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H. B. No. 264

Representatives Wilkin, O'Brien

Cosponsors: Representatives Riedel, Miranda, Ginter, Smith, K., Hambley, Lang,
Stein, Miller, A., Scherer, Arndt, Smith, T.

A BILL

To amend sections 6121.03 and 6121.04 of the 1
Revised Code to allow the Ohio Water Development 2
Authority to provide for the refinancing of 3
loans for certain public water and waste water 4
infrastructure projects. 5

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

Section 1. That sections 6121.03 and 6121.04 of the 6
Revised Code be amended to read as follows: 7

Sec. 6121.03. (A) It is hereby declared to be the public 8
policy of the state through the operations of the Ohio water 9
development authority under this chapter to contribute toward 10
one or more of the following: ~~to~~ 11

(1) To preserve, protect, upgrade, conserve, develop, 12
utilize, and manage the water resources of the state, ~~to~~; 13

(2) To prevent or abate the pollution of water resources, ~~to~~; 14
~~to~~; 15

(3) To promote the beneficial use of waters of the state 16

for the protection and preservation of the public health, 17
safety, convenience, and welfare, ~~to~~; 18

(4) To assist in the financing of waste water facilities 19
and water management facilities for industry, commerce, 20
distribution, and research, including public utility companies, ~~to~~; 21
~~to~~; 22

(5) To create or preserve jobs and employment 23
opportunities or improve the economic welfare of the people of 24
the state, or to assist and cooperate with governmental agencies 25
in achieving such purposes. 26

(B) In furtherance of such public policy, the Ohio water 27
development authority may ~~initiate~~ do all of the following: 28

(1) Initiate, acquire, construct, maintain, repair, and 29
operate water development projects or cause the same to be 30
operated pursuant to a lease, sublease, or agreement with any 31
person or governmental agency; ~~may make~~ 32

(2) Make loans and grants to governmental agencies for the 33
acquisition ~~or~~, construction, or refinancing of waste water or 34
water management facilities by such governmental agencies and 35
provide for the financing and refinancing of such loans; ~~may~~ 36
~~make~~ 37

(3) Make loans to persons for the acquisition ~~or~~, 38
construction, or refinancing of waste water facilities or water 39
management facilities by such persons; ~~and may issue~~ 40

(4) Issue water development revenue bonds of this state 41
payable solely from revenues, to pay the cost of or refinance 42
such projects, provided that, except for facilities for 43
pollution control or solid waste disposal, no such financing 44
assistance shall be made for facilities to be constructed for 45

the purpose of providing electric or gas utility service to the public. 46
47

(C) Any water development project shall be determined by 48
the authority to be consistent with any applicable comprehensive 49
plan of water management approved by the director of 50
environmental protection or in the process of preparation by 51
such director and to be not inconsistent with the standards set 52
for the waters of the state affected thereby by the director of 53
environmental protection. Any resolution of the authority 54
providing for acquiring or constructing such projects or for 55
making a loan or grant for such projects shall include a finding 56
by the authority that such determinations have been made. 57
Determinations by resolution of the authority that a project is 58
a waste water facility or a water management facility under this 59
chapter and is consistent with the purposes of Section 13 of 60
Article VIII, Ohio Constitution, and this chapter shall be 61
conclusive as to the validity and enforceability of the water 62
development revenue bonds issued to finance or refinance such 63
project and of the resolutions, trust agreements or indentures, 64
leases, subleases, sale agreements, loan agreements and other 65
agreements made in connection therewith, all in accordance with 66
their terms. 67

Sec. 6121.04. The Ohio water development authority may do 68
any or all of the following: 69

(A) Adopt bylaws for the regulation of its affairs and the 70
conduct of its business; 71

(B) Adopt an official seal; 72

(C) Maintain a principal office and suboffices at places 73
within the state that it designates; 74

(D) Sue and plead in its own name and be sued and 75
impleaded in its own name with respect to its contracts or torts 76
of its members, employees, or agents acting within the scope of 77
their employment, or to enforce its obligations and covenants 78
made under sections 6121.06, 6121.08, and 6121.13 of the Revised 79
Code. Any such actions against the authority shall be brought in 80
the court of common pleas of the county in which the principal 81
office of the authority is located or in the court of common 82
pleas of the county in which the cause of action arose, provided 83
that the county is located within this state, and all summonses, 84
exceptions, and notices of every kind shall be served on the 85
authority by leaving a copy thereof at the principal office with 86
the person in charge thereof or with the secretary-treasurer of 87
the authority. 88

(E) Make loans and grants to governmental agencies for the 89
acquisition ~~or~~, construction, or refinancing of water 90
development projects by any such governmental agency and adopt 91
rules and procedures for making such loans and grants, including 92
rules governing the financing and refinancing of such loans; 93

(F) Acquire, construct, reconstruct, enlarge, improve, 94
furnish, equip, maintain, repair, operate, or lease or rent to, 95
or contract for operation by, a governmental agency or person, 96
water development projects, and establish rules for the use of 97
those projects; 98

(G) Make available the use or services of any water 99
development project to one or more persons, one or more 100
governmental agencies, or any combination thereof; 101

(H) Issue water development revenue bonds and notes and 102
water development revenue refunding bonds of the state, payable 103
solely from revenues as provided in section 6121.06 of the 104

Revised Code, unless the bonds are refunded by refunding bonds, 105
for the purpose of paying any part of the cost of or refinancing 106
one or more water development projects or parts thereof; 107

(I) Acquire by gift or purchase, hold, and dispose of real 108
and personal property in the exercise of its powers and the 109
performance of its duties under this chapter; 110

(J) Acquire, in the name of the state, by purchase or 111
otherwise, on terms and in the manner that it considers proper, 112
or by the exercise of the right of condemnation in the manner 113
provided by section 6121.18 of the Revised Code, public or 114
private lands, including public parks, playgrounds, or 115
reservations, or parts thereof or rights therein, rights-of-way, 116
property, rights, easements, and interests that it considers 117
necessary for carrying out this chapter, but excluding the 118
acquisition by the exercise of the right of condemnation of any 119
waste water facility or water management facility owned by any 120
person or governmental agency, and compensation shall be paid 121
for public or private lands so taken, except that a government- 122
owned waste water facility may be appropriated in accordance 123
with section 6121.041 of the Revised Code; 124

(K) Adopt rules to protect augmented flow in waters of the 125
state, to the extent augmented by a water development project, 126
from depletion so it will be available for beneficial use, and 127
to provide standards for the withdrawal from waters of the state 128
of the augmented flow created by a water development project 129
that is not returned to the waters of the state so augmented and 130
to establish reasonable charges therefor if considered necessary 131
by the authority; 132

(L) Make and enter into all contracts and agreements and 133
execute all instruments necessary or incidental to the 134

performance of its duties and the execution of its powers under 135
this chapter in accordance with the following requirements: 136

(1) When the cost under any such contract or agreement, 137
other than compensation for personal services, involves an 138
expenditure of more than fifty thousand dollars, the authority 139
shall make a written contract with the lowest responsive and 140
responsible bidder, in accordance with section 9.312 of the 141
Revised Code, after advertisement for not less than two 142
consecutive weeks in a newspaper of general circulation in 143
Franklin county, and in other publications that the authority 144
determines, which shall state the general character of the work 145
and the general character of the materials to be furnished, the 146
place where plans and specifications therefor may be examined, 147
and the time and place of receiving bids, provided that a 148
contract or lease for the operation of a water development 149
project constructed and owned by the authority or an agreement 150
for cooperation in the acquisition or construction of a water 151
development project pursuant to section 6121.13 of the Revised 152
Code or any contract for the construction of a water development 153
project that is to be leased by the authority to, and operated 154
by, persons who are not governmental agencies and the cost of 155
the project is to be amortized exclusively from rentals or other 156
charges paid to the authority by persons who are not 157
governmental agencies is not subject to the foregoing 158
requirements and the authority may enter into such a contract or 159
lease or such an agreement pursuant to negotiation and upon 160
terms and conditions and for the period that it finds to be 161
reasonable and proper in the circumstances and in the best 162
interests of proper operation or of efficient acquisition or 163
construction of the project. 164

(2) Each bid for a contract for the construction, 165

demolition, alteration, repair, or reconstruction of an 166
improvement shall contain the full name of every person 167
interested in it and shall meet the requirements of section 168
153.54 of the Revised Code. 169

(3) Each bid for a contract except as provided in division 170
(L) (2) of this section shall contain the full name of every 171
person or company interested in it and shall be accompanied by a 172
sufficient bond or certified check on a solvent bank that if the 173
bid is accepted, a contract will be entered into and the 174
performance thereof secured. 175

(4) The authority may reject any and all bids. 176

(5) A bond with good and sufficient surety, approved by 177
the authority, shall be required of every contractor awarded a 178
contract except as provided in division (L) (2) of this section, 179
in an amount equal to at least fifty per cent of the contract 180
price, conditioned upon the faithful performance of the 181
contract. 182

(M) Employ managers, superintendents, and other employees 183
and retain or contract with consulting engineers, financial 184
consultants, accounting experts, architects, attorneys, and 185
other consultants and independent contractors that are necessary 186
in its judgment to carry out this chapter, and fix the 187
compensation thereof. All expenses thereof shall be payable 188
solely from the proceeds of water development revenue bonds or 189
notes issued under this chapter, from revenues, or from funds 190
appropriated for that purpose by the general assembly. 191

(N) Receive and accept from any federal agency, subject to 192
the approval of the governor, grants for or in aid of the 193
construction of any water development project or for research 194

and development with respect to waste water or water management facilities, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made;	195 196 197 198 199
(O) Engage in research and development with respect to waste water or water management facilities;	200 201
(P) Purchase fire and extended coverage and liability insurance for any water development project and for the principal office and suboffices of the authority, insurance protecting the authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the authority may agree to provide under any resolution authorizing its water development revenue bonds or in any trust agreement securing the same;	202 203 204 205 206 207 208 209 210
(Q) Charge, alter, and collect rentals and other charges for the use or services of any water development project as provided in section 6121.13 of the Revised Code;	211 212 213
(R) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;	214 215
(S) Assist in the implementation and administration of the drinking water assistance fund and program created in section 6109.22 of the Revised Code and the water pollution control loan fund and program created in section 6111.036 of the Revised Code, including, without limitation, performing or providing fiscal management for the funds and investing and disbursing moneys in the funds, and enter into all necessary and appropriate agreements with the director of environmental	216 217 218 219 220 221 222 223

protection for those purposes;	224
(T) Issue water development revenue bonds and notes of the state in principal amounts that are necessary for the purpose of raising moneys for the sole benefit of the water pollution control loan fund created in section 6111.036 of the Revised Code, including moneys to meet the requirement for providing matching moneys under division (D) of that section. The bonds and notes may be secured by appropriate trust agreements and repaid from moneys credited to the fund from payments of principal and interest on loans made from the fund, as provided in division (F) of section 6111.036 of the Revised Code.	225 226 227 228 229 230 231 232 233 234
(U) Issue water development revenue bonds and notes of the state in principal amounts that are necessary for the purpose of raising moneys for the sole benefit of the drinking water assistance fund created in section 6109.22 of the Revised Code, including moneys to meet the requirement for providing matching moneys under divisions (B) and (F) of that section. The bonds and notes may be secured by appropriate trust agreements and repaid from moneys credited to the fund from payments of principal and interest on loans made from the fund, as provided in division (F) of section 6109.22 of the Revised Code.	235 236 237 238 239 240 241 242 243 244
(V) Make loans to and enter into agreements with boards of county commissioners for the purposes of section 1506.44 of the Revised Code and adopt rules establishing requirements and procedures for making the loans and entering into the agreements;	245 246 247 248 249
(W) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.	250 251
Any instrument by which real property is acquired pursuant	252

to this section shall identify the agency of the state that has 253
the use and benefit of the real property as specified in section 254
5301.012 of the Revised Code. 255

Section 2. That existing sections 6121.03 and 6121.04 of 256
the Revised Code are hereby repealed. 257