

**As Passed by the Senate**

**129th General Assembly  
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**Am. H. B. No. 473**

**Representative Wachtmann**

**Cosponsors: Representatives Boose, Brenner, Buchy, Damschroder, Hall,  
Huffman, Johnson, Lynch, McClain, Sears, Stebelton, Thompson  
Senators Hite, Jordan, Niehaus, Seitz**

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**A B I L L**

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 shall do one of the following:

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

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

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

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

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

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

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 1 140

(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)~~ (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 resources compact and take appropriate actions to effectuate its purposes and intent-~~

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

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

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

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

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

~~the program or adoption of rules.~~ 294

~~In addition, the governor, the department of natural 295  
resources, or any other agency of the state shall not adopt rules 296  
or implement any mandatory program governing water conservation 297  
and efficiency pursuant to Section 4.2 of the compact unless the 298  
general assembly enacts legislation after the effective date of 299  
the compact authorizing the implementation of the program or 300  
adoption of rules. However, the governor, the department of 301  
natural resources, or any other agency of the state may adopt 302  
rules concerning and may implement voluntary water conservation 303  
and efficiency programs without authorization from the general 304  
assembly. Such voluntary programs shall not include any mandatory 305  
requirements.~~ 306

~~(2) Division (B)(1) of this section does not prohibit the 307  
effectuation of Sections 4.8 and 4.9 of the compact after the 308  
effective date of the compact or prohibit the continued 309  
implementation and enforcement by the governor or applicable 310  
agencies of this state of laws, rules, or programs regulating the 311  
use, withdrawal, consumptive use, or diversion of water that are 312  
in effect on or before the effective date of this section The 313  
chief of the division of soil and water resources shall adopt 314  
voluntary watershedwide goals, objectives, and standards for water 315  
conservation and efficiency consistent with Section 4.2 of the 316  
great lakes-st. Lawrence river basin water resources compact. 317~~

Sec. 1522.10. As used in sections 1522.10 to 1522.21 of the 318  
Revised Code: 319

(A) "Baseline facility" means a facility identified in the 320  
baseline report or a facility added to the baseline report under 321  
section 1522.16 of the Revised Code. 322

(B) "Baseline facility abandonment" means the voluntary and 323  
affirmative termination of a baseline facility's withdrawal and 324

consumptive use capacity as listed in the baseline report. 325

"Baseline facility abandonment" does not include the nonuse or the 326  
transfer of a baseline facility's withdrawal and consumptive use 327  
capacity unless either of the following applies: 328

(1) The nonuse continues for fifteen consecutive years for a 329  
facility with a potential withdrawal from Lake Erie or a 330  
recognized navigational channel and the nonuse is not extended in 331  
accordance with division (B) of section 1522.16 of the Revised 332  
Code. 333

(2) For a facility to which division (B)(1) of this section 334  
does not apply, the nonuse continues for thirty-six consecutive 335  
months and is not extended in accordance with division (B) of 336  
section 1522.16 of the Revised Code. 337

(C) "Baseline report" means a list of the withdrawal and 338  
consumptive use capacities of facilities that was developed for 339  
purposes of Section 4.12 of the great lakes-st. Lawrence river 340  
basin water resources compact by the department of natural 341  
resources and submitted to the great lakes-st. Lawrence river 342  
basin water resources council on December 8, 2009. 343

(D) "Capacity" means the ability of a facility's pumps, 344  
pipes, and other appurtenances to withdraw water presented in 345  
terms of withdrawal capacity, treatment capacity, distribution 346  
capacity, or other capacity-limiting factors. 347

(E) "Compact" means the great lakes-st. Lawrence river basin 348  
water resources compact set forth in section 1522.01 of the 349  
Revised Code. 350

(F) "Consumptive use" has the same meaning as in section 351  
1522.01 of the Revised Code. For purposes of determining a new or 352  
increased capacity for consumptive use, "consumptive use" is the 353  
use based on a coefficient of consumptive use generally accepted 354  
in the scientific community that most accurately reflects the 355

process at a facility or the use based on facility specific data, 356  
whichever is more accurate. 357

(G) "Diversion" has the same meaning as in section 1522.01 of 358  
the Revised Code. 359

(H) "Facility" means any site, installation, or building at 360  
which water withdrawal and consumptive use activities take place 361  
or are proposed to take place, that is located at a property or on 362  
contiguous properties, and that is under the direction of either a 363  
private or public entity. "Facility" includes any site, 364  
installation, building, or service area of a public water system 365  
at or within which water withdrawal and consumptive use activities 366  
take place. 367

(I) "Facility abandonment" means the voluntary and 368  
affirmative termination of a facility's withdrawal and consumptive 369  
use capacity as listed in a withdrawal and consumptive use permit 370  
issued under section 1522.12 of the Revised Code. "Facility 371  
abandonment" does not include the nonuse or the transfer of a 372  
facility's withdrawal and consumptive use capacity unless either 373  
of the following applies: 374

(1) The nonuse continues for fifteen consecutive years for a 375  
facility with a potential withdrawal from Lake Erie or a 376  
recognized navigational channel and the nonuse is not extended in 377  
accordance with division (B) of section 1522.16 of the Revised 378  
Code. 379

(2) For a facility to which division (I)(1) of this section 380  
does not apply, the nonuse continues for thirty-six consecutive 381  
months and is not extended in accordance with division (B) of 382  
section 1522.16 of the Revised Code. 383

(J) "High quality water" means a river or stream segment that 384  
has been designated by the environmental protection agency under 385  
Chapter 3745-1 of the Administrative Code as an exceptional warm 386

water habitat, cold water habitat, outstanding state water, or 387  
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 necessary to determine the effectiveness and economic feasibility of the experimental use. 602  
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(3) The experimental use does not reduce the protection afforded the waters and water dependent natural resources of the source watershed as defined in the compact below what is provided in this chapter and rules adopted under it. 605  
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(C) The chief may refuse to issue an experimental use permit if the chief determines that the proposed use will result in significant individual or cumulative adverse impacts on the quantity or quality of the waters and water dependent natural resources of the great lakes basin considered as a whole or the Lake Erie source watershed considered as a whole. 609  
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(D) The chief shall issue or deny a permit under this section through issuance of an order. 615  
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(E) The chief shall establish the terms and conditions of an experimental use permit and may suspend such a permit, at any time, if the chief finds that its terms or conditions are being violated or that its terms and conditions are inadequate to avoid significant individual or cumulative adverse impacts on the quantity or quality of the waters and water dependent natural resources of the great lakes basin considered as a whole or the Lake Erie source watershed considered as a whole. 617  
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(F) An experimental use permit issued under this section shall expire not later than twenty-four months after the date of issuance of the permit. 625  
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**Sec. 1522.14.** The following are exempt from the requirement to obtain a withdrawal and consumptive use permit: 628  
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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633

(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 either of the following apply: 634  
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637

(1) Except as provided in division (B)(2) of this section, the new or increased maximum daily withdrawal of the facility is less than the applicable threshold amount when averaged over any ninety-day period. 638  
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(2) The new or increased maximum daily withdrawal of the facility is less than the applicable threshold amount when averaged over any forty-five-day period with regard to a facility with withdrawals from a river or stream that is a high quality water when the withdrawals are made at a point where the area of the watershed of the river or stream is less than one hundred square miles but greater than fifty square miles. 642  
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Division (B) of this section does not apply to withdrawals of a facility from a river or stream that is a high quality water when the withdrawals are made at a point where the area of the watershed of the river or stream is fifty square miles or less. 649  
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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; 653  
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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; 657  
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(E) A facility making a withdrawal and consumptive use from 661

an impoundment of water collected primarily from diffused surface 662  
water sources, including a farm pond, golf course pond, nursery 663  
pond, stormwater retention pond, or other private pond; or a 664  
facility making a withdrawal and consumptive use from any stream 665  
or river to augment the water supply of an impoundment of water if 666  
the impoundment is used, at least in part, for firefighting 667  
purposes. The exemption established by this division does not 668  
apply to a facility making a withdrawal and consumptive use for 669  
industrial purposes or for public water supply purposes. 670

(F) A facility that must temporarily establish a new or 671  
increased withdrawal and consumptive use capacity as a result of 672  
an emergency for the duration of that emergency that, without the 673  
new or increased withdrawal and consumptive use capacity, will 674  
result in imminent harm to human health or property; 675

(G) A facility that is establishing a new or is increasing 676  
its withdrawal and consumptive use capacity in compliance with an 677  
experimental use permit issued under section 1522.131 of the 678  
Revised Code; 679

(H) A facility that must temporarily establish a new or 680  
increased withdrawal and consumptive use capacity in order to 681  
respond to a humanitarian crisis for the duration of that crisis 682  
if the new or increased capacity is necessary to assist in the 683  
management of that crisis; 684

(I) A facility that is exempt from the requirement to obtain 685  
a permit under division (B) or (C) of section 1501.33 of the 686  
Revised Code; 687

(J) A facility that is subject to regulation under Chapter 688  
1514. of the Revised Code; 689

(K) A facility that purchases all of its water from a public 690  
water system; 691

(L) A facility that is withdrawing or consumptively using 692

water from an off-stream impoundment that has been substantially 693  
filled with a stream withdrawal by a baseline facility or with a 694  
stream withdrawal that is subject to a withdrawal and consumptive 695  
use permit; 696

(M) A facility that is increasing its withdrawal or 697  
consumptive use capacity directly related to supplying a major 698  
electric generating facility that is subject to regulation under 699  
Chapter 4906. of the Revised Code. 700

**Sec. 1522.15.** (A)(1) Transfer of a withdrawal and consumptive 701  
use permit upon the sale or transfer of a facility may occur so 702  
long as the location of the facility, the source of water, and the 703  
withdrawal and consumptive use capacities do not change. Transfer 704  
of the baseline withdrawal and consumptive use capacity of a 705  
baseline facility upon the sale or transfer of the baseline 706  
facility may occur so long as the location of the facility, the 707  
source of water, and the withdrawal and consumptive use capacities 708  
do not change. Transferred capacity of a baseline facility does 709  
not require a withdrawal and consumptive use permit. 710

Notice of a transfer shall be provided to the chief of the 711  
division of soil and water resources in a manner prescribed by the 712  
chief. 713

(2) If the owner of a facility for which a withdrawal and 714  
consumptive use permit has been issued sells or transfers a 715  
portion of the facility, transfer of the applicable portion of the 716  
withdrawal and consumptive use capacity authorized by the 717  
withdrawal and consumptive use permit may occur so long as the 718  
location of the facility, the source of water, and the total 719  
withdrawal and consumptive use capacities do not change. The 720  
permittee shall provide notice of such a transfer to the chief in 721  
a manner prescribed by the chief. Upon receipt of the notice and 722  
if a permit is required for the transferred portion based on the 723



threshold amounts established in divisions (A)(1) to (3) of 724  
section 1522.12 of the Revised Code, the chief shall issue a new 725  
permit for the transferred portion of the facility to the 726  
transferee and a modified permit for the remaining portion of the 727  
facility to the original permittee upon a showing that the 728  
transferee will meet the conditions of the original permit and all 729  
applicable requirements of this chapter and rules adopted under 730  
it. Any new permit shall reflect the portion of the withdrawal and 731  
consumptive use capacity that has been transferred. 732

(3) If the owner of a baseline facility sells or transfers a 733  
portion of the baseline facility, transfer of the applicable 734  
portion of the withdrawal and consumptive use capacity listed in 735  
the baseline report for that facility may occur so long as the 736  
location of the facility, the source of water, and the total 737  
withdrawal and consumptive use capacities do not change. The owner 738  
shall provide notice of such a transfer to the chief in a manner 739  
prescribed by the chief. The chief shall not require the owner of 740  
the baseline facility or the transferee to obtain a withdrawal and 741  
consumptive use permit, but shall update the baseline report to 742  
reflect the transfer. 743

(4) The chief may deny a transfer under this section by 744  
issuing an order denying the transfer and sending written notice 745  
to the permittee and the transferee not later than thirty days 746  
after notice of the intended transfer. The chief shall deny the 747  
transfer if the chief determines that the transfer will result in 748  
noncompliance with this chapter, rules adopted under it, or the 749  
terms and conditions of a withdrawal and consumptive use permit. 750

(5) The chief shall remove a facility from the baseline 751  
report when the facility is subject to baseline facility 752  
abandonment. However, a baseline facility shall not be removed 753  
from the baseline report due to the transfer of the facility's 754  
baseline capacity. 755

(B) No person shall sell or transfer a withdrawal and 756  
consumptive use permit for purposes of evading the requirements 757  
established in sections 1522.10 to 1522.21 of the Revised Code. 758

Sec. 1522.16. (A)(1) The owner or operator of a facility may 759  
petition the chief of the division of soil and water resources for 760  
either of the following: 761

(a) Inclusion in the baseline report if the owner or operator 762  
believes that the facility was erroneously excluded from the 763  
report; 764

(b) The amendment of the amount of a withdrawal and 765  
consumptive use or other information included in the baseline 766  
report regarding the facility if the owner or operator believes 767  
that the information is incorrect. 768

(2) The chief shall issue an order either approving or 769  
disapproving a petition submitted under this section. The chief 770  
shall issue the order based on a thorough examination of the 771  
circumstances concerning the petition. 772

(3) The chief shall adopt rules in accordance with Chapter 773  
119. of the Revised Code that establish procedures for the 774  
submission of petitions under this division. 775

(B) With regard to the nonuse of a baseline facility's or a 776  
facility's withdrawal and consumptive use capacity, not later than 777  
sixty days after the time period specified in division (B)(1) or 778  
(2) or (I)(1) or (2) of section 1522.10 of the Revised Code, the 779  
owner or operator of the facility may request an extension from 780  
the chief to retain the facility's active status. The request 781  
shall be made in a manner prescribed by the chief. The chief shall 782  
determine the appropriate terms and conditions of the extension, 783  
if approved, based on information submitted by the owner or 784  
operator. The chief shall issue an order approving or disapproving 785

the request and shall do so in a manner prescribed by the chief. 786

Sec. 1522.17. (A) The owner or operator of a facility who is 787  
applying for a withdrawal and consumptive use permit shall submit 788  
to the chief of the division of soil and water resources a 789  
facility water conservation plan that incorporates environmentally 790  
sound and economically feasible water conservation measures in 791  
accordance with Section 4.11.3 of the compact. If the plan 792  
reasonably incorporates environmentally sound and economically 793  
feasible water conservation measures applicable to the facility, 794  
it shall be deemed to be in compliance with Section 4.11.3 of the 795  
compact. 796

(B) The chief shall keep confidential any portions of a 797  
facility water conservation plan that constitute a trade secret as 798  
defined in section 1333.61 of the Revised Code as follows: 799

(1) During the period of time after confidentiality is 800  
requested under division (C) of this section and until the chief 801  
makes a determination to approve or disapprove the request; 802

(2) On and after the date on which the chief approves a 803  
request for confidentiality under division (C) of this section. 804

Any portions of a facility water conservation plan that are 805  
kept confidential as provided in this division are not subject to 806  
section 149.43 of the Revised Code. 807

(C)(1) The owner or operator of a facility may request that 808  
any portions of a facility water conservation plan be kept 809  
confidential. The request for confidentiality shall be submitted 810  
at the same time that an owner or operator submits a facility 811  
water conservation plan under division (A) of this section. The 812  
owner or operator shall clearly indicate the information that the 813  
owner or operator considers a trade secret and shall label it as 814  
"trade secret." Failure to make such a request shall constitute a 815

waiver of the right to prevent public disclosure of the 816  
information. A request for confidentiality shall be accompanied by 817  
documents that support the request. The documents shall describe 818  
the measures that the requestor has taken to safeguard the 819  
confidentiality of the information and indicate whether or not 820  
others are bound by a confidentiality agreement related to the 821  
information. 822

(2) The chief, by order, shall issue a decision regarding the 823  
confidentiality request not later than forty-five days after the 824  
receipt of the request. Until the decision is issued, the 825  
information that is the subject of the request shall be 826  
confidential and maintained by the chief in a separate file 827  
labeled "confidential." The applicant shall be notified by mail of 828  
the decision. 829

Sec. 1522.18. The chief of the division of soil and water 830  
resources, on the chief's own initiative or upon written complaint 831  
by any person, may investigate or make inquiries into any alleged 832  
failure to comply with this chapter, any rule adopted under it, 833  
any order issued under it, or the terms and conditions of a permit 834  
issued under it. The chief or the chief's duly authorized 835  
representative may enter at reasonable times on any private or 836  
public property to inspect and investigate conditions relating to 837  
any such alleged act of noncompliance and, if necessary, may apply 838  
to the court of common pleas having jurisdiction for a warrant 839  
permitting the entrance and inspection. 840

Sec. 1522.19. No person shall violate any provision of this 841  
chapter, any rule or order adopted or issued under it, or any term 842  
or condition of a permit issued under it. 843

Sec. 1522.20. (A)(1) The chief of the division of soil and 844  
water resources may issue an order to a person that the chief 845

determines has violated, is violating, or is threatening to 846  
violate any provisions of this chapter, rules adopted under it, or 847  
permits or orders issued under it. The order shall be effective 848  
upon issuance and shall identify the facility where the violation 849  
has occurred, is occurring, or is threatened to occur, the 850  
specific violation, and actions that the owner or operator of the 851  
facility must take to comply with the order. The order shall 852  
establish a reasonable date by which the owner or operator must 853  
comply with the order. 854

(2) An order issued under division (A)(1) of this section 855  
shall be in writing and shall contain a finding of the facts on 856  
which the order is based. Notice of the order shall be given by 857  
certified mail to the applicable owner or operator of a facility. 858  
Notice also shall be provided to a person who initiated a 859  
complaint that resulted in the order and shall be posted on the 860  
web site of the department of natural resources in a manner 861  
prescribed by the chief. 862

(B)(1) The chief, by order, may propose to suspend or revoke 863  
a permit issued under this chapter if the chief determines that 864  
any term or condition of the permit is being violated. The chief's 865  
order shall identify the facility where the violation allegedly 866  
occurred, describe the nature of the violation, and prescribe what 867  
action the permittee may take to bring the facility into 868  
compliance with the permit. The chief shall fix and specify in the 869  
order a reasonable date or time by which the permittee must 870  
comply. The order shall state that the chief may suspend or revoke 871  
the permit if the permittee fails to comply with the order by that 872  
date or time. If on that date or time the chief finds that the 873  
permittee has not complied with the order, the chief may issue a 874  
new order suspending or revoking the permit. 875

(2) The chief or the chief's designee may enter on private or 876  
public lands and take action to mitigate, minimize, remove, or 877

abate the conditions caused by a violation that is the subject of 878  
an order issued under division (B)(1) of this section. 879

(C) The attorney general, upon written request of the chief, 880  
shall bring an action for an injunction or other appropriate legal 881  
or equitable action against any person who has violated, is 882  
violating, or is threatening to violate any provision of this 883  
chapter, any rule or order adopted or issued under it, or any term 884  
or condition of a permit issued under it. The attorney general 885  
shall bring the action in the court of common pleas of Franklin 886  
county or the county where the applicable facility is located. In 887  
an action for injunction, any factual findings of the chief 888  
presented at a hearing conducted under division (A) of section 889  
1522.21 of the Revised Code is prima-facie evidence of the facts 890  
regarding the order that is the subject of the hearing. 891

(D) A person who violates any provision of this chapter, any 892  
rule or order adopted or issued under it, or any term or condition 893  
of a permit issued under it is liable to the chief for any costs 894  
incurred by the division of soil and water resources in 895  
investigating, mitigating, minimizing, removing, or abating the 896  
violation and conditions caused by it. Upon the request of the 897  
chief, the attorney general shall bring a civil action against the 898  
responsible person to recover those costs in the court of common 899  
pleas of Franklin county. Moneys recovered under this division 900  
shall be deposited in the state treasury to the credit of the 901  
water management fund created in section 1501.32 of the Revised 902  
Code. 903

**Sec. 1522.21.** (A) As used in this section, "person who is or 904  
will be aggrieved or adversely affected" means a person with a 905  
direct economic or property interest that is or will be adversely 906  
affected by an order or rule issued or adopted by the chief of the 907  
division of soil and water resources under this chapter. 908

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

(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.

(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 941  
the hearing before the chief. If no adjudication hearing was 942  
conducted under division (B) of this section, the court shall 943  
conduct a hearing de novo. 944

(2) The filing of an appeal under division (C)(1) of this 945  
section does not automatically suspend the order that is the 946  
subject of the appeal. Upon application by the appellant, the 947  
court may suspend or stay the order, pending an immediate hearing 948  
on the appeal. 949

(3) If the court finds that the order was lawful and 950  
reasonable, it shall issue a written order affirming the order. If 951  
the court finds that the order was unreasonable or unlawful, it 952  
shall issue a written order vacating or modifying the order. The 953  
judgment of the court is final unless reversed, vacated, or 954  
modified on appeal. 955

(4) Attorney's fees shall not be awarded to any party to an 956  
administrative or legal proceeding under this section. 957

**Section 2.** That existing sections 1501.32, 1501.33, 1521.04, 958  
1522.03, and 1522.05 and section 1522.07 of the Revised Code are 959  
hereby repealed. 960

**Section 3.** (A) The Chief of the Division of Soil and Water 961  
Resources in the Department of Natural Resources, not later than 962  
ninety days after the effective date of this section, shall 963  
convene an advisory group consisting of the Chief and all of the 964  
following: 965

(1) The Chief of the Division of Surface Water in the 966  
Environmental Protection Agency or the Chief's designee; 967

(2) The following members appointed by the Chief of the 968  
Division of Soil and Water Resources: 969



(a) A representative of a statewide environmental advocacy organization;	970 971
(b) A water quality expert from the faculty or staff of an Ohio college or university located within the Lake Erie watershed;	972 973
(c) A representative of a sustainable economic development organization with a primary interest in the Lake Erie watershed.	974 975
(3) The following members appointed by the President of the Senate:	976 977
(a) A representative of a statewide business and economic development organization;	978 979
(b) A representative of an independent business located within the Lake Erie watershed that owns or operates a registered water withdrawal facility.	980 981 982
(4) The following members appointed by the Speaker of the House of Representatives:	983 984
(a) A representative of agribusiness that operates within the Lake Erie watershed;	985 986
(b) A representative of an independent business located within the Lake Erie watershed that owns or operates a registered water withdrawal facility.	987 988 989
(B) The Chief of the Division of Soil and Water Resources shall serve as chairperson of the advisory group. All appointments shall be made to the advisory group not later than forty-five days after the effective date of this section. The advisory group shall make legislative recommendations for the application of Section 4.11.2 of the Great Lakes-St. Lawrence River Basin Water Resources Compact. The recommendations shall be designed to ensure that permits issued under section 1522.12 of the Revised Code, as enacted by this act, will result in no significant individual or cumulative adverse impacts to the quantity or quality of the	990 991 992 993 994 995 996 997 998 999

waters and water dependent natural resources of the Great Lakes Basin considered as a whole or the Lake Erie watershed considered as a whole. The recommendations shall not include any change to divisions (B) and (C) of section 1522.13 of the Revised Code, as enacted by this act. In developing its recommendations, the advisory group shall consider the directives in divisions (B) and (C) of that section and shall consider an adaptive management approach taking into account scientific and technological advances in accordance with Sections 1.3 and 1.4 of the Compact.

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

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

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

**Section 5.** The Chief of the Division of Soil and Water 1031  
Resources in the Department of Natural Resources shall not adopt 1032  
rules governing the application of Section 4.11.2 of the Great 1033  
Lakes-St. Lawrence River Basin Water Resources Compact until the 1034  
Chief is authorized to do so by the General Assembly. 1035

**Section 6.** If a court of competent jurisdiction holds any 1036  
part of this act to be void or unenforceable, it shall be 1037  
considered severable from those portions of the act that are 1038  
capable of continued implementation in the absence of the voided 1039  
provisions. All other provisions capable of continued 1040  
implementation shall continue in full force and effect. In 1041  
addition, if a court of competent jurisdiction holds all or part 1042  
of this act to be void or unenforceable such that the Chief of the 1043  
Division of Soil and Water Resources in the Department of Natural 1044  
Resources is prohibited from implementing the withdrawal and 1045  
consumptive use permit program under section 1522.12 of the 1046  
Revised Code, as enacted by this act, the owner or operator of a 1047  
facility that otherwise would have been required to obtain a 1048  
permit under that section instead shall proceed to obtain a permit 1049  
under section 1501.33 of the Revised Code, as amended by this act. 1050