

As Introduced

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A B I L L

To amend section 3706.01 of the Revised Code to 1
revise the definition of "air quality facility" 2
under the Air Quality Development Authority Law. 3

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

Section 1. That section 3706.01 of the Revised Code be 4
amended to read as follows: 5

Sec. 3706.01. As used in this chapter: 6

(A) "Governmental agency" means a department, division, or 7
other unit of state government, a municipal corporation, county, 8
township, and other political subdivision, or any other public 9
corporation or agency having the power to acquire, construct, or 10
operate air quality facilities, the United States or any agency 11
thereof, and any agency, commission, or authority established 12
pursuant to an interstate compact or agreement. 13

(B) "Person" means any individual, firm, partnership, 14
association, or corporation, or any combination thereof. 15

(C) "Air contaminant" means particulate matter, dust, fumes, 16
gas, mist, smoke, noise, vapor, heat, radioactivity, radiation, or 17

odorous substance, or any combination thereof. 18

(D) "Air pollution" means the presence in the ambient air of 19
one or more air contaminants in sufficient quantity and of such 20
characteristics and duration as to injure human health or welfare, 21
plant or animal life, or property, or that unreasonably interferes 22
with the comfortable enjoyment of life or property. 23

(E) "Ambient air" means that portion of the atmosphere 24
outside of buildings and other enclosures, stacks, or ducts that 25
surrounds human, plant, or animal life, or property. 26

(F) "Emission" means the release into the outdoor atmosphere 27
of an air contaminant. 28

(G) "Air quality facility" means any of the following: 29

(1) Any method, modification or replacement of property, 30
process, device, structure, or equipment that removes, reduces, 31
prevents, contains, alters, conveys, stores, disperses, or 32
disposes of air contaminants or substances containing air 33
contaminants, or that renders less noxious or reduces the 34
concentration of air contaminants in the ambient air, including, 35
without limitation, facilities and expenditures that qualify as 36
air pollution control facilities under section 103 (C)(4)(F) of 37
the Internal Revenue Code of 1954, as amended, and regulations 38
adopted thereunder; 39

(2) Motor vehicle inspection stations operated in accordance 40
with, and any equipment used for motor vehicle inspections 41
conducted under, section 3704.14 of the Revised Code and rules 42
adopted under it; 43

(3) Ethanol or other biofuel facilities, including any 44
equipment used at the ethanol or other biofuel facility for the 45
production of ethanol or other biofuels; 46

(4) Any property or portion thereof used for the collection, 47

storage, treatment, utilization, processing, or final disposal of
a by-product or solid waste resulting from any method, process,
device, structure, or equipment that removes, reduces, prevents,
contains, alters, conveys, stores, disperses, or disposes of air
contaminants, or that renders less noxious or reduces the
concentration of air contaminants in the ambient air;

(5) Any property, device, or equipment that promotes the
reduction of emissions of air contaminants into the ambient air
through improvements in the efficiency of energy utilization or
energy conservation;

(6) Any coal research and development project conducted under
Chapter 1555. of the Revised Code;

(7) Any property or portion thereof used for the collection,
storage, treatment, utilization, processing, or final disposal of
a by-product resulting from a coal research and development
project as defined in section 1555.01 of the Revised Code or from
the use of clean coal technology;

(8) Any property or portion thereof that is part of the
FutureGen project of the United States department of energy or
related to the siting of the project.

"Air quality facility" further includes any property or
system to be used in whole or in part for any of the purposes in
divisions (G)(1) to ~~(5)~~(8) of this section, whether another
purpose is also served, and any property or system incidental to
or that has to do with, or the end purpose of which is, any of the
foregoing. Air quality facilities that are defined in this
division for industry, commerce, distribution, or research,
including public utility companies, are hereby determined to be
those that qualify as facilities for the control of air pollution
and thermal pollution related to air under Section 13 of Article
VIII, Ohio Constitution.

(H) "Project" or "air quality project" means any air quality facility, including undivided or other interests therein, acquired or to be acquired or constructed or to be constructed by the Ohio air quality development authority under this chapter, or acquired or to be acquired or constructed or to be constructed by a governmental agency or person with all or a part of the cost thereof being paid from a loan or grant from the authority under this chapter, including all buildings and facilities that the authority determines necessary for the operation of the project, together with all property, rights, easements, and interests that may be required for the operation of the project.

(I) "Cost" as applied to an air quality project means the cost of acquisition and construction, the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office and sub-offices of the authority, the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements for such access roads, the cost of public utility and common carrier relocation or duplication, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of construction, engineering, expenses of research and development with respect to air quality facilities, legal expenses, plans, specifications, surveys, studies, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing such project, administrative expense, and such other

expense as may be necessary or incident to the acquisition or 111
construction of the project, the financing of such acquisition or 112
construction, including the amount authorized in the resolution of 113
the authority providing for the issuance of air quality revenue 114
bonds to be paid into any special funds from the proceeds of such 115
bonds, and the financing of the placing of such project in 116
operation. Any obligation, cost, or expense incurred by any 117
governmental agency or person for surveys, borings, preparation of 118
plans and specifications, and other engineering services, or any 119
other cost described above, in connection with the acquisition or 120
construction of a project may be regarded as a part of the cost of 121
that project and may be reimbursed out of the proceeds of air 122
quality revenue bonds as authorized by this chapter. 123

(J) "Owner" includes an individual, copartnership, 124
association, or corporation having any title or interest in any 125
property, rights, easements, or interests authorized to be 126
acquired by this chapter. 127

(K) "Revenues" means all rentals and other charges received 128
by the authority for the use or services of any air quality 129
project, any gift or grant received with respect to any air 130
quality project, any moneys received with respect to the lease, 131
sublease, sale, including installment sale or conditional sale, or 132
other disposition of an air quality project, moneys received in 133
repayment of and for interest on any loans made by the authority 134
to a person or governmental agency, whether from the United States 135
or any department, administration, or agency thereof, or 136
otherwise, proceeds of such bonds to the extent that use thereof 137
for payment of principal of, premium, if any, or interest on the 138
bonds is authorized by the authority, proceeds from any insurance, 139
condemnation, or guaranty pertaining to a project or property 140
mortgaged to secure bonds or pertaining to the financing of the 141
project, and income and profit from the investment of the proceeds 142

of air quality revenue bonds or of any revenues.	143
(L) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.	144 145 146
(M) "Public utility facilities" includes tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances of any public utility.	147 148 149
(N) "Construction," unless the context indicates a different meaning or intent, includes reconstruction, enlargement, improvement, or providing furnishings or equipment.	150 151 152
(O) "Air quality revenue bonds," unless the context indicates a different meaning or intent, includes air quality revenue notes, air quality revenue renewal notes, and air quality revenue refunding bonds, except that notes issued in anticipation of the issuance of bonds shall have a maximum maturity of five years as provided in section 3706.05 of the Revised Code and notes or renewal notes issued as the definitive obligation may be issued maturing at such time or times with a maximum maturity of forty years from the date of issuance of the original note.	153 154 155 156 157 158 159 160 161
(P) "Solid waste" means any garbage; refuse; sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but not including solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges that are point sources subject to permits under section 402 of the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 880, 33 U.S.C.A. 1342, as amended, or source, special nuclear, or byproduct material as defined by the "Atomic Energy Act of 1954,"	162 163 164 165 166 167 168 169 170 171 172 173

68 Stat. 921, 42 U.S.C.A. 2011, as amended.	174
(Q) "Sludge" means any solid, semisolid, or liquid waste, other than a recyclable by-product <u>by-product</u> , generated from a municipal, commercial, or industrial waste water treatment plant, water supply plant, or air pollution control facility or any other such wastes having similar characteristics and effects.	175 176 177 178 179
(R) "Ethanol or other biofuel facility" means a plant at which ethanol or other biofuel is produced.	180 181
(S) "Ethanol" means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal, grains, cheese whey, and sugar beets; forest products; or other renewable or biomass resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable or biomass resources, that meets all of the specifications in the American society for testing and materials (ASTM) specification D 4806-88 and is denatured as specified in Parts 20 and 21 of Title 27 of the Code of Federal Regulations.	182 183 184 185 186 187 188 189 190 191
(T) "Biofuel" means any fuel that is made from cellulosic biomass resources, including renewable organic matter, crop waste residue, wood, aquatic plants and other crops, animal waste, solid waste, or sludge, and that is used for the production of energy for transportation or other purposes.	192 193 194 195 196
Section 2. That existing section 3706.01 of the Revised Code is hereby repealed.	197 198
Section 3. In amending section 3706.01 of the Revised Code in this act, the General Assembly hereby declares its intent to secure the United States Department of Energy's FutureGen program, the first zero-emissions coal power plant in the world, for the citizens of the state of Ohio for all of the following reasons:	199 200 201 202 203

(A) This state meets the essential requirements for the	204
FutureGen project because the state has all of the following:	205
(1) Deep geological formations, including depleted oil and	206
gas wells and unmineable coal seams, that are suitable and	207
available to sequester carbon dioxide that will be produced in the	208
operation of the FutureGen plant;	209
(2) The coal feedstock that is essential for the future	210
operation of the FutureGen plant because the state has the seventh	211
largest coal reserves in the country, which are expected to last	212
almost 250 years at present consumption levels;	213
(3) Markets for the products produced from the operation of	214
the FutureGen plant. The state will use the electricity produced	215
from the plant because the state is the country's fourth largest	216
industrial consumer of energy. In addition, the state will use the	217
hydrogen produced from FutureGen because the state is the home of	218
leaders in fuel cell research and development.	219
(B) The state is nationally recognized in the area of clean	220
coal research and development and implementation of new clean coal	221
technologies and will contribute that expertise to the program. In	222
addition, the state's long-term vision regarding and commitment to	223
clean coal technology are evidenced by the creation of the Ohio	224
Coal Development Office in 1984 and the investment of over \$173	225
million in coal research since 1984.	226
(C) The Ohio Coal Research Consortium is a group of six	227
internationally recognized universities that conduct research in	228
clean coal technologies and will contribute that expertise to the	229
program. The universities are Case Western Reserve University,	230
Ohio University, The Ohio State University, the University of	231
Akron, the University of Cincinnati, and the University of Dayton.	232
(D) The state has the following infrastructure that is	233
necessary to support the FutureGen program: an existing permitting	234

process for the timely siting and permitting of the FutureGen 235
plant; an adequate supply of water for the operation of the plant; 236
water, rail, and highway transportation systems for shipping coal 237
to the plant; access to electric transmission lines for the 238
distribution of electricity from the plant; and other 239
infrastructure that will be beneficial to the program. 240

(E) The state is the home of leading researchers and research 241
facilities that will assist in the program. 242

(F) The program will create in this state between 150 and 250 243
new jobs per year over a seven-year period. In addition, 244
construction of the FutureGen plant will create approximately 245
1,100 jobs in this state over a three-year period. 246

(G) The program will provide a new zero-emissions baseload 247
power plant for the citizens of this state. 248

(H) The program will enhance the state's national and 249
international leadership in clean coal technologies. 250

(I) The program will build on the state's investment in the 251
fuel cell industry. 252