waste incinerator 61
capacity that the director reasonably anticipates will be needed 62
during the first three years of the planning period to treat 63
hazardous waste generated from the remediation of sites in this 64
state that are on the national priority list required under the 65
"Comprehensive Environmental Response, Compensation, and 66
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 67
amended; as a result of corrective actions implemented under the 68
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 69
42 U.S.C.A. 6921, as amended; and as a result of clean-up 70
activities conducted at sites listed on the master sites list 71
prepared by the environmental protection agency; 72

(6) Based upon available data, provided that the data are 73
reliable and are compatible with the data base of the 74
environmental protection agency, an identification of any 75
hazardous waste first listed as a hazardous waste in regulations 76
adopted under the "Resource Conservation and Recovery Act of 77

1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after 78
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 108
application for any permit pertains to the establishment, 109
modification, or operation of any appurtenant facility or 110
equipment, the director shall cease reviewing the application 111
and return the application and accompanying materials to the 112
applicant along with a written notice that division (C) (1) (b) of 113
this section precludes the director from reviewing and acting 114
upon the application. 115

(c) Issue any exemption order under division (G) of 116
section 3734.02 of the Revised Code exempting the establishment 117
of a new commercial hazardous waste incinerator; the 118
modification of an existing facility to increase either the 119
treatment capacity of the incinerator or the quantity of 120
hazardous waste that is authorized to be treated by it; or the 121
establishment, modification, or operation of any facility or 122
equipment appurtenant to a new or modified commercial hazardous 123
waste incinerator, from divisions (C) (1) (a) or (b) or (C) (2) of 124
this section. 125

(2) If the director determines that an application for a 126
hazardous waste facility installation and operation permit 127
submitted under division (D) of section 3734.05 of the Revised 128
Code pertains to the establishment of a new commercial hazardous 129
waste incinerator, or a request for a modification of an 130
existing incinerator submitted under division (I) of that 131
section pertains to an increase of either the treatment capacity 132
of the incinerator or the quantity of hazardous waste that is 133
authorized to be treated by it, the director shall cease 134
reviewing the application or request and shall return it and the 135
accompanying materials to the applicant along with a written 136
notice that division (C) (2) of this section precludes the review 137

of the application or request. 138

(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 incinerator has not been issued any other permit allowing for the expansion of the hazardous waste incinerator or construction of a new hazardous waste incinerator prior to the effective date of this amendment.

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

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

(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

<u>identified in rule 4901:1-15-32 of the Administrative Code:</u>	226
(1) In the case of a waterworks company, replacement of <u>an</u>	227
existing plant including chemical feed systems, filters, pumps,	228
motors, plant generators, meters, service lines, hydrants,	229
mains, and valves, <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 infrastructure including chemical	236
feed systems, filters, pumps, motors, sludge handling equipment,	237
plant generators, mains and lift stations, <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</u> extensions that	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 ~~(3)~~ (4) 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

~~(E)~~ (F) 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

~~(F)~~ (G) All surcharges authorized under this section shall 297
terminate by operation of law not later than December 31, 298
~~2025~~2036. 299

~~(G)~~ (H) 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

~~(H)~~ (I) The commission may adopt such rules as it 304
considers necessary to carry out this section. 305

Sec. 5301.93. (A) As used in this section: 306

(1) "PACE" means property assessed clean energy. 307

(2) "Qualifying residential real property" means a single 308
family residential dwelling, or other residential dwelling of 309
three or fewer units. 310

(3) "Residential PACE lien" means the encumbrance on the 311

qualifying residential real property created by the special 312
assessment for a residential PACE loan. 313

(4) "Residential PACE loan" means the extension of 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, 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 system well without an approved well siting application issued by the director of environmental protection in accordance with this chapter and any rules adopted under it.

(B) In addition to meeting the siting requirements established under section 6109.04 of the Revised Code and the rules adopted under it, a person that submits a well siting application for a public water system well shall include all of the following in the application:

(1) For a new public water system or an existing public water system that proposes an increase in the withdrawal of waters of the state, an evaluation of alternatives for the provision of drinking water, including the potential for tie-in to a regional water system;

(2) For a new public water system or an existing public water system that proposes an increase in the withdrawal of waters of the state, asset management program information in accordance with section 6109.24 of the Revised Code and the rules adopted under it;

(3) For an existing public water system, a description of the asset management program impacts of installing the well, including impacts to any existing asset management program and the potential for tie-in to a regional water system;

(4) For a public water system well that has the capacity to withdraw waters of the state in an amount requiring registration pursuant to section 1521.16 of the Revised Code, a general plan, subject to approval of the director, that includes both of the following:

(a) The information required to be submitted under section

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 462
increased capacities for withdrawal or consumptive use that 463
require a permit issued under either section 1521.29 or 1522.12 464
of the Revised Code, a permit approved by the chief of the 465
division of water resources in the department of natural 466
resources pursuant to section 1521.29 or 1522.12 of the Revised 467
Code. 468

(C) Divisions (B) (2) and (3) of this section do not apply 469
to a transient noncommunity water system. 470

(D) If the director approves a well siting application for 471
an applicant that meets the requirements of division (B) (5) of 472
this section, the applicant then shall submit to the director a 473
copy of any certification, continuing monitoring, or other data 474
or reports required by the chief of the division of water 475
resources pursuant to a permit issued under either section 476
1521.29 or 1522.12 of the Revised Code and any revised ground 477
water model required by the chief. 478

~~(D)~~ (E) The director may require the well site applicant 479
to include, in the application, additional information, 480
including but not limited to hydrologic information, in a form 481
prescribed by the director for any public water system that is 482
not required to obtain a permit under either section 1521.23 or 483
1522.12 of the Revised Code. 484

~~(E)~~ (F) The director may adopt rules in accordance with 485
Chapter 119. of the Revised Code as is necessary for the 486
implementation of this section. 487

Sec. 6109.24. (A) The director of environmental protection	488
shall adopt, and may amend and rescind, rules pursuant to	489
section 6109.04 of the Revised Code establishing requirements	490
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 shall submit a written description of the system's asset management program to the director. The system shall submit the written description not later than thirty days after the date of the request. A small public water system may meet the written description requirement by doing both of the following:

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

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

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

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

(F) The director shall make available both of the following either on the environmental protection agency's web

site or via another public forum:	544
(1) A template for small public water systems to prepare an asset management program;	545 546
(2) Information about sources of funding available to assist public water systems with preparing and completing an asset management program.	547 548 549
<u>(G)(1) The director shall not adopt or enforce rules that require a transient noncommunity water system to prepare, implement, or complete an asset management program, including a demonstration of technical, managerial, and financial capability.</u>	550 551 552 553 554
<u>(2) Divisions (B) to (E) of this section do not apply to a transient noncommunity water system.</u>	555 556
Section 2. That existing sections 3734.123, 4909.172, 5721.10, 6109.01, 6109.072, and 6109.24 of the Revised Code are hereby repealed.	557 558 559