

**As Reported by the Senate Agriculture, Environment and Natural
Resources Committee**

129th General Assembly

Regular Session

2011-2012

Am. H. B. No. 473

Representative Wachtmann

**Cosponsors: Representatives Boose, Brenner, Buchy, Damschroder, Hall,
Huffman, Johnson, Lynch, McClain, Sears, Stebelton, Thompson**

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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 <u>applies</u> :	183
(a) The public water system was in operation on the effective	184
date of this section <u>June 29, 1988</u> , 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

<u>consumptive use capacity as listed in the baseline report.</u>	325
<u>"Baseline facility abandonment" does not include the nonuse or the</u>	326
<u>transfer of a baseline facility's withdrawal and consumptive use</u>	327
<u>capacity unless either of the following applies:</u>	328
<u>(1) The nonuse continues for fifteen consecutive years for a</u>	329
<u>facility with a potential withdrawal from Lake Erie or a</u>	330
<u>recognized navigational channel and the nonuse is not extended in</u>	331
<u>accordance with division (B) of section 1522.16 of the Revised</u>	332
<u>Code.</u>	333
<u>(2) For a facility to which division (B)(1) of this section</u>	334
<u>does not apply, the nonuse continues for thirty-six consecutive</u>	335
<u>months and is not extended in accordance with division (B) of</u>	336
<u>section 1522.16 of the Revised Code.</u>	337
<u>(C) "Baseline report" means a list of the withdrawal and</u>	338
<u>consumptive use capacities of facilities that was developed for</u>	339
<u>purposes of Section 4.12 of the great lakes-st. Lawrence river</u>	340
<u>basin water resources compact by the department of natural</u>	341
<u>resources and submitted to the great lakes-st. Lawrence river</u>	342
<u>basin water resources council on December 8, 2009.</u>	343
<u>(D) "Capacity" means the ability of a facility's pumps,</u>	344
<u>pipes, and other appurtenances to withdraw water presented in</u>	345
<u>terms of withdrawal capacity, treatment capacity, distribution</u>	346
<u>capacity, or other capacity-limiting factors.</u>	347
<u>(E) "Compact" means the great lakes-st. Lawrence river basin</u>	348
<u>water resources compact set forth in section 1522.01 of the</u>	349
<u>Revised Code.</u>	350
<u>(F) "Consumptive use" has the same meaning as in section</u>	351
<u>1522.01 of the Revised Code. For purposes of determining a new or</u>	352
<u>increased capacity for consumptive use, "consumptive use" is the</u>	353
<u>use based on a coefficient of consumptive use generally accepted</u>	354
<u>in the scientific community that most accurately reflects the</u>	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 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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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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636
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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640
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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
650
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652

(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
654
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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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659
660

(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