

**As Reported by the House State and Local Government Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 264**

**Representatives Wilkin, O'Brien**

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

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**A BILL**

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

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

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

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

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

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

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

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~~, construction, or refinancing of waste water facilities or water 38  
management facilities by such persons; ~~and may issue~~ 39  
39 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 46  
public. 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 195  
facilities, and receive and accept aid or contributions from any 196  
source of money, property, labor, or other things of value, to 197  
be held, used, and applied only for the purposes for which the 198  
grants and contributions are made; 199

(O) Engage in research and development with respect to 200  
waste water or water management facilities; 201

(P) Purchase fire and extended coverage and liability 202  
insurance for any water development project and for the 203  
principal office and suboffices of the authority, insurance 204  
protecting the authority and its officers and employees against 205  
liability for damage to property or injury to or death of 206  
persons arising from its operations, and any other insurance the 207  
authority may agree to provide under any resolution authorizing 208  
its water development revenue bonds or in any trust agreement 209  
securing the same; 210

(Q) Charge, alter, and collect rentals and other charges 211  
for the use or services of any water development project as 212  
provided in section 6121.13 of the Revised Code; 213

(R) Provide coverage for its employees under Chapters 214  
145., 4123., and 4141. of the Revised Code; 215

(S) Assist in the implementation and administration of the 216  
drinking water assistance fund and program created in section 217  
6109.22 of the Revised Code and the water pollution control loan 218  
fund and program created in section 6111.036 of the Revised 219  
Code, including, without limitation, performing or providing 220  
fiscal management for the funds and investing and disbursing 221  
moneys in the funds, and enter into all necessary and 222  
appropriate agreements with the director of environmental 223



protection for those purposes; 224

(T) Issue water development revenue bonds and notes of the 225  
state in principal amounts that are necessary for the purpose of 226  
raising moneys for the sole benefit of the water pollution 227  
control loan fund created in section 6111.036 of the Revised 228  
Code, including moneys to meet the requirement for providing 229  
matching moneys under division (D) of that section. The bonds 230  
and notes may be secured by appropriate trust agreements and 231  
repaid from moneys credited to the fund from payments of 232  
principal and interest on loans made from the fund, as provided 233  
in division (F) of section 6111.036 of the Revised Code. 234

(U) Issue water development revenue bonds and notes of the 235  
state in principal amounts that are necessary for the purpose of 236  
raising moneys for the sole benefit of the drinking water 237  
assistance fund created in section 6109.22 of the Revised Code, 238  
including moneys to meet the requirement for providing matching 239  
moneys under divisions (B) and (F) of that section. The bonds 240  
and notes may be secured by appropriate trust agreements and 241  
repaid from moneys credited to the fund from payments of 242  
principal and interest on loans made from the fund, as provided 243  
in division (F) of section 6109.22 of the Revised Code. 244

(V) Make loans to and enter into agreements with boards of 245  
county commissioners for the purposes of section 1506.44 of the 246  
Revised Code and adopt rules establishing requirements and 247  
procedures for making the loans and entering into the 248  
agreements; 249

(W) Do all acts necessary or proper to carry out the 250  
powers expressly granted in this chapter. 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