

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**H. B. No. 175**

**Representative Hillyer**

**Cosponsors: Representatives Seitz, Stoltzfus, Kick, Young, T.**



**A BILL**

To amend sections 3745.114 and 6111.01 of the 1  
Revised Code to deregulate certain ephemeral 2  
water features under various water pollution 3  
control laws. 4

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

**Section 1.** That sections 3745.114 and 6111.01 of the 5  
Revised Code be amended to read as follows: 6

**Sec. 3745.114.** (A) A person that applies for a section 401 7  
water quality certification under Chapter 6111. of the Revised 8  
Code and rules adopted under it shall pay an application fee of 9  
two hundred dollars at the time of application plus any of the 10  
following fees, as applicable: 11

(1) If the water resource to be impacted is a wetland, a 12  
review fee of five hundred dollars per acre of wetland to be 13  
impacted; 14

(2) If the water resource to be impacted is a stream one 15  
of the following fees, as applicable: 16

(a) ~~For an ephemeral stream, a review fee of five dollars~~ 17

~~per linear foot of stream to be impacted, or two hundred  
dollars, whichever is greater;~~ 18  
19

~~(b)~~ For an intermittent stream, a review fee of ten 20  
dollars per linear foot of stream to be impacted, or two hundred 21  
dollars, whichever is greater; 22

~~(e)~~ (b) For a perennial stream, a review fee of fifteen 23  
dollars per linear foot of stream to be impacted, or two hundred 24  
dollars, whichever is greater. 25

(3) If the water resource to be impacted is a lake, a 26  
review fee of three dollars per cubic yard of dredged or fill 27  
material to be moved. 28

(B) One-half of all applicable review fees levied under 29  
this section shall be due at the time of application for a 30  
section 401 water quality certification. The remainder of the 31  
fees shall be paid upon the final disposition of the application 32  
for a section 401 water quality certification. The total fee to 33  
be paid under this section shall not exceed twenty-five thousand 34  
dollars per application. However, if the applicant is a county, 35  
township, or municipal corporation in this state, the total fee 36  
to be paid shall not exceed five thousand dollars per 37  
application. 38

(C) All money collected under this section shall be 39  
transmitted to the treasurer of state for deposit into the state 40  
treasury to the credit of the surface water protection fund 41  
created in section 6111.038 of the Revised Code. 42

(D) The fees established under this section do not apply 43  
to any state agency as defined in section 119.01 of the Revised 44  
Code or to the United States army corps of engineers. 45

(E) The fees established under this section do not apply 46

to projects that are authorized by the environmental protection 47  
agency's general certifications of nationwide permits or general 48  
permits issued by the United States army corps of engineers. As 49  
used in this division, "general permit" and "nationwide permit" 50  
have the same meanings as in rules adopted under Chapter 6111. 51  
of the Revised Code. 52

(F) Coal mining and reclamation operations that are 53  
authorized under Chapter 1513. of the Revised Code are exempt 54  
from the fees established under this section for one year after 55  
~~the effective date of this amendment~~ March 30, 2006. 56

(G) As used in this section: 57

(1) "Ephemeral ~~stream~~feature" means ~~a stream that flows~~ 58  
surface water flowing or pooling only in direct response to 59  
~~precipitation in the immediate watershed or in response to the~~ 60  
~~melting of a cover of, such as rain or snow and ice and that has~~ 61  
~~channel bottom that is always above the local water table.~~ 62

(2) "Intermittent stream" means a stream that is below the 63  
local water table and flows for at least a part of each year and 64  
that obtains its flow from both surface runoff and ground water 65  
discharge. 66

(3) "Perennial stream" means a stream or a part of a 67  
stream that flows continuously during all of the calendar year 68  
as a result of ground water discharge or surface water runoff. 69  
"Perennial stream" does not include an intermittent stream or an 70  
ephemeral ~~stream~~feature. 71

**Sec. 6111.01.** As used in this chapter: 72

(A) "Pollution" means the placing of any sewage, sludge, 73  
sludge materials, industrial waste, or other wastes in any 74  
waters of the state. 75

(B) "Sewage" means any liquid waste containing sludge, 76  
sludge materials, or animal or vegetable matter in suspension or 77  
solution, and may include household wastes as commonly 78  
discharged from residences and from commercial, institutional, 79  
or similar facilities. 80

(C) "Industrial waste" means any liquid, gaseous, or solid 81  
waste substance resulting from any process of industry, 82  
manufacture, trade, or business, or from the development, 83  
processing, or recovery of any natural resource, together with 84  
such sewage as is present. 85

(D) "Other wastes" means garbage, refuse, decayed wood, 86  
sawdust, shavings, bark, and other wood debris, lime, sand, 87  
ashes, offal, night soil, oil, tar, coal dust, dredged or fill 88  
material, or silt, other substances that are not sewage, sludge, 89  
sludge materials, or industrial waste, and any other 90  
"pollutants" or "toxic pollutants" as defined in the Federal 91  
Water Pollution Control Act that are not sewage, sludge, sludge 92  
materials, or industrial waste. 93

(E) "Sewerage system" means pipelines or conduits, pumping 94  
stations, and force mains, and all other constructions, devices, 95  
appurtenances, and facilities used for collecting or conducting 96  
water-borne sewage, industrial waste, or other wastes to a point 97  
of disposal or treatment, but does not include plumbing 98  
fixtures, building drains and subdrains, building sewers, and 99  
building storm sewers. 100

(F) "Treatment works" means any plant, disposal field, 101  
lagoon, dam, pumping station, building sewer connected directly 102  
to treatment works, incinerator, or other works used for the 103  
purpose of treating, stabilizing, blending, composting, or 104  
holding sewage, sludge, sludge materials, industrial waste, or 105

other wastes, except as otherwise defined.	106
(G) "Disposal system" means a system for disposing of	107
sewage, sludge, sludge materials, industrial waste, or other	108
wastes and includes sewerage systems and treatment works.	109
(H) "Waters of the state" means all streams, lakes, ponds,	110
marshes, watercourses, waterways, wells, springs, irrigation	111
systems, drainage systems, and other bodies or accumulations of	112
water, surface and underground, natural or artificial,	113
regardless of the depth of the strata in which underground water	114
is located, that are situated wholly or partly within, or border	115
upon, this state, or are within its jurisdiction, except those	116
private waters that do not combine or effect a junction with	117
natural surface or underground waters. <u>"Waters of the state"</u>	118
<u>does not include an ephemeral feature.</u>	119
(I) "Person" means the state, any municipal corporation,	120
any other political subdivision of the state, any person as	121
defined in section 1.59 of the Revised Code, any interstate body	122
created by compact, or the federal government or any department,	123
agency, or instrumentality thereof.	124
(J) "Industrial water pollution control facility" means	125
any disposal system or any treatment works, pretreatment works,	126
appliance, equipment, machinery, pipeline or conduit, pumping	127
station, force main, or installation constructed, used, or	128
placed in operation primarily for the purpose of collecting or	129
conducting industrial waste to a point of disposal or treatment;	130
reducing, controlling, or eliminating water pollution caused by	131
industrial waste; or reducing, controlling, or eliminating the	132
discharge into a disposal system of industrial waste or what	133
would be industrial waste if discharged into the waters of the	134
state.	135

(K) "Schedule of compliance" means a schedule of remedial 136  
measures including an enforceable sequence of actions or 137  
operations leading to compliance with standards and rules 138  
adopted under sections 6111.041 and 6111.042 of the Revised Code 139  
or compliance with terms and conditions of permits set under 140  
division (J) of section 6111.03 of the Revised Code. 141

(L) "Federal Water Pollution Control Act" means the 142  
"Federal Water Pollution Control Act Amendments of 1972," 86 143  
Stat. 886, 33 U.S.C.A. 1251, as amended by the "Clean Water Act 144  
of 1977," 91 Stat. 1566, 33 U.S.C.A. 1251, and all other 145  
amendments to that act. 146

(M) "Historically channelized watercourse" means the 147  
portion of a watercourse on which an improvement, as defined in 148  
divisions (C) (2) to (4) of section 6131.01 of the Revised Code, 149  
was constructed pursuant to Chapter 940., 6131., or 6133. of the 150  
Revised Code or a similar state law that preceded any of those 151  
chapters and authorized such an improvement. 152

(N) "Sludge" means sewage sludge and a solid, semi-solid, 153  
or liquid residue that is generated from an industrial 154  
wastewater treatment process and that is applied to land for 155  
agronomic benefit. "Sludge" does not include ash generated 156  
during the firing of sludge in a sludge incinerator, grit and 157  
screening generated during preliminary treatment of sewage in a 158  
treatment works, animal manure, residue generated during 159  
treatment of animal manure, or domestic septage. 160

(O) "Sludge materials" means solid, semi-solid, or liquid 161  
materials derived from sludge and includes products from a 162  
treatment works that result from the treatment, blending, or 163  
composting of sludge. 164

(P) "Storage of sludge" means the placement of sludge on 165  
land on which the sludge remains for not longer than two years, 166  
but does not include the placement of sludge on land for 167  
treatment. 168

(Q) "Sludge disposal program" means any program used by an 169  
entity that begins with the generation of sludge and includes 170  
treatment or disposal of the sludge, as "treatment" and 171  
"disposal" are defined in division (Y) of section 3745.11 of the 172  
Revised Code. 173

(R) "Agronomic benefit" means any process that promotes or 174  
enhances plant growth and includes, but is not limited to, a 175  
process that increases soil fertility and moisture retention. 176

(S) "Sludge management" means the use, storage, treatment, 177  
or disposal of, and management practices related to, sludge and 178  
sludge materials. 179

(T) "Sludge management permit" means a permit for sludge 180  
management that is issued under division (J) of section 6111.03 181  
of the Revised Code. 182

(U) "Sewage sludge" has the same meaning as in division 183  
(Y) of section 3745.11 of the Revised Code. 184

(V) "Ephemeral feature" means surface water flowing or 185  
pooling only in direct response to precipitation, such as rain 186  
or snow. 187

**Section 2.** That existing sections 3745.114 and 6111.01 of 188  
the Revised Code are hereby repealed. 189