

# AN ACT

940.41, To amend sections 905.324, 939.02, 940.06, 5713.30, 6119.06, 6119.09, and  
940.42, 6119.091 and to enact sections ~~940.36, 940.37, and 940.38~~ of the Revised Code  
and to create the Statewide Watershed Planning and Management Program under the  
940.43 administration of the Director of Agriculture, to make changes to the law  
governing regional water and sewer districts, and to modify the CAUV eligibility  
requirements for land used to produce biofuels.

*Be it enacted by the General Assembly of the State of Ohio:*

940.41, SECTION 1. That sections 905.324, 939.02, 940.06, 5713.30, 6119.06, 6119.09, and 6119.091  
940.42, be amended and sections ~~940.36, 940.37, and 940.38~~ of the Revised Code be enacted to read as  
and follows:

940.43 Sec. 905.324. (A) Except as provided in division (B) of this section, the director of  
agriculture, an employee of the department of agriculture, the supervisors of a soil and water  
conservation district, an employee of a district, and a contractor of the department or a district shall  
not disclose information, including data from geographic information systems and global positioning  
systems, used in the development or approval of or contained in a voluntary nutrient management  
plan.

(B) The director or the supervisors of a district may release or disclose information specified  
in division (A) of this section to a person or a federal, state, or local agency working in cooperation  
with the director or the supervisors in the development or approval of a voluntary nutrient  
management plan if the director or supervisors determine that the person or federal, state, or local  
agency will not subsequently disclose the information to another person who is not authorized by the  
person who owns or operates agricultural land to receive the information. The director or the  
supervisors of a district may release or disclose information specified in division (A) of this section  
to the extent required by the "Federal Water Pollution Control Act" as defined in section 6111.01 of  
the Revised Code.

(C) Information, data, and any associated record used in the development, approval, implementation, review of, or contained in a voluntary nutrient management plan or used to determine compliance with such a plan are not a public record subject to disclosure under section 149.43 of the Revised Code.

Sec. 939.02. The director of agriculture shall do all of the following:

(A) Provide administrative leadership to soil and water conservation districts in planning, budgeting, staffing, and administering district programs and the training of district supervisors and personnel in their duties, responsibilities, and authorities as prescribed in this chapter and Chapter 940. of the Revised Code;

(B) Administer this chapter and Chapter 940. of the Revised Code pertaining to state responsibilities and provide staff assistance to the Ohio soil and water conservation commission in exercising its statutory responsibilities;

940.41 (C) Assist in expediting state responsibilities for watershed development and other ~~natural resource~~ soil and water conservation works of improvement, including assisting in watershed planning and management under section 940.36 of the Revised Code;

(D) Coordinate the development and implementation of cooperative programs and working agreements between soil and water conservation districts and the department of agriculture or other agencies of local, state, and federal government;

(E) Subject to the approval of the Ohio soil and water conservation commission, adopt rules in accordance with Chapter 119. of the Revised Code that do or comply with all of the following:

(1) Establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices in farming operations that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by residual farm products, manure, or soil sediment, including attached substances, and establish criteria for determination of the acceptability of such management and conservation practices;

(2) Establish procedures for administration of rules for agricultural pollution abatement and for enforcement of those rules;

(3) Specify the pollution abatement practices eligible for state cost sharing and determine the conditions for eligibility, the construction standards and specifications, the useful life, the maintenance requirements, and the limits of cost sharing for those practices. Eligible practices shall be limited to practices that address agricultural operations and that require expenditures that are likely to exceed the economic returns to the owner or operator and that abate soil erosion or degradation of the waters of the state by residual farm products, manure, or soil sediment, including attached pollutants.

(4) Establish procedures for administering grants to owners or operators of agricultural land or animal feeding operations for the implementation of operation and management plans;

(5) Do both of the following with regard to composting conducted in conjunction with agricultural operations:

(a) Establish methods, techniques, or practices for composting dead animals, or particular types of dead animals, that are to be used at such operations, as the director considers to be necessary or appropriate;

(b) Establish requirements and procedures governing the review and approval or disapproval of composting plans by the supervisors of soil and water conservation districts under division (R) of section 940.06 of the Revised Code.

(6) Establish best management practices for inclusion in operation and management plans;

(7) Establish the amount of civil penalties assessed by the director under division (A) of section 939.07 of the Revised Code for violation of rules adopted under division (E) of this section;

(8) Not conflict with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. Compliance with rules adopted under this section does not affect liability for noncompliance with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. The application of a level of management and conservation practices

supervisors of the soil and water conservation district.

(P) To develop timber harvest plans;

(Q) To determine whether timber harvest plans developed under division (A) of section 1503.52 of the Revised Code comply with the standards established under division (A)(1) of section 1503.51 of the Revised Code and to approve or disapprove the plans based on such compliance. If a timber harvest plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the chief of the division of forestry or the chief's designee, who shall afford the person a hearing. Following the hearing, the chief or the chief's designee shall uphold the plan disapproval or reverse it. If the chief or the chief's designee reverses the plan disapproval, the plan shall be deemed approved under this division.

(R) With regard to composting conducted in conjunction with agricultural operations, to do all of the following:

(1) Upon request or upon their own initiative, inspect composting at any such operation to determine whether the composting is being conducted in accordance with section 939.04 of the Revised Code;

(2) If the board determines that composting is not being so conducted, request the director to take corrective actions under section 939.07 of the Revised Code that require the person who is conducting the composting to prepare a composting plan in accordance with rules adopted under division (E)(5)(a) of section 939.02 of the Revised Code and to operate in accordance with that plan or to operate in accordance with a previously prepared plan, as applicable;

(3) In accordance with rules adopted under division (E)(5)(b) of section 939.02 of the Revised Code, review and approve or disapprove any such composting plan. If a plan is disapproved, the board shall provide a written explanation to the person who submitted the plan.

As used in division (R) of this section, "composting" has the same meaning as in section 939.01 of the Revised Code.

(S) With regard to conservation activities that are conducted in conjunction with agricultural operations, to assist the county auditor, upon request, in determining whether a conservation activity is a conservation practice for purposes of Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

As used in this division, "conservation practice" has the same meaning as in section 5713.30 of the Revised Code.

(T) To develop and approve or disapprove voluntary nutrient management plans in accordance with section 905.323 of the Revised Code;

(U) To consult and work with the watershed planning and management coordinator assigned to the watershed region in which the soil and water conservation district is located under section 940.41 ~~940.36~~ of the Revised Code;

(V) To do all acts necessary or proper to carry out the powers granted in this chapter.

The director shall make recommendations to reduce the adverse environmental effects of each project that a soil and water conservation district plans to undertake under division (A), (B), (C), or (D) of this section and that will be funded in whole or in part by moneys authorized under section 940.17 of the Revised Code and shall disapprove any such project that the director finds will adversely affect the environment without equal or greater benefit to the public. The director's

disapproval or recommendations, upon the request of the district filed in accordance with rules adopted by the Ohio soil and water conservation commission, shall be reviewed by the commission, which may confirm the director's decision, modify it, or add recommendations to or approve a project the director has disapproved.

Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

940.41

Sec. ~~940.36~~ (A) As used in this section:

(1) "Nine-element plan" means a strategic implementation plan that a political subdivision, organization, or individual engaged in water quality improvements may utilize to obtain funding through the federal "Clean Water Act," 33 U.S.C. 1251 et seq., or the great lakes restoration initiative for projects to address nonpoint source pollution.

(2) "Organization" means a public or private entity that is engaged in water quality improvement activities.

(3) "Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

(B)(1) There is hereby created a statewide watershed planning and management program for the improvement and protection of the state's watersheds to be administered by the director of agriculture.

(2) Under the program, the director shall appoint at least one watershed planning and management coordinator in each watershed region categorized under division (D) of this section to coordinate watershed planning in the watershed. A coordinator shall have experience or education related to water quality improvement or watershed planning and management.

(C) A watershed planning and management coordinator shall do all of the following in the watershed region in which the coordinator is appointed:

(1) Assist each soil and water conservation district to identify sources and areas of water quality impairment, including total phosphorous, dissolved reactive phosphorous, and nitrogen nutrient loading. A coordinator also may assist any political subdivision or organization in the watershed region to address water quality impairment.

(2) Engage in watershed planning, restoration, protection, and management activities, including assisting a political subdivision or organization in the watershed region in developing and formulating a nine-element plan or its equivalent;

(3) Collaborate with state agencies engaged in water quality activities;

(4) Provide an annual report to the director about water quality.

(D) The director shall categorize watersheds in the state, identified by the specified United States geological survey six-digit hydrologic unit codes, into the following watershed regions:

(1) Region One: Western Lake Erie basin watershed, hydrologic unit code 041000;

(2) Region Two: Central Lake Erie basin watershed, hydrologic unit code 041100, and Conneaut creek watershed, hydrologic unit code 041201;

(3) Region Three: Wabash river basin watershed, hydrologic unit code 051200; Great Miami river watershed, hydrologic unit code 050800; and Little Miami river watershed, hydrologic unit

code 050902:

(4) Region Four: Scioto river watershed, hydrologic unit code 050600;

(5) Region Five: Muskingum river watershed, hydrologic unit code 050400;

(6) Region Six: Mahoning river watershed, hydrologic unit code 050301;

(7) Region Seven: Hocking river and Ohio river tributaries watershed, hydrologic unit code 050302, and raccoon creek watershed, hydrologic unit code 050901.

(E) Nothing in this section shall be construed to prevent or limit a watershed planning and management coordinator from providing assistance for projects or activities that have been determined to improve water quality impaired from point sources of phosphorus, dissolved reactive phosphorus, and nitrogen nutrients.

940.42

Sec. ~~940.37~~ (A) Data or records of a person's agricultural operations, conservation or water quality improvement practices, or proposed utilization of such practices collected or maintained by the department of agriculture, a soil or water conservation district, an institution of higher education, as defined in section 3345.12 of the Revised Code, or any other state agency are not a public record subject to disclosure under section 149.43 of the Revised Code.

(B) The department may share such data or records with state agencies and institutions of higher education, as defined in section 3345.12 of the Revised Code, for the purpose of water quality research if all of the following apply:

(1) The data or records of conservation or water quality improvement practices are aggregated.

(2) The aggregated data or records do not include any information that identifies an individual.

(3) The aggregated data or records include a description of the conservation or water quality improvement practices.

(4) The aggregated data or records identify the watershed, by the watershed's hydrologic unit code, where the conservation or water quality improvement practices are being or have been utilized.

940.43

Sec. ~~940.38~~ It is the intent of the general assembly to collaborate with organizations representing agriculture, conservation, and the environment and institutions of higher education engaged in water quality research to establish a certification program for farmers that utilize practices designed to minimize impacts to water quality. The director of agriculture shall undertake all actions necessary to ensure that assistance and available funding are provided for farmers who participate in the certification program.

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:

(A) "Land devoted exclusively to agricultural use" means:

(1) Tracts, lots, or parcels of land totaling not less than ten acres to which, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, one or more of the following apply:

(a) The tracts, lots, or parcels of land were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the cultivation of hemp by a person issued a hemp cultivation license under section 928.02 of the Revised Code, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land

SECTION 3. The Department of Agriculture, in consultation with the Lake Erie Commission, the Ohio Soil and Water Conservation Commission, and the Ohio State University Extension, may establish a pilot program not later than one hundred twenty days after the effective date of this section that assists farmers, agricultural retailers, and soil and water conservation districts in reducing phosphorus and dissolved reactive phosphorous in a watershed determined by the Director of Agriculture. If established, the program shall be supported by appropriations under the Department of Agriculture's budget that fund water quality initiatives.

Funding under the program shall be used to pay for, but is not limited to, the following: (1) equipment for subsurface placement of nutrients into the soil; (2) equipment for nutrient placement based on geographic information system data; (3) soil testing; (4) implementation of variable rate technology; (5) equipment involved with manure transformation and manure conversion technologies; (6) tributary monitoring; (7) water management and edge-of-field drainage management strategies; and (8) implementation of nutrient best management practices according to data collected by soil and water conservation districts under division (C)(2) of section ~~940.36~~ of the Revised Code.

Data and any associated records under this pilot program are not a public record subject to disclosure under section 149.43 of the Revised Code.

SECTION 4. The amendment by this act of section 5713.30 of the Revised Code applies to tax years beginning on and after the effective date of that amendment.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code. \*



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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the 11<sup>TH</sup> day of JANUARY, A. D. 20 21.



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*Secretary of State.*

File No. 87

Effective Date APRIL 12, 2021

\*This certification has required my designation of the following in the left-hand margin as a proper code section number:

940.41, 940.42, and 940.43



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Director, Legislative Service Commission

(133rd General Assembly)  
(Substitute House Bill Number 7)

**AN ACT**

To amend sections 905.324, 939.02, 940.06, 5713.30, 6119.06, 6119.09, and 6119.091 and to enact sections 940.36, ~~940.37, and 940.38~~ of the Revised Code to create the Statewide Watershed Planning and Management Program under the administration of the Director of Agriculture, to make changes to the law governing regional water and sewer districts, and to modify the CAUV eligibility requirements for land used to produce biofuels.

*Introduced by*

Representatives Ghanbari, Patterson

Cosponsors: Representatives Carfagna, Crawley, Edwards, Hambley, Hoops, Howse, Rogers, West, Arndt, Baldridge, Blair, Boyd, Brent, Brown, Callender, Cera, Clites, Cross, Crossman, Denson, DeVitis, Galonski, Greenspan, Grendell, Hicks-Hudson, Hillyer, Holmes, A., Ingram, Jones, Kelly, Kick, Leland, Lepore-Hagan, Lightbody, Liston, Manning, G., McClain, Miller, A., Miller, J., Miranda, O'Brien, Patton, Plummer, Reineke, Richardson, Riedel, Robinson, Roemer, Russo, Seitz, Smith, K., Smith, T., Sobocki, Stein, Stoltzfus, Sweeney, Sykes, Upchurch, Weinstein, Wiggam  
Senators Antonio, Blessing, Brenner, Burke, Coley, Craig, Dolan, Eklund, Fedor, Gavarone, Hackett, Hoagland, Huffman, S., Johnson, Kunze, Manning, Obhof, Peterson, Rulli, Schaffer, Schuring, Sykes, Thomas, Wilson, Yuko

*Passed by the House of Representatives,*

June 20, 2019

*Passed by the Senate,*

December 9, 2020

*Filed in the office of the Secretary of State at  
Columbus, Ohio, on the*

11<sup>TH</sup> day of JANUARY, A. D. 2021  
  
Secretary of State.

*Concurred in  
Senate amendments,  
December 17, 2020.*