

**As Introduced**

**129th General Assembly  
Regular Session  
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**S. B. No. 170**

**Senator Grendell**

**Cosponsors: Senators Seitz, Cafaro, Gillmor, Patton, LaRose, Wagoner,  
Stewart, Manning, Hite, Jordan**

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**A B I L L**

To amend sections 1501.33, 1521.04, 1522.03, and 1  
1522.05, to enact sections 1522.10, 1522.101, and 2  
1522.11 to 1522.20, and to repeal section 1522.07 3  
of the Revised Code to establish a program for the 4  
issuance of permits for the withdrawal and 5  
consumptive use of waters from the Lake Erie 6  
basin. 7

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

**Section 1.** That sections 1501.33, 1521.04, 1522.03, and 8  
1522.05 be amended and sections 1522.10, 1522.101, 1522.11, 9  
1522.12, 1522.13, 1522.14, 1522.15, 1522.16, 1522.17, 1522.18, 10  
1522.19, and 1522.20 of the Revised Code be enacted to read as 11  
follows: 12

**Sec. 1501.33.** (A) Except as provided in divisions (B) ~~and~~ 13  
(C), ~~and~~ (D) of this section, no person shall allow a facility 14  
that the person owns to withdraw waters of the state in an amount 15  
that would result in a new or increased consumptive use of more 16  
than an average of two million gallons of water per day in any 17  
thirty-day period without first obtaining a permit from the 18

director of natural resources under section 1501.34 of the Revised Code. The person shall submit an application for a permit to the director on a form ~~he~~ the director prescribes, which application shall declare and document all of the following:

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

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

(3) The locations and sources of water proposed to be withdrawn;

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

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

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

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

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

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

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

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

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

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

(C)(1) A public water system, as that term is defined in 48  
section 6109.01 of the Revised Code, that withdraws waters of the 49  
state in an amount that would result in a new or increased 50  
consumptive use of more than two million gallons per day need not 51  
obtain a permit under section 1501.34 of the Revised Code if any 52  
of the following apply: 53

(a) The public water system was in operation on the effective 54  
date of this section and no substantial changes are proposed for 55  
that system except as specified in division (C)(1)(c) of this 56  
section. 57

(b) A public water system that is proposed to be constructed 58  
or installed, or an existing system for which changes are 59  
proposed, encompasses only water distribution facilities. 60

(c) A public water system, other than one that encompasses 61  
only water distribution facilities, is proposed to be constructed 62  
or installed, or substantial changes in the design capacity of an 63  
existing system, other than one that encompasses only water 64  
distribution facilities, are proposed; the plans submitted for the 65  
system to the director of environmental protection under section 66  
6109.07 of the Revised Code declare and document the information 67  
specified in division (A) of this section and rules adopted under 68  
it as determined by the director of natural resources; and the 69  
director of environmental protection has applied the criteria 70  
specified in division (A) of section 1501.34 of the Revised Code 71  
in reviewing and approving the plans as determined by the director 72  
of natural resources. 73

(2) Any public water system that withdraws waters of the 74  
state in an amount that would result in a new or increased 75  
consumptive use of more than two million gallons per day and that 76  
does not meet the criteria specified in divisions (C)(1)(a), (b), 77  
or (c) of this section shall obtain a permit under section 1501.34 78  
of the Revised Code. A person who submits plans for such a system 79

under section 6109.07 of the Revised Code may request the director 80  
of natural resources in writing to consider those plans as an 81  
application under this section. No later than twenty days after 82  
receiving the request, the director shall notify the person of one 83  
of the following: 84

(a) The plans declare and document the information specified 85  
in division (A) of this section and rules adopted under it and are 86  
accepted as an application under this section, and the person 87  
shall submit to the director the application fee required under 88  
division (A) of this section. 89

(b) Additional specified information is necessary before the 90  
director can accept the plans as an application. 91

(c) The plans do not meet the requirements of division (A) of 92  
this section and rules adopted under it and an application shall 93  
be submitted in accordance with this section. 94

(D) A facility that is required to obtain a permit under 95  
sections 1522.10 to 1522.20 of the Revised Code need not obtain a 96  
permit under section 1501.34 of the Revised Code. 97

**Sec. 1521.04.** The chief of the division of soil and water 98  
resources, with the approval of the director of natural resources, 99  
may make loans and grants from the water management fund created 100  
in section 1501.32 of the Revised Code to governmental agencies 101  
for water management, water supply improvements, and planning and 102  
may administer grants from the federal government and from other 103  
public or private sources for carrying out those functions and for 104  
the performance of any acts that may be required by the United 105  
States or by any agency or department thereof as a condition for 106  
the participation by any governmental agency in any federal 107  
financial or technical assistance program. Direct and indirect 108  
costs of administration may be paid from the fund. 109

The chief may use the water management fund for the purposes 110  
of administering the water diversion and consumptive use permit 111  
programs established in sections 1501.30 to 1501.35 of the Revised 112  
Code and the withdrawal and consumptive use permit program 113  
established under sections 1522.10 to 1522.20 of the Revised Code; 114  
to perform watershed and water resources studies for the purposes 115  
of water management planning; and to acquire, construct, 116  
reconstruct, improve, equip, maintain, operate, and dispose of 117  
water management improvements. The chief may fix, alter, charge, 118  
and collect rates, fees, rentals, and other charges to be paid 119  
into the fund by governmental agencies and persons who are 120  
supplied with water by facilities constructed or operated by the 121  
department of natural resources in order to amortize and defray 122  
the cost of the construction, maintenance, and operation of those 123  
facilities. 124

**Sec. 1522.03.** ~~(A) Subject to the limitations established in~~ 125  
~~division (B) of section 1522.05 of the Revised Code, the director~~ 126  
~~of natural resources~~ The chief of the division of soil and water 127  
resources shall do both of the following: 128

~~(1) Adopt rules in accordance with Chapter 119. of the~~ 129  
~~Revised Code for the implementation, administration, and~~ 130  
~~enforcement of this chapter;~~ 131

~~(2) Enforce~~ enforce the great lakes-st. Lawrence river basin 132  
water resources compact and take appropriate actions to effectuate 133  
its purposes and intent. 134

~~(B) Subject to the limitations established in division (B) of~~ 135  
~~section 1522.05 of the Revised Code, any appropriate state agency~~ 136  
~~or governmental officer shall enforce the compact and take~~ 137  
~~appropriate actions to effectuate its purpose and intent.~~ 138

**Sec. 1522.05.** ~~(A) Pursuant to Section 9.2 of the great~~ 139

lakes-st. Lawrence river basin water resources compact, the 140  
governor may take such actions as are necessary for the initial 141  
organization and operation of the great lakes-st. Lawrence river 142  
basin water resources council created in Section 2.1 of the 143  
compact. Agencies of the state are hereby authorized to cooperate 144  
with the council. 145

~~(B)(1) The governor, the department of natural resources, or 146  
any other agency of the state shall not adopt rules or implement 147  
any program regulating the use, withdrawal, consumptive use, or 148  
diversion of water pursuant to Sections 4.10 and 4.12.2 of the 149  
compact unless the general assembly enacts legislation after the 150  
effective date of this section authorizing the implementation of 151  
the program or adoption of rules. 152~~

~~In addition, the The governor, the department of natural 153  
resources, or any other agency of the state shall not adopt rules 154  
or implement any mandatory program governing water conservation 155  
and efficiency pursuant to Section 4.2 of the compact related to 156  
the great lakes-st. Lawrence river basin water resources compact 157  
unless the general assembly enacts legislation after the effective 158  
date of the compact authorizing the implementation of the program 159  
~~or~~ adoption of the rules. ~~However, the The governor, the 160  
department of natural resources, or any other agency of the state 161  
may shall not adopt rules concerning and may implement voluntary 162  
establishing a mandatory water conservation and efficiency 163  
~~programs~~ program without authorization from the general assembly. 164  
Such voluntary programs shall not include any mandatory 165  
requirements. 166~~~~

~~(2) Division (B)(1) of this section does not prohibit the 167  
effectuation of Sections 4.8 and 4.9 of the compact after the 168  
effective date of the compact or prohibit the continued 169  
implementation and enforcement by the governor or applicable 170  
agencies of this state of laws, rules, or programs regulating the 171~~

~~use, withdrawal, consumptive use, or diversion of water that are~~ 172  
~~in effect on or before the effective date of this section.~~ 173

Sec. 1522.10. As used in sections 1522.10 to 1522.20 of the 174  
Revised Code: 175

(A) "Baseline facility" means a facility identified in the 176  
baseline report, a facility added to the baseline report under 177  
section 1522.16 of the Revised Code, or any other facility that 178  
has commenced withdrawal and consumptive use activities since the 179  
submission of the baseline report and prior to the effective date 180  
of this section. 181

(B) "Baseline facility abandonment" means the voluntary and 182  
affirmative termination of a baseline facility's withdrawal and 183  
consumptive use capacity as listed in the baseline report. 184  
"Baseline facility abandonment" does not include the nonuse or the 185  
transfer of a baseline facility's withdrawal and consumptive use 186  
capacity. 187

(C) "Baseline report" means a list of the withdrawal and 188  
consumptive use capacities of facilities that was developed for 189  
purposes of section 4.12 of the great lakes-st. Lawrence river 190  
basin water resources compact by the department of natural 191  
resources and submitted to the great lakes-st. Lawrence river 192  
basin water resources council on December 8, 2009. 193

(D) "Capacity" means the ability of a facility's pumps, 194  
pipes, and other appurtenances to withdraw and consumptively use 195  
water when operated under intended normal operating conditions. 196

(E) "Consumptive use" does not include water purchased from a 197  
public water supplier and, for purposes of determining a new or 198  
increased capacity for consumptive use, is the use based on a 199  
coefficient of consumptive use generally accepted in the 200  
scientific community that most accurately reflects the process at 201

a facility. 202

(F) "Facility" means any site, installation, or building at 203  
which water withdrawal and consumptive use activities take place 204  
that is located at a property or on contiguous properties and that 205  
is under the direction of either a private or public entity. 206

(G) "Facility abandonment" means the voluntary and 207  
affirmative termination of a facility's withdrawal and consumptive 208  
use capacity as listed in a withdrawal and consumptive use permit 209  
issued under section 1522.11 of the Revised Code. "Facility 210  
abandonment" does not include the nonuse or the transfer of a 211  
facility's withdrawal and consumptive use capacity. 212

(H) "High quality water" means a river or stream that has 213  
been designated by the environmental protection agency under 214  
Chapter 3745-1 of the Administrative Code not later than the 215  
effective date of this section as an exceptional warm water 216  
habitat, cold water habitat, outstanding state water, or superior 217  
high-quality water. However, "high quality water" does not include 218  
outstanding state waters that are designated as such due to 219  
exceptional recreational values. 220

(I) "Increased capacity" does not include any capacity that 221  
results from alterations or changes made at a facility that 222  
replace existing capacity without increasing the capacity of the 223  
facility. 224

(J) "Recognized navigational channel" means that portion of a 225  
river or stream extending from bank to bank that is, as of the 226  
effective date of this section, a state or federally maintained 227  
navigational channel. 228

(K) "River or stream" means any river or stream in the Lake 229  
Erie watershed identified on the effective date of this section in 230  
the gazateer of Ohio streams. 231

(L) "River or stream under the influence of Lake Erie" means 232



that portion of a river or stream that has a bottom elevation at 233  
or below the highest monthly long-term level of Lake Erie, as 234  
designated by the United States army corp of engineers, of five 235  
hundred seventy-one and nine-tenths feet above sea level and to 236  
which both of the following apply: 237

(1) The portion of the river or stream is a direct tributary 238  
of Lake Erie. 239

(2) The portion of the river or stream is a recognized 240  
navigation channel. 241

"River or stream under the influence of Lake Erie" also 242  
includes that portion of any river or stream that is a tributary 243  
of Lake Erie that has a stream bottom elevation at or below five 244  
hundred seventy-one and nine-tenths feet above sea level. 245

Sec. 1522.101. (A) For purposes of this chapter, with respect 246  
to the definition of "source watershed" in section 1522.01 of the 247  
Revised Code, the general assembly declares that "source 248  
watershed" means the Lake Erie watershed. Further, the general 249  
assembly declares as nonbinding the preference in that definition 250  
for the "source watershed" to be the direct tributary stream 251  
watershed from which water is withdrawn. 252

(B) Nothing in sections 1522.10 to 1522.20 of the Revised 253  
Code shall limit a person's right to the reasonable use of ground 254  
water, water in a lake, or any other watercourse in contravention 255  
of Section 19b of Article I, Ohio Constitution. 256

Sec. 1522.11. (A) For purposes of the great lakes-st. 257  
Lawrence river basin water resources compact, not later than one 258  
hundred eighty days after the effective date of this section, the 259  
chief of the division of soil and water resources shall establish 260  
a program for the issuance of permits for the withdrawal and 261  
consumptive use of water from the Lake Erie watershed. Upon 262

establishment of the program, the owner or operator of a facility 263  
that is not otherwise exempt under section 1522.13 of the Revised 264  
Code shall obtain a withdrawal and consumptive use permit from the 265  
chief if the facility meets any of the following threshold 266  
criteria: 267

(1) The facility has a new or increased capacity for 268  
withdrawals and consumptive uses from Lake Erie or a river or 269  
stream under the influence of Lake Erie of at least five million 270  
gallons per day averaged over a ninety-day period. 271

(2) Except as provided in division (A)(3) of this section, 272  
the facility has a new or increased capacity for withdrawals and 273  
consumptive uses from any river or stream other than a river or 274  
stream under the influence of Lake Erie or from ground water in 275  
the Lake Erie watershed of at least two million gallons per day 276  
averaged over a ninety-day period. 277

(3) The facility has a new or increased capacity for 278  
withdrawals and consumptive uses of at least three hundred 279  
thousand gallons per day averaged over a ninety-day period from 280  
any river or stream to which both of the following apply: 281

(a) The river or stream is a high quality water. 282

(b) The river or stream has a drainage area of less than one 283  
hundred square miles measured at the point where the withdrawal or 284  
consumptive use occurs. 285

(B) Permits issued under this section shall be issued only 286  
for the amount of withdrawal and consumptive use capacity of a 287  
facility that exceeds threshold amounts established in division 288  
(A) of this section. A permit shall neither address nor be 289  
required for the portion of the withdrawal and consumptive use 290  
capacity of the facility below that threshold amount. 291

(C) An applicant for a permit shall submit an application to 292  
the chief on a form that the chief prescribes. The applicant shall 293

<u>include with the application all of the following:</u>	294
<u>(1) The name and address of the applicant and of a contact person for the applicant;</u>	295
<u>(2) A description of all of the following:</u>	297
<u>(a) The facility's current withdrawal capacity per day if the withdrawal is to occur at a facility already in operation;</u>	298
<u>(b) The total new or increased daily withdrawal capacity proposed for the facility;</u>	300
<u>(c) The locations and sources of water proposed to be withdrawn;</u>	302
<u>(d) The locations of proposed discharges or return flows;</u>	304
<u>(e) The locations and nature of proposed consumptive uses and the applicable consumptive use coefficient for the facility;</u>	305
<u>(f) The estimated average annual and monthly volumes and rates of withdrawal;</u>	307
<u>(g) The estimated average annual and monthly volumes and rates of consumptive use;</u>	309
<u>(h) Other ways the applicant's need for water may be satisfied if the application is denied or modified.</u>	311
<u>(3) 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>	313
<u>The chief shall not require an applicant to submit any information with an application other than the information required by divisions (C)(1) and (2) of this section.</u>	316
<u>(D) A permit is valid until the facility to which the permit applies 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</u>	319

been issued for the facility. 323

(E) No person that is required to do so shall fail to apply 324  
for and receive a withdrawal and consumptive use permit. 325

(F) A permit issued under this section shall include terms 326  
and conditions restricting the withdrawal and consumptive use by a 327  
facility to amounts not exceeding the capacity of the facility. 328

**Sec. 1522.12.** (A) In making the decision to issue or deny a 329  
withdrawal and consumptive use permit, the chief of the division 330  
of soil and water resources shall apply the criteria established 331  
in section 4.11 of the great lakes-st. Lawrence river basin water 332  
resources compact. 333

For purposes of applying the criteria established in section 334  
4.11 of the great lakes-st. Lawrence river basin water resources 335  
compact, all of the following apply: 336

(1) If a withdrawal and consumptive use by a facility from 337  
Lake Erie or a river or stream under the influence of Lake Erie 338  
will not lower the water level in Lake Erie by one inch over a 339  
five-year period from the long-term mean Lake Erie water level of 340  
five hundred seventy-one and nine-tenths feet above sea level, it 341  
is irrebuttably presumed that the withdrawal and consumptive use 342  
will not cause a significant individual or cumulative adverse 343  
impact to the quantity or quality of waters and water dependent 344  
natural resources and the Lake Erie watershed. 345

(2) If a withdrawal and consumptive use by a facility from 346  
ground water or from a river or stream that is not a river or 347  
stream under the influence of Lake Erie will not lower the water 348  
level in Lake Erie by one-half inch over a five-year period from 349  
the long-term mean Lake Erie water level of five hundred 350  
seventy-one and nine-tenths feet above sea level, it is 351  
irrebuttably presumed that the withdrawal and consumptive use will 352

not cause a significant individual or cumulative adverse impact to 353  
the quantity or quality of waters and water dependent natural 354  
resources and the Lake Erie watershed. 355

(3) A withdrawal and consumptive use from any river or stream 356  
that is a high quality water with a drainage area of less than one 357  
hundred square miles has or will have no significant individual or 358  
cumulative adverse impacts on the Lake Erie watershed unless the 359  
withdrawal and consumptive use adversely impacts the high quality 360  
water as determined by the chief in accordance with rules adopted 361  
under section 1522.14 of the Revised Code. 362

(B) The chief shall not submit an application for a 363  
withdrawal and consumptive use permit for regional review to the 364  
regional body as defined in section 1.2 of the great lakes-st. 365  
Lawrence river basin water resources compact unless regional 366  
review is agreed to by the applicant for the permit. 367

(C) The chief shall issue a withdrawal and consumptive use 368  
permit for a facility only if the chief determines that a facility 369  
meets all of the criteria established in section 4.11 of the great 370  
lakes-st. Lawrence river basin water resources compact. 371

(D) A withdrawal or consumptive use is reasonable under 372  
section 4.11.5 of the great lakes-st. Lawrence river basin water 373  
resources compact unless a determination is made that the 374  
withdrawal or consumptive use is not reasonable by a court of 375  
competent jurisdiction in this state pursuant to section 1521.17 376  
of the Revised Code. This division does not provide standing to 377  
the department of natural resources to bring suit under the 378  
reasonable use doctrine. 379

**Sec. 1522.13.** The following are exempt from the requirement 380  
to obtain a withdrawal and consumptive use permit: 381

(A) A facility or proposed facility that has a withdrawal and 382

consumptive use capacity or proposed capacity below the threshold amounts established in divisions (A)(1) to (3) of section 1522.11 of the Revised Code; 383  
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(B) A baseline facility that has not increased its withdrawal and consumptive use capacity beyond the capacity listed in the baseline report and beyond the thresholds established in section 1522.11 of the Revised Code; 386  
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(C) A facility that is required to increase its withdrawal and consumptive use capacity as a result of legal requirements established by federal, state, or local governmental authorities; 390  
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(D) A facility making a withdrawal and consumptive use from nonchannelized surface water that is not a river or stream or from an impoundment of water that is isolated and does not depend entirely on ground water for replenishment such as a farm pond, golf course pond, or other similar retention pond; 393  
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(E) A facility that is establishing a new or is increasing its withdrawal and consumptive use capacity as a result of an emergency condition that, without the new or increased withdrawal and consumptive use capacity, will result in imminent harm to human health or property; 398  
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(F) A facility that is establishing a new or is increasing its withdrawal and consumptive use capacity for testing purposes only if the testing period will last no longer than thirty-six months; 403  
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(G) A facility that is establishing a new or is increasing its withdrawal and consumptive use capacity in order to respond to a humanitarian crisis if the increased capacity is necessary to assist in the management of that crisis; 407  
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(H) A facility that is exempt from the requirement to obtain a permit under divisions (B) and (C) of section 1501.33 of the Revised Code; 411  
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(I) A facility that undergoes a ground water review under section 1514.13 of the Revised Code; 414  
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(J) A facility with ground water or surface water withdrawals or consumptive uses that are subject to regulation under a state or federal law other than sections 1522.10 to 1522.20 of the Revised Code and other than a permit issued under Chapter 6111. of the Revised Code and rules adopted under it; 416  
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(K) A facility that is withdrawing or consumptively using water from an off-stream impoundment that has been substantially filled by a withdrawal from a baseline facility or from a facility for which a withdrawal and consumptive use permit has been issued. 421  
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**Sec. 1522.14.** The chief of the division of soil and water resources shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards for what constitutes significant individual or cumulative adverse impact to a high quality water with a drainage area of less than one hundred square miles for purposes of division (A)(3) of section 1522.12 of the Revised Code. 425  
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**Sec. 1522.15.** (A)(1) A permittee may transfer a withdrawal and consumptive use permit upon the sale or transfer of a facility. In addition, the owner of a baseline facility may transfer the withdrawal and consumptive use capacity of the baseline facility upon the sale or transfer of the baseline facility. Transferred capacity of a baseline facility shall not require a withdrawal and consumptive use permit. Notice of a transfer shall be given to the chief of the division of soil and water resources in a manner prescribed by the chief. 432  
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(2) If a permittee sells a portion of a facility for which a withdrawal and consumptive use permit has been issued, the permittee may transfer the applicable portion of the withdrawal 441  
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and consumptive use capacity authorized by the withdrawal and 444  
consumptive use permit. The permittee shall provide notice of such 445  
a transfer to the chief in a manner prescribed by the chief. Upon 446  
receipt of the notice and if a permit is required based on the 447  
threshold amounts established in divisions (A)(1) to (3) of 448  
section 1522.11 of the Revised Code, the chief shall issue a new 449  
permit to the permittee who transferred the portion of the 450  
facility and a new permit to the transferee. Any new permits shall 451  
reflect the transfer of the portion of the withdrawal and 452  
consumptive use capacity. 453

(3) If the owner of a baseline facility sells a portion of 454  
the baseline facility, the owner may transfer the applicable 455  
portion of the withdrawal and consumptive use capacity listed in 456  
the baseline report for that facility. The owner shall provide 457  
notice of such a transfer to the chief in a manner prescribed by 458  
the chief. The chief shall not require the owner of the baseline 459  
facility or the transferee to obtain a withdrawal and consumptive 460  
use permit. Rather, the chief shall update the baseline report to 461  
reflect the transfer. 462

(B) The chief shall remove a facility from the baseline 463  
report when the facility is subject to baseline facility 464  
abandonment. However, a baseline facility shall not be removed 465  
from the baseline report for the nonuse or the transfer of the 466  
facility's baseline capacity. 467

**Sec. 1522.16.** (A) The owner or operator of a facility may 468  
petition the chief of the division of soil and water resources for 469  
either of the following: 470

(1) Inclusion in the baseline report if the owner or operator 471  
believes that the facility was erroneously excluded from the 472  
report; 473

(2) The amendment of the amount of a withdrawal and 474



consumptive use or other information included in the baseline 475  
report regarding the facility if the owner or operator believes 476  
that the information is incorrect. 477

(B) The chief shall issue an order either approving or 478  
disapproving a petition submitted under this section. The chief 479  
shall issue the order based on a thorough examination of the 480  
circumstances concerning the petition. 481

(C) An order of the chief issued under this section may be 482  
appealed in accordance with section 1522.19 of the Revised Code. 483

(D) The chief shall establish procedures for the submission 484  
of petitions under this section. 485

**Sec. 1522.17.** (A) The chief of the division of soil and water 486  
resources shall establish a voluntary water conservation program 487  
that is applicable to all facilities that are the subjects of 488  
withdrawal and consumptive use permits. The owner or operator of a 489  
facility may participate in the program. If the owner or operator 490  
chooses to participate in the program, the owner or operator shall 491  
develop best management water conservation practices that are 492  
economically feasible and applicable to the facility. The owner or 493  
operator has discretion to determine which practices are best 494  
management practices for purposes of the voluntary program. Any 495  
reporting that is required under the program is proprietary and 496  
shall be confidential and not subject to section 149.43 of the 497  
Revised Code. Nothing in this chapter authorizes the chief or the 498  
director of natural resources to adopt rules requiring mandatory 499  
conservation of water resources. The general assembly shall not 500  
amend this division in any manner that would require a mandatory 501  
water conservation program without at least a two-thirds majority 502  
vote of the senate and house of representatives. 503

This division complies with the requirements of section 504  
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4.11.3 of the great lakes-st. Lawrence river basin water resources compact. 506  
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(B) Every five years, the chief shall make an assessment of the cumulative impacts of withdrawals and consumptive uses from the waters of the Lake Erie watershed for purposes of section 4.15 of the great lakes-st. Lawrence river basin water resources compact. The assessment shall be based on reports, data, and other information relating directly to withdrawals and consumptive uses by facilities that have received a withdrawal and consumptive use permit under this chapter. The chief shall prepare a report of the assessment and shall submit a copy of it to the governor, the speaker of the house of representatives, and the president of the senate. 508  
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This division complies with the requirements of section 4.11.2 of the great lakes-st. Lawrence river basin water resources compact as they relate to the assessment of significant cumulative adverse impacts. 519  
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**Sec. 1522.18.** (A) There is hereby created the water resources review commission consisting of five members appointed by the governor with the advice and consent of the senate. The commission shall hear appeals that are made under section 1522.19 of the Revised Code. Of the initial members appointed to the commission, one shall serve a term of three years, two shall serve a term of four years, and two shall serve a term of five years as designated by the governor. Thereafter, terms of office shall be five years. Each member shall hold office from the date of appointment until the end of the term for which the appointment was made. Each vacancy occurring on the commission shall be filled by appointment within sixty days after the vacancy occurs. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office 523  
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for the remainder of that term. A member shall continue in office 537  
subsequent to the expiration date of the member's term until the 538  
member's successor takes office. A member may be reappointed. 539

(B) Two of the appointees to the commission shall be experts 541  
in economic development, two shall be experts in water resource 542  
management, and one shall be a member of the public who is an 543  
attorney at law who is admitted to practice in this state and is 544  
familiar with the laws related to water resources. Not more than 545  
three members shall be members of the same political party. 546

(C) Three members of the commission constitute a quorum, and 547  
no action of the commission shall be valid unless it has the 548  
concurrence of at least a majority of the members. The commission 549  
shall keep a record of its proceedings. Annually one member shall 550  
be elected as chairperson and another member shall be elected as 551  
vice-chairperson for terms of one year. 552

(D) The commission shall adopt rules governing the procedure 553  
for appeals conducted under section 1522.19 of the Revised Code 554  
and may adopt rules governing its own internal management that do 555  
not affect private rights. 556

(E) The governor may remove a member of the commission from 557  
office for inefficiency, neglect of duty, malfeasance, 558  
misfeasance, or nonfeasance after delivering to the member the 559  
charges against the member in writing with at least ten days' 560  
written notice of the time and place at which the governor will 561  
publicly hear the member, either in person or by counsel, in 562  
defense of the charges against the member. If the member is 563  
removed from office, the governor shall file in the office of the 564  
secretary of state a complete statement of the charges made 565  
against the member and a complete report of the proceedings. The 566  
action of the governor removing a member from office is final. 567

(F) A member shall be paid as compensation for work as a 568  
member one hundred fifty dollars per day when actually engaged in 569  
the performance of work as a member and when engaged in travel 570  
necessary in connection with that work. In addition to monetary 571  
compensation, a member shall be reimbursed for all traveling, 572  
hotel, and other expenses, in accordance with the current travel 573  
rules of the office of budget and management, necessarily incurred 574  
in the performance of the member's work as a member. 575

**Sec. 1522.19.** (A) A person having a direct economic interest 576  
that is or may be adversely affected by a decision or order of the 577  
chief of the division of soil and water resources under this 578  
chapter may appeal the decision or order. The appeal shall be made 579  
by filing a notice of appeal with the water resources review 580  
commission for review of the decision or order not later than 581  
thirty days after the decision or order is made. The person also 582  
shall file a copy of the notice of appeal with the chief not later 583  
than three days after filing the notice of appeal with the 584  
commission. The notice of appeal shall contain a description of 585  
the decision or order complained of and the grounds on which the 586  
appeal is based. The commission has exclusive original 587  
jurisdiction to hear and decide such appeals. The filing of a 588  
notice of appeal under this division does not operate as a stay of 589  
any decision or order of the chief. 590

(B) A permittee, if applicable, and the appellee, the chief, 591  
and other interested persons shall be given written notice of the 592  
date, time, and location of a hearing on the appeal at least five 593  
days prior to the hearing. The hearing shall be of record. 594

(C) The commission shall affirm the decision or order of the 595  
chief unless the commission determines by a preponderance of the 596  
evidence that it is arbitrary, capricious, or otherwise 597  
inconsistent with law; in that case the commission may modify the 598

decision or order of the chief or vacate it and remand it to the 599  
chief for further proceedings that the commission may direct. The 600  
commission shall render a decision not later than thirty days 601  
after the hearing. 602

(D) The chairperson of the commission, under conditions that 603  
the chairperson prescribes, may grant temporary relief that the 604  
chairperson considers appropriate pending final determination of 605  
an appeal if all of the following conditions are met: 606

(1) All parties to the appeal have been notified and given an 607  
opportunity for a hearing on the request for temporary relief. 608

(2) The person requesting relief shows that there is a 609  
substantial likelihood that the person will prevail on the merits. 610

(3) The relief will not adversely affect public health or 611  
safety or cause significant imminent environmental harm to water 612  
resources. 613

(E) A party that is aggrieved or adversely affected by a 614  
decision of the water resources review commission may appeal to 615  
the court of appeals for the county in which the activity 616  
addressed by the decision of the commission occurred, is 617  
occurring, or will occur. The appeal shall be filed not later than 618  
thirty days after issuance of the decision of the commission. The 619  
court shall confine its review to the record certified by the 620  
commission. The court, upon motion, may grant temporary relief 621  
that it considers appropriate pending final disposition of the 622  
appeal if all of the following apply: 623

(1) All parties to the appeal have been notified and given an 624  
opportunity to be heard on the request for temporary relief. 625

(2) The person requesting relief shows that there is a 626  
substantial likelihood that the person will prevail on the merits. 627

(3) The relief will not adversely affect public health or 628

safety or cause significant imminent environmental harm to water resources. 629  
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The court shall affirm the decision of the commission unless the court determines that it is arbitrary, capricious, or otherwise inconsistent with law; in that case the court shall vacate the decision and remand it to the commission for further proceedings that the court may direct. 631  
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(F) The water resources review commission or a court of appeals shall not award attorney's fees to any party to an action under this section. 636  
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(G) An appeal may not be taken under this section if the subject of the appeal involves section 4.9 of the great lakes-st. Lawrence river basin water resources compact. 639  
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**Sec. 1522.20.** (A)(1) The chief of the division of soil and water resources may issue an order to a person that the chief determines has violated, is violating, or is threatening to violate any provisions of this chapter, rules adopted under it, or a withdrawal and consumptive use permit. The order shall identify the facility where the violation has occurred, is occurring, or is threatened to occur, the specific violation, and actions that the owner or operator of the facility must take to comply with the order. The order shall establish a reasonable date by which the owner or operator must comply with the order. 642  
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(2) An order issued under division (A)(1) of this section shall be in writing and shall contain a finding of the facts on which the order is based. Notice of the order shall be given by certified mail to each person whose rights, duties, or privileges are affected. Notice also shall be posted on the web site of the department of natural resources in a manner prescribed by the chief. 652  
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(B) The attorney general, upon the request of the chief, may bring an action for injunction against a person who has violated, is violating, or is threatening to violate any provisions of this chapter, rules adopted under it, a withdrawal and consumptive use permit, or an order of the chief issued under division (A) of this section. The action shall be brought in the court of common pleas of the county in which the violation has occurred, is occurring, or is threatened to occur. The court of common pleas in which an action for injunction is filed has jurisdiction to and shall grant preliminary and permanent injunctive relief upon a showing that the person against whom the action is brought has violated, is violating, or is threatening to violate any provisions of this chapter, rules adopted under it, a permit, or an order of the chief.

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

**Section 3.** For purposes of adopting rules under section 1522.14 of the Revised Code, as enacted by this act, regarding the determination of what constitutes significant individual or cumulative adverse impact to a high quality water with a drainage area of less than one hundred square miles, the Chief of the Division of Soil and Water Resources in the Department of Natural Resources shall do both of the following:

(A) Convene an advisory group consisting of interested parties to advise the Chief;

(B) Ensure that at least one member of the advisory group represents The Nature Conservancy.

**Section 4.** The General Assembly hereby declares that the purpose of this act is to protect private property rights

associated with surface and ground water in Ohio; to promote good 689  
stewardship of Ohio's water resources; and to promote economic 690  
development and job creation in Ohio by recognizing that abundant 691  
fresh water is a highly desirable commodity. 692