

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**H. B. No. 473**

**Representative Wachtmann**

—

**A BILL**

To amend sections 1501.32, 1501.33, 1521.04, 1522.03, 1  
and 1522.05, to enact sections 1522.10, 1522.101, 2  
1522.11 to 1522.13, 1522.131, and 1522.14 to 3  
1522.21, and to repeal section 1522.07 of the 4  
Revised Code to establish a program for the 5  
issuance of permits for the withdrawal and 6  
consumptive use of waters from the Lake Erie basin 7  
and to establish other requirements related to the 8  
implementation of the Great Lakes-St. Lawrence 9  
River Basin Water Resources Compact. 10

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

**Section 1.** That sections 1501.32, 1501.33, 1521.04, 1522.03, 11  
and 1522.05 be amended and sections 1522.10, 1522.101, 1522.11, 12  
1522.12, 1522.13, 1522.131, 1522.14, 1522.15, 1522.16, 1522.17, 13  
1522.18, 1522.19, 1522.20, and 1522.21 of the Revised Code be 14  
enacted to read as follows: 15

**Sec. 1501.32.** (A) No person shall divert more than one 16  
hundred thousand gallons per day of any waters of the state out of 17  
the ~~Lake Erie or Ohio river drainage basins~~ watershed to another 18  
basin without having a permit to do so issued by the director of 19  
natural resources. An application for such a permit shall be filed 20

with the director upon such forms as the director prescribes. The 21  
application shall state the quantity of water to be diverted, the 22  
purpose of the diversion, the life of the project for which the 23  
water is to be diverted, and such other information as the 24  
director may require by rule. Each application shall be 25  
accompanied by a nonrefundable fee of one thousand dollars, which 26  
shall be credited to the water management fund, which is hereby 27  
created. 28

(B) The director shall not approve a permit application filed 29  
under this section if the director determines that any of the 30  
following applies: 31

(1) During the life of the project for which the water is to 32  
be diverted, some or all of the water to be diverted will be 33  
needed for use within the ~~basin~~ Ohio river watershed. 34

(2) The proposed diversion would endanger the public health, 35  
safety, or welfare. 36

(3) The applicant has not demonstrated that the proposed 37  
diversion is a reasonable and beneficial use and is necessary to 38  
serve the applicant's present and future needs. 39

(4) The applicant has not demonstrated that reasonable 40  
efforts have been made to develop and conserve water resources in 41  
the importing basin and that further development of those 42  
resources would engender overriding, adverse economic, social, or 43  
environmental impacts. 44

(5) The proposed diversion is inconsistent with regional or 45  
state water resources plans. 46

(6) The proposed diversion, alone or in combination with 47  
other diversions and water losses, will have a significant adverse 48  
impact on in-stream uses or on economic or ecological aspects of 49  
water levels. 50

The director may hold public hearings upon any application 51  
for a permit. 52

~~(C) Whenever the director receives an application under this 53  
section to divert water out of the Lake Erie drainage basin, the 54  
director shall notify the governors and premiers of the other 55  
great lakes states and provinces, the appropriate water management 56  
agencies of those states and provinces, and, when appropriate, the 57  
international joint commission and shall solicit their comments 58  
and concerns regarding the application. In the event of an 59  
objection to the proposed diversion, the director shall consult 60  
with the affected great lakes states and provinces to consider the 61  
issues involved and seek mutually agreeable recommendations. 62  
Before rendering a decision on the permit application, the 63  
director shall consider the concerns, comments, and 64  
recommendations of the other great lakes states and provinces and 65  
the international joint commission, and, in accordance with 66  
section 1109 of the "Water Resources Development Act of 1986," 100 67  
Stat. 4230, 42 U.S.C.A. 1962d-20, the director shall not approve a 68  
permit application for any diversion to which that section 69  
pertains unless that diversion is approved by the governor of each 70  
great lakes state as defined in section 1109(c) of that act. 71~~

~~(D)~~ The director shall determine the period for which each 72  
permit approved under this section will be valid and specify the 73  
expiration date, but in no case shall a permit be valid beyond the 74  
life of the project as stated in the application. 75

The director shall establish rules providing for the transfer 76  
of permits. A permit may be transferred on the conditions that the 77  
quantity of water diverted not be increased and that the purpose 78  
of the diversion not be changed. 79

~~(E)~~(D)(1) Within a time established by rule, the director 80  
shall do one of the following: 81

(a) Notify the applicant that an application the applicant 82  
filed under this section is approved or denied and, if denied, the 83  
reason for denial; 84

(b) Notify the applicant of any modification necessary to 85  
qualify the application for approval. 86

(2) Any person who receives notice of a denial or 87  
modification under division ~~(E)~~(D)(1) of this section is entitled 88  
to a hearing under Chapter 119. of the Revised Code if the person 89  
sends a written request for a hearing to the director within 90  
thirty days after the date on which the notice is mailed or 91  
otherwise provided to the applicant. 92

~~(F)~~(E) The director shall revoke a permit under this section 93  
without a prior hearing if the director determines that the 94  
quantity of water being diverted exceeds the quantity stated in 95  
the permit application. 96

The director may suspend a permit if the director determines 97  
that the continued diversion of water will endanger the public 98  
health, safety, or welfare. Before suspending a permit, the 99  
director shall make a reasonable attempt to notify the permittee 100  
that the director intends to suspend the permit. If the attempt 101  
fails, notification shall be given as soon as practicable 102  
following the suspension. Within five days after the suspension, 103  
the director shall provide the permittee an opportunity to be 104  
heard and to present evidence that the continued diversion of 105  
water will not endanger the public health, safety, or welfare. 106

If the director determines before the expiration date of a 107  
suspended permit that the diversion of water can be resumed 108  
without danger to the public health, safety, or welfare, the 109  
director shall, upon request of the permittee, reinstate the 110  
permit. 111

~~(G)~~(F) Any six or more residents of this state may petition 112

the director for an investigation of a withdrawal of water 113  
resources that they allege is in violation of a permit issued 114  
under this section. 115

The petition shall identify the permittee and detail the 116  
reasons why the petitioners believe that grounds exist for the 117  
revocation or suspension of the permit under this section. 118

Upon receipt of the petition, the director shall send a copy 119  
to the permittee and, within sixty days, make a determination 120  
whether grounds exist for revocation or suspension of the permit 121  
under this section. 122

~~(H)~~(G) Each permittee shall submit to the director an annual 123  
report containing such information as the director may require by 124  
rule. 125

~~(I) The director shall issue a permit under division (A) of 126  
this section to any person who lawfully diverted more than one 127  
hundred thousand gallons per day of any waters of the state out of 128  
the Ohio river drainage basin during the calendar year ending 129  
October 14, 1984. A person who is eligible for a permit under this 130  
division shall file an application under division (A) of this 131  
section not later than one hundred eighty days after the effective 132  
date of this amendment. 133~~

~~A person who applies for a permit under this division need 134  
not pay the application fee that is otherwise required under 135  
division (A) of this section. In addition, divisions (B) to (H) of 136  
this section and rules adopted under section 1501.31 of the 137  
Revised Code do not apply to an application that is filed or a 138  
permit that is issued under this division. 139~~

**Sec. 1501.33.** (A) Except as provided in divisions (B) ~~and~~ 140  
(C), and (D) of this section, no person shall allow a facility 141  
that the person owns or operates to withdraw waters of the state 142

in an amount that would result in a new or increased consumptive 143  
use of more than an average of two million gallons of water per 144  
day in any thirty-day period without first obtaining a permit from 145  
the director of natural resources under section 1501.34 of the 146  
Revised Code. ~~The person~~ Prior to developing a new or increased 147  
withdrawal or consumptive use capacity that would facilitate a 148  
withdrawal requiring a permit under this section, an owner or 149  
operator of a facility shall submit an application for a permit to 150  
the director on a form ~~he~~ the director prescribes, ~~which~~. The 151  
application shall declare and document all of the following: 152

(1) The facility's current withdrawal capacity per day if the 153  
withdrawal is to occur at a facility already in operation; 154

(2) The total new or increased daily withdrawal capacity 155  
proposed for the facility; 156

(3) The locations and sources of water proposed to be 157  
withdrawn; 158

(4) The locations of proposed discharges or return flows; 159

(5) The locations and nature of proposed consumptive uses; 160

(6) The estimated average annual and monthly volumes and 161  
rates of withdrawal; 162

(7) The estimated average annual and monthly volumes and 163  
rates of consumptive use; 164

(8) The effects the withdrawal is anticipated to have with 165  
respect to existing uses of water resources; 166

(9) A description of other ways the applicant's need for 167  
water may be satisfied if the application is denied or modified; 168

(10) A description of the conservation practices the 169  
applicant intends to follow; 170

(11) Any other information the director may require by rule. 171

Each application shall be accompanied by a nonrefundable fee 172  
of one thousand dollars, which shall be credited to the water 173  
management fund created under section 1501.32 of the Revised Code. 174

(B) A major utility facility that is subject to regulation 175  
under Chapter 4906. of the Revised Code need not obtain a permit 176  
under section 1501.34 of the Revised Code. 177

(C)(1) A public water system, as that term is defined in 178  
section 6109.01 of the Revised Code, that withdraws waters of the 179  
state in an amount that would result in a new or increased 180  
consumptive use of more than two million gallons per day need not 181  
obtain a permit under section 1501.34 of the Revised Code if any 182  
of the following ~~apply~~ applies: 183

(a) The public water system was in operation on ~~the effective~~ 184  
~~date of this section~~ June 29, 1988, and no substantial changes are 185  
proposed for that system except as specified in division (C)(1)(c) 186  
of this section~~+~~. 187

(b) A public water system that is proposed to be constructed 188  
or installed, or an existing system for which changes are 189  
proposed, encompasses only water distribution facilities~~+~~. 190

(c) A public water system, other than one that encompasses 191  
only water distribution facilities, is proposed to be constructed 192  
or installed, or substantial changes in the design capacity of an 193  
existing system, other than one that encompasses only water 194  
distribution facilities, are proposed; the plans submitted for the 195  
system to the director of environmental protection under section 196  
6109.07 of the Revised Code declare and document the information 197  
specified in division (A) of this section and rules adopted under 198  
it as determined by the director of natural resources; and the 199  
director of environmental protection has applied the criteria 200  
specified in division (A) of section 1501.34 of the Revised Code 201  
in reviewing and approving the plans as determined by the director 202

of natural resources. 203

(2) Any public water system that withdraws waters of the 204  
state in an amount that would result in a new or increased 205  
consumptive use of more than two million gallons per day and that 206  
does not meet the criteria specified in ~~divisions~~ division 207  
(C)(1)(a), (b), or (c) of this section shall obtain a permit under 208  
section 1501.34 of the Revised Code. A person who submits plans 209  
for such a system under section 6109.07 of the Revised Code may 210  
request the director of natural resources in writing to consider 211  
those plans as an application under this section. No later than 212  
twenty days after receiving the request, the director shall notify 213  
the person of one of the following: 214

(a) The plans declare and document the information specified 215  
in division (A) of this section and rules adopted under it and are 216  
accepted as an application under this section, and the person 217  
shall submit to the director the application fee required under 218  
division (A) of this section~~+~~. 219

(b) Additional specified information is necessary before the 220  
director can accept the plans as an application~~+~~. 221

(c) The plans do not meet the requirements of division (A) of 222  
this section and rules adopted under it and an application shall 223  
be submitted in accordance with this section. 224

(D) A facility that is required to obtain a permit under 225  
sections 1522.10 to 1522.21 of the Revised Code need not obtain a 226  
permit under section 1501.34 of the Revised Code. 227

**Sec. 1521.04.** The chief of the division of soil and water 228  
resources, with the approval of the director of natural resources, 229  
may make loans and grants from the water management fund created 230  
in section 1501.32 of the Revised Code to governmental agencies 231  
for water management, water supply improvements, and planning and 232

may administer grants from the federal government and from other 233  
public or private sources for carrying out those functions and for 234  
the performance of any acts that may be required by the United 235  
States or by any agency or department thereof as a condition for 236  
the participation by any governmental agency in any federal 237  
financial or technical assistance program. Direct and indirect 238  
costs of administration may be paid from the fund. 239

The chief may use the water management fund for the purposes 240  
of administering the water diversion and consumptive use permit 241  
programs established in sections 1501.30 to 1501.35 of the Revised 242  
Code and the withdrawal and consumptive use permit program 243  
established under sections 1522.10 to 1522.21 of the Revised Code; 244  
to perform watershed and water resources studies for the purposes 245  
of water management planning; and to acquire, construct, 246  
reconstruct, improve, equip, maintain, operate, and dispose of 247  
water management improvements. The chief may fix, alter, charge, 248  
and collect rates, fees, rentals, and other charges to be paid 249  
into the fund by governmental agencies and persons who are 250  
supplied with water by facilities constructed or operated by the 251  
department of natural resources in order to amortize and defray 252  
the cost of the construction, maintenance, and operation of those 253  
facilities. 254

**Sec. 1522.03.** ~~(A) Subject to the limitations established in~~ 255  
~~division (B) of section 1522.05 of the Revised Code, the director~~ 256  
~~of natural resources~~ The chief of the division of soil and water 257  
resources shall do both all of the following: 258

~~(1)~~(A) Adopt rules in accordance with Chapter 119. of the 259  
Revised Code for the implementation, administration, and 260  
enforcement of ~~this chapter~~ the great lakes-st. Lawrence river 261  
basin water resources compact; 262

~~(2)~~(B) Enforce the great lakes-st. Lawrence river basin water 263

resources compact and take appropriate actions to effectuate its 264  
purposes and intent. 265

~~(B) Subject to the limitations established in division (B) of 266  
section 1522.05 of the Revised Code, any appropriate state agency 267  
or governmental officer shall enforce the compact and take 268  
appropriate actions to effectuate its purpose and intent; 269~~

(C) Adopt rules in accordance with Chapter 119. of the 270  
Revised Code for the development, implementation, administration, 271  
and enforcement of any permit program established under this 272  
chapter. 273

Rules adopted under this section shall be no more stringent 274  
than the great lakes-st. Lawrence river basin water resources 275  
compact. The chief shall convene a working group consisting of 276  
parties with interests in Lake Erie, the Lake Erie watershed, and 277  
the great lakes-st. Lawrence river basin water resources compact. 278  
The working group shall consult with the chief regarding the 279  
adoption of rules under this section. 280

**Sec. 1522.05.** ~~(A)~~ Pursuant to Section 9.2 of the great 281  
lakes-st. Lawrence river basin water resources compact, the 282  
governor may take such actions as are necessary for the initial 283  
organization and operation of the great lakes-st. Lawrence river 284  
basin water resources council created in Section 2.1 of the 285  
compact. Agencies of the state are hereby authorized to cooperate 286  
with the council. 287

~~(B)(1) The governor, the department of natural resources, or 288  
any other agency of the state shall not adopt rules or implement 289  
any program regulating the use, withdrawal, consumptive use, or 290  
diversion of water pursuant to Sections 4.10 and 4.12.2 of the 291  
compact unless the general assembly enacts legislation after the 292  
effective date of this section authorizing the implementation of 293  
the program or adoption of rules. 294~~

~~In addition, the governor, the department of natural resources, or any other agency of the state shall not adopt rules or implement any mandatory program governing water conservation and efficiency pursuant to Section 4.2 of the compact unless the general assembly enacts legislation after the effective date of the compact authorizing the implementation of the program or adoption of rules. However, the governor, the department of natural resources, or any other agency of the state may adopt rules concerning and may implement voluntary water conservation and efficiency programs without authorization from the general assembly. Such voluntary programs shall not include any mandatory requirements.~~

~~(2) Division (B)(1) of this section does not prohibit the effectuation of Sections 4.8 and 4.9 of the compact after the effective date of the compact or prohibit the continued implementation and enforcement by the governor or applicable agencies of this state of laws, rules, or programs regulating the use, withdrawal, consumptive use, or diversion of water that are in effect on or before the effective date of this section The chief of the division of soil and water resources shall adopt voluntary watershedwide goals, objectives, and standards for water conservation and efficiency consistent with Section 4.2 of the great lakes-st. Lawrence river basin water resources compact.~~

Sec. 1522.10. As used in sections 1522.10 to 1522.21 of the Revised Code:

(A) "Baseline facility" means a facility identified in the baseline report or a facility added to the baseline report under section 1522.16 of the Revised Code.

(B) "Baseline facility abandonment" means the voluntary and affirmative termination of a baseline facility's withdrawal and consumptive use capacity as listed in the baseline report.

"Baseline facility abandonment" does not include the nonuse or the transfer of a baseline facility's withdrawal and consumptive use capacity unless either of the following applies: 326  
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(1) The nonuse continues for fifteen consecutive years for a facility with a potential withdrawal from Lake Erie or a recognized navigational channel and the nonuse is not extended in accordance with division (B) of section 1522.16 of the Revised Code. 329  
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(2) For a facility to which division (B)(1) of this section does not apply, the nonuse continues for thirty-six consecutive months and is not extended in accordance with division (B) of section 1522.16 of the Revised Code. 334  
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(C) "Baseline report" means a list of the withdrawal and consumptive use capacities of facilities that was developed for purposes of Section 4.12 of the great lakes-st. Lawrence river basin water resources compact by the department of natural resources and submitted to the great lakes-st. Lawrence river basin water resources council on December 8, 2009. 338  
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(D) "Capacity" means the ability of a facility's pumps, pipes, and other appurtenances to withdraw water presented in terms of withdrawal capacity, treatment capacity, distribution capacity, or other capacity-limiting factors. 344  
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(E) "Compact" means the great lakes-st. Lawrence river basin water resources compact set forth in section 1522.01 of the Revised Code. 348  
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(F) "Consumptive use" has the same meaning as in section 1522.01 of the Revised Code. For purposes of determining a new or increased capacity for consumptive use, "consumptive use" is the use based on a coefficient of consumptive use generally accepted in the scientific community that most accurately reflects the process at a facility or the use based on facility specific data, 351  
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whichever is more accurate. 357

(G) "Diversion" has the same meaning as in section 1522.01 of the Revised Code. 358  
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(H) "Facility" means any site, installation, or building at which water withdrawal and consumptive use activities take place or are proposed to take place, that is located at a property or on contiguous properties, and that is under the direction of either a private or public entity. "Facility" includes any site, installation, building, or service area of a public water system at or within which water withdrawal and consumptive use activities take place. 360  
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(I) "Facility abandonment" means the voluntary and affirmative termination of a facility's withdrawal and consumptive use capacity as listed in a withdrawal and consumptive use permit issued under section 1522.12 of the Revised Code. "Facility abandonment" does not include the nonuse or the transfer of a facility's withdrawal and consumptive use capacity unless either of the following applies: 368  
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(1) The nonuse continues for fifteen consecutive years for a facility with a potential withdrawal from Lake Erie or a recognized navigational channel and the nonuse is not extended in accordance with division (B) of section 1522.16 of the Revised Code. 375  
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(2) For a facility to which division (I)(1) of this section does not apply, the nonuse continues for thirty-six consecutive months and is not extended in accordance with division (B) of section 1522.16 of the Revised Code. 380  
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(J) "High quality water" means a river or stream segment that has been designated by the environmental protection agency under Chapter 3745-1 of the Administrative Code as an exceptional warm water habitat, cold water habitat, outstanding state water, or 384  
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superior high-quality water. 388

(K) "Increased capacity" does not include any capacity that 389  
results from alterations or changes made at a facility that 390  
replace existing capacity without increasing the capacity of the 391  
facility. 392

(L) "Public water system" has the same meaning as in section 393  
6109.01 of the Revised Code. 394

(M) "Recognized navigation channel" means that portion of a 395  
river or stream extending from bank to bank that is a direct 396  
tributary of Lake Erie and that, as of the effective date of this 397  
section, is a state or federally maintained navigation channel. 398

(N) "River or stream" means a body of water running or 399  
flowing, either continually or intermittently, on the earth's 400  
surface or a channel in which such flow occurs. 401

(O) "Water" means ground or surface water contained within 402  
the basin of the Lake Erie source watershed. 403

**Sec. 1522.101.** For purposes of sections 1522.10 to 1522.21 of 404  
the Revised Code, a reference to source watershed or the Lake Erie 405  
source watershed means the Lake Erie watershed considered as a 406  
whole. 407

**Sec. 1522.11.** (A) No person shall install or operate a 408  
facility or equipment that results in a new or increased diversion 409  
of any water out of the Lake Erie watershed to another watershed 410  
without first obtaining a permit to do so issued by the chief of 411  
the division of soil and water resources. An application for such 412  
a permit shall be submitted to the chief on a form that the chief 413  
prescribes. An application shall be accompanied by a nonrefundable 414  
fee of one thousand dollars, which shall be credited to the water 415  
management fund created in section 1501.32 of the Revised Code. 416

(B) The chief shall approve a permit application submitted 417  
under this section only if the chief determines that it meets the 418  
criteria required to qualify as an exception to the prohibition 419  
against diversions established in Section 4.9 of the compact. The 420  
chief shall issue or deny a permit through issuance of an order. 421

**Sec. 1522.12.** (A) For purposes of the compact, not later than 422  
one hundred eighty days after the effective date of this section, 423  
the chief of the division of soil and water resources shall 424  
establish a program for the issuance of permits for the withdrawal 425  
and consumptive use of water from the Lake Erie watershed. Upon 426  
establishment of the program, the owner or operator of a facility 427  
within the Lake Erie watershed that is not otherwise exempt under 428  
section 1522.14 of the Revised Code shall obtain a withdrawal and 429  
consumptive use permit from the chief if the facility meets any of 430  
the following threshold criteria: 431

(1) The facility has a new or increased capacity for 432  
withdrawals or consumptive uses from Lake Erie or a recognized 433  
navigation channel of at least two and one-half million gallons 434  
per day. 435

(2) Except as provided in division (A)(3) of this section, 436  
the facility has a new or increased capacity for withdrawals or 437  
consumptive uses from any river or stream or from ground water in 438  
the Lake Erie watershed of at least one million gallons per day. 439

(3)(a) Except as provided in division (A)(3)(b) of this 440  
section, the facility has a new or increased capacity for 441  
withdrawals or consumptive uses from any river or stream in the 442  
Lake Erie watershed that is a high quality water of at least one 443  
hundred thousand gallons per day. Division (A)(3) of this section 444  
does not apply to withdrawals and consumptive uses from 445  
outstanding state waters that are designated as such by the 446  
environmental protection agency due to their exceptional 447

recreational values. 448

(b) If a river or stream or segment thereof is designated as 449  
a high quality water as of the effective date of this section, the 450  
threshold established in division (A)(3)(a) of this section 451  
applies to the river or stream or segment thereof and the entire 452  
watershed upstream of that river, stream, or segment. If a river 453  
or stream or segment thereof is designated as a high quality water 454  
after the effective date of this section, the threshold 455  
established in division (A)(3)(a) of this section applies to the 456  
river or stream or segment thereof and the entire watershed 457  
upstream of that river, stream, or segment, provided that the 458  
director of environmental protection and the director of natural 459  
resources, or their designees, jointly determine that the proposed 460  
withdrawal or consumptive use would cause the high quality water 461  
to lose its designation as a high quality water. If the directors 462  
determine that the proposed withdrawal or consumptive use would 463  
not cause the high quality water to lose that designation, the 464  
threshold established in division (A)(2) of this section applies 465  
to the withdrawal or consumptive use at a point beginning one 466  
thousand feet upstream of the upstream end of the designated high 467  
quality water segment or at a point beginning two times the length 468  
of the river, stream, or segment that has been designated as a 469  
high quality water, whichever is greater. 470

Upon establishment of the withdrawal and consumptive use 471  
permit program under this division, the owner or operator of a 472  
facility that is not otherwise exempt under section 1522.14 of the 473  
Revised Code and that is subject to a threshold specified in 474  
division (A)(1) or (2) of this section, after submitting an 475  
application for a permit under this section and a determination by 476  
the chief that the application is complete, may commence 477  
installation of the facility or equipment that will result in a 478  
new or increased withdrawal or consumptive use of water in the 479

Lake Erie watershed prior to issuance of the withdrawal and 480  
consumptive use permit. 481

Upon establishment of the withdrawal and consumptive use 482  
permit program under this division, the owner or operator of a 483  
facility that is not otherwise exempt under section 1522.14 of the 484  
Revised Code and that is subject to a threshold specified in 485  
division (A)(3) of this section shall not install or operate the 486  
facility or equipment that will result in a new or increased 487  
withdrawal or consumptive use of water in the Lake Erie watershed 488  
without first obtaining a withdrawal and consumptive use permit. 489

(B) Permits issued under this section shall be issued only 490  
for the amount of withdrawal or consumptive use capacity of a 491  
facility that meets or exceeds threshold amounts established in 492  
division (A) of this section. A permit shall not be required for 493  
the portion of the withdrawal and consumptive use capacity of the 494  
facility below that threshold amount. 495

(C) An applicant for a permit shall submit an application to 496  
the chief on a form that the chief prescribes. The applicant shall 497  
include with the application all of the following: 498

(1) The name, address, and telephone number of the applicant 499  
and of a contact person for the applicant; 500

(2) The names, addresses, and other necessary contact 501  
information of any other owners and operators of the facility; 502

(3) A description of all of the following: 503

(a) The facility's current withdrawal capacity per day if the 504  
withdrawal is to occur at a facility already in operation; 505

(b) The total new or increased daily withdrawal capacity 506  
proposed for the facility; 507

(c) The locations and sources of water proposed to be 508  
withdrawn; 509

<u>(d) The locations of proposed discharges or return flows;</u>	510
<u>(e) The locations and nature of proposed consumptive uses and the applicable consumptive use coefficient for the facility;</u>	511 512
<u>(f) The estimated average annual and monthly volumes and rates of withdrawal;</u>	513 514
<u>(g) The estimated average annual and monthly volumes and rates of consumptive use;</u>	515 516
<u>(h) The environmentally sound and economically feasible water conservation measures to be undertaken by the applicant;</u>	517 518
<u>(i) Other ways the applicant's need for water may be satisfied if the application is denied or modified;</u>	519 520
<u>(j) Any other information the chief may require to adequately consider the application.</u>	521 522
<u>(4) A nonrefundable application fee of one thousand dollars, the proceeds of which shall be credited to the water management fund created in section 1501.32 of the Revised Code.</u>	523 524 525
<u>(D) Provided that a facility meets all applicable permit conditions, a permit for the facility is valid until the facility is the subject of facility abandonment. Once every five years, the owner or operator of a facility shall certify to the chief that the facility is in compliance with the permit that has been issued for the facility.</u>	526 527 528 529 530 531
<u>(E) No person that is required to do so shall fail to apply for and receive a withdrawal and consumptive use permit.</u>	532 533
<u>(F) A permit issued under this section shall include terms and conditions restricting the withdrawal and consumptive use by a facility to amounts not exceeding the capacity of the facility.</u>	534 535 536
<u>(G) The chief shall issue or deny a permit not later than ninety days after receipt of a complete application. If applicable, the chief shall comply with the requirements regarding</u>	537 538 539

prior notice established in Section 4.6 of the compact. The chief 540  
shall issue or deny a permit through issuance of an order. The 541  
chief shall issue a permit if all applicable criteria for 542  
receiving the permit are met as provided in sections 1522.10 to 543  
1522.21 of the Revised Code. 544

**Sec. 1522.13.** (A) The chief of the division of soil and water 545  
resources shall issue a withdrawal and consumptive use permit for 546  
a facility if the chief determines that the facility meets all of 547  
the criteria established in Section 4.11 of the compact. 548

(B) In applying the provision of the decision-making standard 550  
established in Section 4.11.2 of the compact, the chief shall 551  
require that a withdrawal or consumptive use will be implemented 552  
so as to ensure that the withdrawal or consumptive use will result 553  
in no significant individual or cumulative adverse impacts on the 554  
quantity or quality of the waters and water dependent natural 555  
resources of the great lakes basin considered as a whole or of the 556  
Lake Erie source watershed considered as a whole. As part of the 557  
evaluation of a permit application under Section 4.11.2 of the 558  
compact, the chief shall do all of the following: 559

(1) Rely on the best generally accepted scientific methods 560  
appropriate for this state derived from professionally accepted 561  
resources and practices; 562

(2) Consider the long-term mean annual inflow and outflow of 563  
the Lake Erie source watershed; 564

(3) Consider the withdrawal and the portion of the withdrawal 565  
that is not returned to the Lake Erie source watershed. 566

(C) Impacts of a withdrawal or consumptive use on the 567  
quantity or quality of waters and water dependent natural 568  
resources of more localized areas that affect less than the great 569

lakes basin considered as a whole or the Lake Erie source 570  
watershed considered as a whole shall be considered as a part of 571  
the evaluation of whether a proposed withdrawal or consumptive use 572  
is reasonable as provided in Section 4.11.5 of the compact. 573

(D) The chief shall not submit an application for a 574  
withdrawal and consumptive use permit for regional review under 575  
Section 4.5.2(c)(ii) of the compact to the regional body as 576  
defined in Section 1.2 of the compact unless regional review is 577  
agreed to by the applicant. 578

(E) Nothing in sections 1522.10 to 1522.21 of the Revised 579  
Code shall be construed to affect, limit, diminish, or impair any 580  
rights validly established and existing under the laws of this 581  
state as of December 8, 2008, including, but not limited to, 582  
sections 1506.10 and 1521.17 of the Revised Code, or to limit a 583  
person's right to the reasonable use of ground water, water in a 584  
lake, or any other watercourse in contravention of Section 19b of 585  
Article I, Ohio Constitution. 586

**Sec. 1522.131.** (A) To encourage the development of innovative 587  
water use practices and technologies that ensure sustainable water 588  
use for industrial, commercial, residential, agricultural, or 589  
public purposes, including recreational and cultural resources, as 590  
a means to facilitate sustainable economic growth and job 591  
creation, the chief of the division of soil and water resources, 592  
with the approval of the director of natural resources, may issue 593  
experimental use permits. An experimental use permit may be issued 594  
in lieu of a withdrawal and consumptive use permit as determined 595  
appropriate by the chief. 596

(B) An experimental use permit may be issued if all of the 597  
following apply: 598

(1) The experimental use is reasonable based on a 599  
consideration of the factors specified in Section 4.11.5 of the 600

compact. 601

(2) The experimental use will use no more water than is 602  
necessary to determine the effectiveness and economic feasibility 603  
of the experimental use. 604

(3) The experimental use does not reduce the protection 605  
afforded the waters and water dependent natural resources of the 606  
source watershed as defined in the compact below what is provided 607  
in this chapter and rules adopted under it. 608

(C) The chief may refuse to issue an experimental use permit 609  
if the chief determines that the proposed use will result in 610  
significant individual or cumulative adverse impacts on the 611  
quantity or quality of the waters and water dependent natural 612  
resources of the great lakes basin considered as a whole or the 613  
Lake Erie source watershed considered as a whole. 614

(D) The chief shall issue or deny a permit under this section 615  
through issuance of an order. 616

(E) The chief shall establish the terms and conditions of an 617  
experimental use permit and may suspend such a permit, at any 618  
time, if the chief finds that its terms or conditions are being 619  
violated or that its terms and conditions are inadequate to avoid 620  
significant individual or cumulative adverse impacts on the 621  
quantity or quality of the waters and water dependent natural 622  
resources of the great lakes basin considered as a whole or the 623  
Lake Erie source watershed considered as a whole. 624

(F) An experimental use permit issued under this section 625  
shall expire not later than twenty-four months after the date of 626  
issuance of the permit. 627

**Sec. 1522.14.** The following are exempt from the requirement 628  
to obtain a withdrawal and consumptive use permit: 629

(A) A facility or proposed facility that has a withdrawal and 630

consumptive use capacity or proposed capacity below the threshold amounts established in divisions (A)(1) to (3) of section 1522.12 of the Revised Code; 631  
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(B) A facility that has a new or increased withdrawal capacity above an applicable threshold amount established in section 1522.12 of the Revised Code if the new or increased maximum daily withdrawal of the facility is less than the applicable threshold amount when averaged over any ninety-day period; 634  
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(C) A baseline facility that has not increased its withdrawal and consumptive use capacity beyond the capacity listed in the baseline report and beyond the threshold amounts established in section 1522.12 of the Revised Code; 640  
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(D) An electric generating facility that increases its consumptive use due to a requirement imposed by a federal regulation that is unrelated to an increase in production at the facility; 644  
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(E) A facility making a withdrawal and consumptive use from an impoundment of water collected primarily from diffused surface water sources, including a farm pond, golf course pond, nursery pond, stormwater retention pond, or other private pond. The exemption established by this division does not apply to a facility making a withdrawal and consumptive use for industrial purposes or for public water supply purposes. 648  
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(F) A facility that must temporarily establish a new or increased withdrawal and consumptive use capacity as a result of an emergency for the duration of that emergency that, without the new or increased withdrawal and consumptive use capacity, will result in imminent harm to human health or property; 655  
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(G) A facility that is establishing a new or is increasing its withdrawal and consumptive use capacity in compliance with an 660  
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experimental use permit issued under section 1522.131 of the 662  
Revised Code; 663

(H) A facility that must temporarily establish a new or 664  
increased withdrawal and consumptive use capacity in order to 665  
respond to a humanitarian crisis for the duration of that crisis 666  
if the new or increased capacity is necessary to assist in the 667  
management of that crisis; 668

(I) A facility that is exempt from the requirement to obtain 669  
a permit under division (B) or (C) of section 1501.33 of the 670  
Revised Code; 671

(J) A facility that is subject to regulation under Chapter 672  
1514. of the Revised Code; 673

(K) A facility that purchases all of its water from a public 674  
water system; 675

(L) A facility that is withdrawing or consumptively using 676  
water from an off-stream impoundment that has been substantially 677  
filled with a stream withdrawal by a baseline facility or with a 678  
stream withdrawal that is subject to a withdrawal and consumptive 679  
use permit; 680

(M) A facility that is increasing its withdrawal or 681  
consumptive use capacity directly related to supplying a major 682  
electric generating facility that is subject to regulation under 683  
Chapter 4906. of the Revised Code. 684

**Sec. 1522.15. (A)(1) Transfer of a withdrawal and consumptive** 685  
**use permit upon the sale or transfer of a facility may occur so** 686  
**long as the location of the facility, the source of water, and the** 687  
**withdrawal and consumptive use capacities do not change. Transfer** 688  
**of the baseline withdrawal and consumptive use capacity of a** 689  
**baseline facility upon the sale or transfer of the baseline** 690  
**facility may occur so long as the location of the facility, the** 691

source of water, and the withdrawal and consumptive use capacities 692  
do not change. Transferred capacity of a baseline facility does 693  
not require a withdrawal and consumptive use permit. 694

Notice of a transfer shall be provided to the chief of the 695  
division of soil and water resources in a manner prescribed by the 696  
chief. 697

(2) If the owner of a facility for which a withdrawal and 698  
consumptive use permit has been issued sells or transfers a 699  
portion of the facility, transfer of the applicable portion of the 700  
withdrawal and consumptive use capacity authorized by the 701  
withdrawal and consumptive use permit may occur so long as the 702  
location of the facility, the source of water, and the total 703  
withdrawal and consumptive use capacities do not change. The 704  
permittee shall provide notice of such a transfer to the chief in 705  
a manner prescribed by the chief. Upon receipt of the notice and 706  
if a permit is required for the transferred portion based on the 707  
threshold amounts established in divisions (A)(1) to (3) of 708  
section 1522.12 of the Revised Code, the chief shall issue a new 709  
permit for the transferred portion of the facility to the 710  
transferee and a modified permit for the remaining portion of the 711  
facility to the original permittee upon a showing that the 712  
transferee will meet the conditions of the original permit and all 713  
applicable requirements of this chapter and rules adopted under 714  
it. Any new permit shall reflect the portion of the withdrawal and 715  
consumptive use capacity that has been transferred. 716

(3) If the owner of a baseline facility sells or transfers a 717  
portion of the baseline facility, transfer of the applicable 718  
portion of the withdrawal and consumptive use capacity listed in 719  
the baseline report for that facility may occur so long as the 720  
location of the facility, the source of water, and the total 721  
withdrawal and consumptive use capacities do not change. The owner 722  
shall provide notice of such a transfer to the chief in a manner 723

prescribed by the chief. The chief shall not require the owner of 724  
the baseline facility or the transferee to obtain a withdrawal and 725  
consumptive use permit, but shall update the baseline report to 726  
reflect the transfer. 727

(4) The chief may deny a transfer under this section by 728  
issuing an order denying the transfer and sending written notice 729  
to the permittee and the transferee not later than thirty days 730  
after notice of the intended transfer. The chief shall deny the 731  
transfer if the chief determines that the transfer will result in 732  
noncompliance with this chapter, rules adopted under it, or the 733  
terms and conditions of a withdrawal and consumptive use permit. 734

(5) The chief shall remove a facility from the baseline 735  
report when the facility is subject to baseline facility 736  
abandonment. However, a baseline facility shall not be removed 737  
from the baseline report due to the transfer of the facility's 738  
baseline capacity. 739

(B) No person shall sell or transfer a withdrawal and 740  
consumptive use permit for purposes of evading the requirements 741  
established in sections 1522.10 to 1522.21 of the Revised Code. 742

**Sec. 1522.16.** (A)(1) The owner or operator of a facility may 743  
petition the chief of the division of soil and water resources for 744  
either of the following: 745

(a) Inclusion in the baseline report if the owner or operator 746  
believes that the facility was erroneously excluded from the 747  
report; 748

(b) The amendment of the amount of a withdrawal and 749  
consumptive use or other information included in the baseline 750  
report regarding the facility if the owner or operator believes 751  
that the information is incorrect. 752

(2) The chief shall issue an order either approving or 753

disapproving a petition submitted under this section. The chief shall issue the order based on a thorough examination of the circumstances concerning the petition. 754  
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(3) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that establish procedures for the submission of petitions under this division. 757  
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(B) With regard to the nonuse of a baseline facility's or a facility's withdrawal and consumptive use capacity, not later than sixty days after the time period specified in division (B)(1) or (2) or (I)(1) or (2) of section 1522.10 of the Revised Code, the owner or operator of the facility may request an extension from the chief to retain the facility's active status. The request shall be made in a manner prescribed by the chief. The chief shall determine the appropriate terms and conditions of the extension, if approved, based on information submitted by the owner or operator. The chief shall issue an order approving or disapproving the request and shall do so in a manner prescribed by the chief. 760  
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**Sec. 1522.17.** (A) The owner or operator of a facility who is applying for a withdrawal and consumptive use permit shall submit to the chief of the division of soil and water resources a facility water conservation plan that incorporates environmentally sound and economically feasible water conservation measures in accordance with Section 4.11.3 of the compact. If the plan reasonably incorporates environmentally sound and economically feasible water conservation measures applicable to the facility, it shall be deemed to be in compliance with Section 4.11.3 of the compact. 771  
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(B) The chief shall keep confidential any portions of a facility water conservation plan that constitute a trade secret as defined in section 1333.61 of the Revised Code as follows: 781  
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(1) During the period of time after confidentiality is 784

requested under division (C) of this section and until the chief 785  
makes a determination to approve or disapprove the request; 786

(2) On and after the date on which the chief approves a 787  
request for confidentiality under division (C) of this section. 788

Any portions of a facility water conservation plan that are 789  
kept confidential as provided in this division are not subject to 790  
section 149.43 of the Revised Code. 791

(C)(1) The owner or operator of a facility may request that 792  
any portions of a facility water conservation plan be kept 793  
confidential. The request for confidentiality shall be submitted 794  
at the same time that an owner or operator submits a facility 795  
water conservation plan under division (A) of this section. The 796  
owner or operator shall clearly indicate the information that the 797  
owner or operator considers a trade secret and shall label it as 798  
"trade secret." Failure to make such a request shall constitute a 799  
waiver of the right to prevent public disclosure of the 800  
information. A request for confidentiality shall be accompanied by 801  
documents that support the request. The documents shall describe 802  
the measures that the requestor has taken to safeguard the 803  
confidentiality of the information and indicate whether or not 804  
others are bound by a confidentiality agreement related to the 805  
information. 806

(2) The chief, by order, shall issue a decision regarding the 807  
confidentiality request not later than forty-five days after the 808  
receipt of the request. Until the decision is issued, the 809  
information that is the subject of the request shall be 810  
confidential and maintained by the chief in a separate file 811  
labeled "confidential." The applicant shall be notified by mail of 812  
the decision. 813

Sec. 1522.18. The chief of the division of soil and water 814  
resources, on the chief's own initiative or upon written complaint 815

by any person, may investigate or make inquiries into any alleged 816  
failure to comply with this chapter, any rule adopted under it, 817  
any order issued under it, or the terms and conditions of a permit 818  
issued under it. The chief or the chief's duly authorized 819  
representative may enter at reasonable times on any private or 820  
public property to inspect and investigate conditions relating to 821  
any such alleged act of noncompliance and, if necessary, may apply 822  
to the court of common pleas having jurisdiction for a warrant 823  
permitting the entrance and inspection. 824

**Sec. 1522.19.** No person shall violate any provision of this 825  
chapter, any rule or order adopted or issued under it, or any term 826  
or condition of a permit issued under it. 827

**Sec. 1522.20.** (A)(1) The chief of the division of soil and 828  
water resources may issue an order to a person that the chief 829  
determines has violated, is violating, or is threatening to 830  
violate any provisions of this chapter, rules adopted under it, or 831  
permits or orders issued under it. The order shall be effective 832  
upon issuance and shall identify the facility where the violation 833  
has occurred, is occurring, or is threatened to occur, the 834  
specific violation, and actions that the owner or operator of the 835  
facility must take to comply with the order. The order shall 836  
establish a reasonable date by which the owner or operator must 837  
comply with the order. 838

(2) An order issued under division (A)(1) of this section 839  
shall be in writing and shall contain a finding of the facts on 840  
which the order is based. Notice of the order shall be given by 841  
certified mail to the applicable owner or operator of a facility. 842  
Notice also shall be provided to a person who initiated a 843  
complaint that resulted in the order and shall be posted on the 844  
web site of the department of natural resources in a manner 845

prescribed by the chief. 846

(B)(1) The chief, by order, may propose to suspend or revoke 847  
a permit issued under this chapter if the chief determines that 848  
any term or condition of the permit is being violated. The chief's 849  
order shall identify the facility where the violation allegedly 850  
occurred, describe the nature of the violation, and prescribe what 851  
action the permittee may take to bring the facility into 852  
compliance with the permit. The chief shall fix and specify in the 853  
order a reasonable date or time by which the permittee must 854  
comply. The order shall state that the chief may suspend or revoke 855  
the permit if the permittee fails to comply with the order by that 856  
date or time. If on that date or time the chief finds that the 857  
permittee has not complied with the order, the chief may issue a 858  
new order suspending or revoking the permit. 859

(2) The chief or the chief's designee may enter on private or 860  
public lands and take action to mitigate, minimize, remove, or 861  
abate the conditions caused by a violation that is the subject of 862  
an order issued under division (B)(1) of this section. 863

(C) The attorney general, upon written request of the chief, 864  
shall bring an action for an injunction or other appropriate legal 865  
or equitable action against any person who has violated, is 866  
violating, or is threatening to violate any provision of this 867  
chapter, any rule or order adopted or issued under it, or any term 868  
or condition of a permit issued under it. The attorney general 869  
shall bring the action in the court of common pleas of Franklin 870  
county or the county where the applicable facility is located. In 871  
an action for injunction, any factual findings of the chief 872  
presented at a hearing conducted under division (A) of section 873  
1522.21 of the Revised Code is prima-facie evidence of the facts 874  
regarding the order that is the subject of the hearing. 875

(D) A person who violates any provision of this chapter, any 876  
rule or order adopted or issued under it, or any term or condition 877

of a permit issued under it is liable to the chief for any costs 878  
incurred by the division of soil and water resources in 879  
investigating, mitigating, minimizing, removing, or abating the 880  
violation and conditions caused by it. Upon the request of the 881  
chief, the attorney general shall bring a civil action against the 882  
responsible person to recover those costs in the court of common 883  
pleas of Franklin county. Moneys recovered under this division 884  
shall be deposited in the state treasury to the credit of the 885  
water management fund created in section 1501.32 of the Revised 886  
Code. 887

Sec. 1522.21. (A) As used in this section, "person who is or 888  
will be aggrieved or adversely affected" means a person with a 889  
direct economic or property interest that is or will be adversely 890  
affected by an order or rule issued or adopted by the chief of the 891  
division of soil and water resources under this chapter. 892

(B)(1) Before issuance of a final order denying the issuance 893  
of a permit under section 1522.11, 1522.12, or 1522.131 of the 894  
Revised Code, denying a transfer under section 1522.15 of the 895  
Revised Code, denying a petition to the chief under section 896  
1522.16 of the Revised Code, or denying a request for 897  
confidentiality under section 1522.17 of the Revised Code, or 898  
before the issuance of a final order under section 1522.20 of the 899  
Revised Code, the chief shall issue a proposed order indicating 900  
the chief's intent to issue a final order. If the chief receives a 901  
written objection from a person who is or will be aggrieved or 902  
adversely affected by the issuance of the final order, the chief 903  
shall conduct an adjudication hearing with respect to the proposed 904  
order in accordance with Chapter 119. of the Revised Code. A 905  
person who is or will be aggrieved or adversely affected by the 906  
issuance of the final order and who submitted a written objection 907  
under this division may be a party to the adjudication. 908

(2) Any person who is issued a proposed order or a final order by the chief shall be a party in any administrative or legal proceeding in which the proposed order or final order is at issue. This division is in addition to any other rights that a person may have as a person aggrieved or adversely affected. 909  
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(C)(1) After the issuance of a final order, a person who is or will be aggrieved or adversely affected by the issuance of the order may appeal the order to the court of common pleas of Franklin county or the court of common pleas of the county in which the facility that is the subject of the order is located. Subject to the exceptions specified in section 2506.03 of the Revised Code, the court is confined to the record as certified to it by the chief if an adjudication hearing was conducted by the chief under division (B) of this section. However, the court also may grant a request for the admission of additional evidence when satisfied that the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the chief. If no adjudication hearing was conducted under division (B) of this section, the court shall conduct a hearing de novo. 914  
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(2) The filing of an appeal under division (C)(1) of this section does not automatically suspend the order that is the subject of the appeal. Upon application by the appellant, the court may suspend or stay the order, pending an immediate hearing on the appeal. 929  
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(3) If the court finds that the order was lawful and reasonable, it shall issue a written order affirming the order. If the court finds that the order was unreasonable or unlawful, it shall issue a written order vacating or modifying the order. The judgment of the court is final unless reversed, vacated, or modified on appeal. 934  
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(4) Attorney's fees shall not be awarded to any party to an 940

administrative or legal proceeding under this section. 941

**Section 2.** That existing sections 1501.32, 1501.33, 1521.04, 942  
1522.03, and 1522.05 and section 1522.07 of the Revised Code are 943  
hereby repealed. 944

**Section 3.** (A) The Chief of the Division of Soil and Water 945  
Resources in the Department of Natural Resources, not later than 946  
ninety days after the effective date of this section, shall 947  
convene an advisory group consisting of the Chief and all of the 948  
following: 949

(1) The Chief of the Division of Surface Water in the 950  
Environmental Protection Agency or the Chief's designee; 951

(2) The following members appointed by the Chief of the 952  
Division of Soil and Water Resources: 953

(a) A representative of a statewide environmental advocacy 954  
organization; 955

(b) A water quality expert from the faculty or staff of an 956  
Ohio college or university located within the Lake Erie watershed; 957

(c) A representative of a sustainable economic development 958  
organization with a primary interest in the Lake Erie watershed. 959

(3) The following members appointed by the President of the 960  
Senate: 961

(a) A representative of a statewide business and economic 962  
development organization; 963

(b) A representative of an independent business located 964  
within the Lake Erie watershed that owns or operates a registered 965  
water withdrawal facility. 966

(4) The following members appointed by the Speaker of the 967  
House of Representatives: 968

(a) A representative of agribusiness that operates within the Lake Erie watershed; 969  
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(b) A representative of an independent business located 971  
within the Lake Erie watershed that owns or operates a registered 972  
water withdrawal facility. 973

(B) The Chief of the Division of Soil and Water Resources 974  
shall serve as chairperson of the advisory group. All appointments 975  
shall be made to the advisory group not later than forty-five days 976  
after the effective date of this section. The advisory group shall 977  
make legislative recommendations for the application of Section 978  
4.11.2 of the Great Lakes-St. Lawrence River Basin Water Resources 979  
Compact. The recommendations shall be designed to ensure that 980  
permits issued under section 1522.12 of the Revised Code, as 981  
enacted by this act, will result in no significant individual or 982  
cumulative adverse impacts to the quantity or quality of the 983  
waters and water dependent natural resources of the Great Lakes 984  
Basin considered as a whole or the Lake Erie watershed considered 985  
as a whole. The recommendations shall not include any change to 986  
divisions (B) and (C) of section 1522.13 of the Revised Code, as 987  
enacted by this act. In developing its recommendations, the 988  
advisory group shall consider the directives in divisions (B) and 989  
(C) of that section and shall consider an adaptive management 990  
approach taking into account scientific and technological advances 991  
in accordance with Sections 1.3 and 1.4 of the Compact. 992

(C) The advisory group shall meet as necessary to accomplish 993  
its purpose and shall submit its final recommendations to the 994  
Chief of the Division of Soil and Water Resources not later than 995  
eighteen months after the effective date of this section. If the 996  
advisory group does not reach a consensus regarding its 997  
recommendations, the advisory group may submit recommendations 998  
representing each of the minority positions within the advisory 999  
group. Upon submission of its recommendations, the advisory group 1000

shall cease to exist. 1001

(D) The Chief shall make legislative recommendations for 1002  
purposes of Section 4.11.2 of the Compact only after full 1003  
consideration of the advisory group's recommendations, provided 1004  
that the advisory group's recommendations are submitted to the 1005  
Chief not later than eighteen months after the effective date of 1006  
this section. When making legislative recommendations, the Chief 1007  
shall consider the economic consequences of determining whether an 1008  
impact is significant. 1009

**Section 4.** The Chief of the Division of Soil and Water 1010  
Resources shall add to the list of baseline facilities listed in 1011  
the baseline report any facility that commenced a water withdrawal 1012  
after December 8, 2009, but not later than one hundred eighty days 1013  
after the effective date of this section. 1014

**Section 5.** The Chief of the Division of Soil and Water 1015  
Resources in the Department of Natural Resources shall not adopt 1016  
rules governing the application of Section 4.11.2 of the Great 1017  
Lakes-St. Lawrence River Basin Water Resources Compact until the 1018  
Chief is authorized to do so by the General Assembly. 1019

**Section 6.** If a court of competent jurisdiction holds any 1020  
part of this act to be void or unenforceable, it shall be 1021  
considered severable from those portions of the act that are 1022  
capable of continued implementation in the absence of the voided 1023  
provisions. All other provisions capable of continued 1024  
implementation shall continue in full force and effect. In 1025  
addition, if a court of competent jurisdiction holds all or part 1026  
of this act to be void or unenforceable such that the Chief of the 1027  
Division of Soil and Water Resources in the Department of Natural 1028  
Resources is prohibited from implementing the withdrawal and 1029  
consumptive use permit program under section 1522.12 of the 1030

Revised Code, as enacted by this act, the owner or operator of a	1031
facility that otherwise would have been required to obtain a	1032
permit under that section instead shall proceed to obtain a permit	1033
under section 1501.33 of the Revised Code, as amended by this act.	1034