

Chapter 6123: SOLID WASTE AND ENERGY RESOURCE DEVELOPMENT PROJECTS

6123.01 Solid waste and energy resource development projects definitions.

As used in this chapter:

(A) "Governmental agency" means a department, division, or other unit of state government, a municipal corporation, county, township, and other political subdivision, or any other public corporation or agency, the United States or any agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

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

(C) "Solid waste" means such unwanted residual solid or semi-solid material as results from industrial operations, including those of public utility companies, and commercial, distribution, research, agricultural, and community operations, including garbage, tires, combustible, noncombustible, or radioactive material, street dirt, and debris.

(D) "Solid waste facilities" means facilities or property, or the modification or replacement of property, for the collection, storage, treatment, utilization, processing, transporting, or final disposal of or recovery of resources or energy from solid waste, including, without limitation, facilities and expenditures that qualify as solid waste disposal facilities under section 103(b)(4)(E) of the Internal Revenue Code of 1954, as amended, and regulations adopted thereunder, scrap tire recovery facilities registered or permitted under section [3734.78](#) of the Revised Code, and facilities that dispose of solid waste by reconstituting, converting, or otherwise recycling it into material that is not waste whether or not operated at a profit, and further includes any property or system to be used in whole or in part for any of the aforesaid purposes, whether or not another purpose also is served, and any property or system incidental to or that has to do with or the end purpose of which is any of the foregoing. Solid waste facilities as defined in this division are hereby determined to be those that qualify as facilities for solid waste disposal under Section 13 of Article VIII, Ohio Constitution.

(E) "Project" or "development project" means any energy resource development facility as defined in section [1551.01](#) of the Revised Code, including undivided or other interests therein, or any solid waste facility, including undivided or other interests therein, either separately or in combination with any waste water facility as defined in section [6121.01](#) of the Revised Code acquired or to be acquired or constructed or to be constructed by the Ohio water development authority under this chapter, or acquired or to be acquired or constructed or to be constructed by a governmental agency or person with all or a part of the cost thereof being paid from a loan or grant from the authority under this chapter, including all buildings and facilities that the authority determines necessary for the operation of the project together with all property, rights, easements, and interests that may be required for the operation of the project, or any voluntary action.

(F) "Cost" as applied to development projects means the cost of acquisition and construction, the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office and sub-offices of the authority, the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements therefor, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of construction, engineering, expenses of research and development with respect to development projects, legal expenses, plans, specifications, surveys, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing any such project, administrative expense, and such other expense as may be necessary or incident to the acquisition or construction of the project, the financing of that acquisition or construction, including the amount authorized in the resolution of the authority providing for the issuance of development revenue bonds to be paid into any special funds from the proceeds of such bonds, and the financing of the placing of any such project in operation. Any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, preparation of plans and specifications, and other

engineering services, or any other cost described above, in connection with the acquisition or construction of a project may be regarded as a part of the cost of that project and may be reimbursed out of the proceeds of development revenue bonds as authorized by this chapter. As applied to development projects consisting of voluntary actions, "cost" includes the costs of conducting the voluntary actions as defined in section [3746.23](#) of the Revised Code.

(G) "Owner" includes all individuals, copartnerships, associations, corporations, or governmental agencies having any title or interest in any property, rights, easements, and interests authorized to be acquired by this chapter.

(H) "Revenues" means all rentals and other charges received by the authority for the use or services of any development project, any gift or grant received with respect thereto, any moneys received with respect to the lease, sub-lease, sale, including installment sale or conditional sale, or other disposition of a development project, moneys received in repayment of and for interest on any loan made by the authority to a person or governmental agency, whether from the United States or a department, administration, or agency thereof, or otherwise, proceeds of such bonds to the extent of use thereof for payment of principal of, premium if any, or interest on the bonds is authorized by the authority, proceeds from any insurance, condemnation, or guaranty pertaining to a project or property mortgaged to secure bonds or pertaining to the financing of the project, and income and profit from the investment of the proceeds of development revenue bonds or of any revenues.

(I) "Public roads" includes all public highways, roads, and streets in the state whether maintained by the state or by a county, township, municipal corporation, or other political subdivision.

(J) "Public utility facilities" includes tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances of any public utility.

(K) "Construction," unless the context indicates a different meaning or intent, includes reconstruction, enlargement, improvement, or providing furnishings or equipment.

(L) "Development revenue bonds," unless the context indicates a different meaning or intent, includes development revenue notes, development revenue renewal notes, and development revenue refunding bonds, except that notes issued in anticipation of the issuance of bonds shall have a maximum maturity of five years as provided in section [6123.06](#) of the Revised Code and notes or renewal notes issued as the definitive obligation may be issued maturing at such time or times as the authority determines with a maximum maturity of forty years from the date of issuance of the original note.

(M) "Voluntary action" means a voluntary action, as defined in section [3746.01](#) of the Revised Code that is conducted under the voluntary action program established in Chapter 3746. of the Revised Code.

(N) "Acquisition or construction" includes the undertaking of a voluntary action.

(O) The "Ohio water development authority" means the authority created by section [6121.02](#) of the Revised Code.

Effective Date: 09-28-1994 .

[6123.02 Authority of Ohio water development authority.](#)

The carrying out of the purposes and the exercise by the Ohio water development authority of the powers conferred on it by Chapter 6123. of the Revised Code shall be held to be, and are hereby determined to be, essential governmental functions and public purposes of the state, but the authority shall not be immune from liability by reason thereof. Each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties under Chapter 6123. of the Revised Code. All expenses incurred in carrying out Chapter 6123. shall be payable solely from funds provided under Chapter 6123. of the Revised Code, appropriated for such purpose by the general assembly, or provided by the controlling board and no liability or obligation shall be incurred by the authority beyond the extent to which moneys have been so provided or appropriated.

Effective Date: 06-29-1975 .

6123.03 Public policy.

It is hereby declared to be the public policy of the state through the operations of the Ohio water development authority under this chapter to contribute toward one or more of the following: to provide for the comfort, health, safety, and general welfare of all employees and other inhabitants of the state and for the conservation of the land, air and water resources of the state through efficient and proper methods of disposal, salvage and reuse of or recovery of resources from solid wastes thereby eliminating or decreasing accident and health hazards including rodent and insect vectors of disease, public nuisance and the adverse effect on land values caused thereby and the scenic blight marring the landscape, to assist in the financing of solid waste facilities for industry, commerce, distribution and research, including public utility companies, to create or preserve jobs and employment opportunities or improve the economic welfare of the people of the state, or to assist and cooperate with governmental agencies in achieving such purposes. In furtherance of such public policy, the Ohio water development authority may initiate, acquire, construct, maintain, repair and operate solid waste facilities or cause the same to be operated pursuant to a lease, sub-lease, or agreement with any person or governmental agency; may make loans and grants to governmental agencies for the acquisition or construction of solid waste facilities by such governmental agencies; may make loans to persons for the acquisition or construction of solid waste facilities by such persons; and may issue development revenue bonds of this state payable solely from revenues, to pay the cost of such projects. Any solid waste facilities shall be determined by the authority to be in compliance with Chapter 3734. of the Revised Code and with the regulations adopted by the director of environmental protection under section [3734.02](#) of the Revised Code. Any resolution of the authority providing for acquiring or constructing such facilities or for making a loan or grant for such facilities shall include a finding by the authority that such determination has been made. Determinations by resolution of the authority that a facility is a solid waste facility under this chapter and is consistent with the purposes of Section 13 of Article VIII, Ohio Constitution, and this chapter shall be conclusive as to the validity and enforceability of the development revenue bonds issued to finance such facility and of the resolutions, trust agreements or indentures, leases, sub-leases, sale agreements, loan agreements and other agreements made in connection therewith, all in accordance with their terms.

Effective Date: 09-28-1979 .

6123.031 Energy resource development facilities.

To create or preserve jobs and employment opportunities, to improve the economic welfare of the people of the state, to control air, water, and thermal pollution, or to dispose of solid waste, and pursuant to Section 13, Article VIII, of the Ohio Constitution, the Ohio water development authority may exercise the powers set forth in this chapter, with the approval of a project by the director of development, for the purpose of constructing or providing financial assistance for the construction of any energy resource development facilities as defined in section [1551.01](#) of the Revised Code. Determinations by resolution of the authority that a facility is an energy resource development facility, as so defined, and is consistent with the purposes of Section 13 of Article VIII, Ohio Constitution and this chapter shall be conclusive as to the validity and enforceability of the development revenue bonds issued to finance such facility and of the resolutions, trust agreements or indentures, leases, subleases, sale agreements, loan agreements, and other agreements made in connection therewith, all in accordance with their terms.

Effective Date: 02-24-1983 .

6123.032 Financial assistance for undertaking of voluntary action to control air, water, or thermal pollution.

To create or preserve jobs and employment opportunities, to improve the economic welfare of the people of the state, or to control air, water, or thermal pollution, and pursuant to Section 13, Article VIII, Ohio Constitution, the Ohio water development authority may exercise the powers set forth in this chapter for the purpose of providing financial assistance for the undertaking of any voluntary action and shall establish a fund for providing such assistance. Determinations by resolution of the authority that a project constitutes a voluntary action and is consistent with the purposes of Section 13, Article VIII, Ohio Constitution, and this chapter are conclusive as to the validity and enforceability of the development revenue bonds issued to finance the voluntary action and of the

resolutions, trust agreements or indentures, leases, subleases, sale agreements, loan agreements, and other agreements made in connection therewith, all in accordance with their terms.

Effective Date: 09-28-1994 .

6123.04 Powers of Ohio water development authority.

For the purposes of this chapter, the Ohio water development authority may:

- (A) Adopt bylaws for the regulation of its affairs and the conduct of its business under this chapter;
- (B) Sue and plead in its own name; be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections [6123.06](#), [6123.08](#), and [6123.13](#) of the Revised Code. Any such actions against the authority shall be brought in the court of common pleas of the county in which the principal office of the authority is located, or in the court of common pleas of the county in which the cause of action arose, provided such county is located within this state, and all summonses, exceptions, and notices of every kind shall be served on the authority by leaving a copy thereof at the principal office with the person in charge thereof or with the secretary-treasurer of the authority.
- (C) Make loans and grants to governmental agencies for the acquisition or construction of development projects by any such governmental agency and adopt rules and procedures for making such loans and grants;
- (D) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to, or contract for operation by, a person or governmental agency, development projects, and establish rules for the use of such projects;
- (E) Make available the use or services of any development project to one or more persons, one or more governmental agencies, or any combination thereof;
- (F) Issue development revenue bonds and notes and development revenue refunding bonds of the state, payable solely from revenues as provided in section [6123.06](#) of the Revised Code, unless the bonds be refunded by refunding bonds, for the purpose of paying any part of the cost of one or more development projects or parts thereof;
- (G) Acquire by gift or purchase, hold, and dispose of real and personal property in the exercise of the powers of the authority and the performance of its duties under this chapter;
- (H) Acquire, in the name of the state, by purchase or otherwise, on such terms and in such manner as the authority determines proper, public or private lands, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests as it finds necessary for carrying out this chapter; and compensation shall be paid for public or private lands so taken;
- (I) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under this chapter:
 - (1) When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than twenty-five thousand dollars, the authority shall make a written contract with the lowest responsive and responsible bidder, in accordance with section [9.312](#) of the Revised Code, after advertisement for not less than two consecutive weeks in a newspaper of general circulation in Franklin county, and in such other publications as the authority determines, such notice shall state the general character of the work and materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Provided, that a contract or lease for the operation of a development project constructed and owned by the authority or an agreement for cooperation in the acquisition or construction of a development project pursuant to section [6123.13](#) of the Revised Code or any contract for the construction of a development project that is to be leased by the authority to, and operated by, persons who are not governmental agencies and the cost of such project is to be amortized exclusively from rentals or other charges paid to the authority by persons who are not governmental agencies or by governmental agencies that receive the use or

services of such project, including governmental agencies that are parties to an agreement for cooperation in the acquisition or construction of such development project pursuant to section [6123.13](#) of the Revised Code, is not subject to the foregoing requirements and the authority may enter into such contract or lease or such agreement pursuant to negotiation and upon such terms and conditions and for such period as it finds to be reasonable and proper in the circumstances and in the best interests of proper operation or of efficient acquisition or construction of such project.

(2) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall contain the full name of every person interested in it and who meets the requirements of section [153.54](#) of the Revised Code.

(3) Each bid for a contract, except as provided in division (I)(2) of this section, shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance thereof secured.

(4) The authority may reject any and all bids.

(5) A bond with good and sufficient surety, approved by the authority, shall be required of every contractor awarded a contract except as provided in division (I)(2) of this section, in an amount equal to at least fifty per cent of the contract price, conditioned upon the faithful performance of the contract.

(J) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and such other consultants and independent contractors as are necessary in its judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable solely from the proceeds of development revenue bonds or notes issued under this chapter, from revenues, or from funds appropriated for such purpose by the general assembly.

(K) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction of any development project or for research and development with respect to solid waste facilities or energy resource development facilities, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;

(L) Engage in research and development with respect to solid waste facilities or energy resource development facilities;

(M) Purchase fire and extended coverage and liability insurance for any development project and for the principal office and sub-offices of the authority, insurance protecting the authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the authority may agree to provide under any resolution authorizing its development revenue bonds or in any trust agreement securing the same;

(N) Charge, alter, and collect rentals and other charges for the use or services of any development project as provided in section [6123.13](#) of the Revised Code;

(O) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;

(P) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

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.

Effective Date: 10-26-1999; 09-09-2005 .

[6123.041 Industry, commerce, distribution, or research projects financing arrangements.](#)

(A) With respect to projects, and the financing thereof, for industry, commerce, distribution, or research, including public utility companies, under agreements whereby the person to whom the project is to be leased, sub-leased,

or sold or to whom a loan is to be made for the project is to make payments sufficient to pay all of the principal of, premium, if any, and interest on the development revenue bonds issued for the project, the Ohio water development authority, in addition to other powers under this chapter, may do any or all of the following:

(1) Make loans for the acquisition or construction of the project to the person upon such terms as the authority may determine or authorize, including secured or unsecured loans, and, for and in connection with, enter into loan agreements, accept notes and other forms of obligation to evidence such indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure such indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take such actions as may be determined appropriate by it to protect such security and safeguard against losses, including, without limitation, foreclosure and the bidding upon and purchase of property upon foreclosure or other sale;

(2) Sell the project under such terms as it may determine, including, without limitation, sale by conditional sale or installment sale, under which title may pass prior to or after completion of the project or payment or provisions for payment of all principal of, premium, if any, and interest on such bonds, or at any other time provided in the agreement pertaining to the sale, and including sale under an option to purchase at a price that may be a nominal amount or less than true value at the time of purchase;

(3) Grant a mortgage, lien, or other encumbrance on, or pledge or assignment of, or with respect to, all or any part of the project, revenues, reserve funds or other funds established in connection with such bonds, or on, of, or with respect to any lease, sub-lease, sale, conditional sale or installment sale agreement, loan agreement, or other agreement pertaining to the lease, sub-lease, sale, or other disposition of a project or pertaining to a loan made for a project, or any guaranty or insurance agreement made with respect thereto, or any interest of the authority therein, or any other interest granted, assigned, or released to secure payments of the principal of, premium, if any, or interest on the bonds or to secure any other payments to be made by the authority, which mortgage, lien, encumbrance, pledge, assignment, or other security interest may be prior or subordinate to or on a parity with any other mortgage, pledge, assignment, other security interest, or lien or encumbrance;

(4) Provide that the interest on the bonds may be at a variable rate or rates changing from time to time in accordance with a base or formula as authorized by the authority;

(5) Contract for the acquisition or construction of the project or any part thereof and for the leasing, sub-leasing, sale, or other disposition of the project, which may be made in a manner determined by the authority in its sole discretion, without necessity for competitive bidding or performance bonds.

(B) Property comprising a project, other than a voluntary action, is not subject to taxes or assessments as long as the bonds or notes issued to finance the costs of the project are outstanding, and the transfer of title to or possession of the property to the person to whom a loan or installment sale or conditional sale with respect to the project is made is not subject to the taxes levied pursuant to Chapters 5739. and 5741. of the Revised Code.

The authority shall certify the property comprising a project that is exempt from taxes and assessments pursuant to this division and shall send, by certified mail, copies of the certification to the owner of the exempt property, to the tax commissioner, and to the county auditor of the county or counties in which the exempt property is located.

Each county auditor shall maintain a separate list of all property exempt pursuant to this division and sections [3706.041](#) and [6121.044](#) of the Revised Code, in addition to the list of exempt property required to be maintained pursuant to section [5713.07](#) of the Revised Code.

(C) The authority, in the lease, sale, or loan agreement with respect to a project referred to in division (A) of this section, shall make appropriate provision for adequate maintenance of the project. The source of the payments sufficient to pay all of the principal, premium, if any, and interest required by that division shall be limited to revenue derived from rentals or other charges for the use of the services of the project, and the revenue may be derived from such rentals or charges and paid to the person or the authority by governmental agencies that receive the use or services of the project, including governmental agencies that are parties to an agreement for

cooperation in the acquisition or construction of the development project pursuant to section [6123.13](#) of the Revised Code.

(D) With respect to the projects referred to in this section, the authority granted by this section is cumulative and supplementary to all other authority granted in this chapter. The authority granted by this section does not alter or impair any similar authority granted elsewhere in this chapter with respect to other projects.

Effective Date: 09-28-1994 .

6123.042 Fees and fines may not exceed loan principal.

With respect to a loan made under this chapter, the Ohio water development authority shall not charge any fees or fines that, in the aggregate, exceed an amount equal to the principal amount of the loan.

Effective Date: 2008 HB562 09-22-2008 .

6123.05 Funds for surveys or studies of proposed development project.

Upon application by the Ohio water development authority, the controlling board may, from appropriations available to the authority, provide funds for surveys or studies by the authority of any proposed development project subject to repayment by the authority from funds available to it, within the time fixed by the board. Funds to be repaid shall be charged by the authority to the appropriate development project and the amount thereof shall be a cost of the project. This section does not abrogate the authority of the controlling board to otherwise provide funds for use by the authority in the exercise of the powers granted to it by Chapter 6123. of the Revised Code.

Effective Date: 09-28-1979 .

6123.06 Revenue bonds and notes to fund development projects.

The Ohio water development authority may issue revenue bonds and notes of the state at such times and in such principal amount as, in the opinion of the authority, are necessary for the purpose of paying any part of the cost of one or more development projects or parts thereof. The authority may likewise issue renewal notes and bonds to pay such notes and, whenever it deems refunding, including funding and retirement, expedient, refund any bonds by the issuance of development revenue refunding bonds of the state, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding, and partly for any other authorized purpose. The refunding bonds may be issued in amounts sufficient for payment of the principal amount of the bonds to be so refunded, any redemption premiums thereon, principal maturities of any bonds maturing prior to the redemption of the bonds to be so refunded, interest accrued or to accrue to the maturity dates or dates of redemption of such bonds, and any expenses incurred or to be incurred in connection with such refunding, funding and retirement and the issuance of the bonds. Except as may otherwise be expressly provided by the authority, every issue of its bonds or notes shall be general obligations of the authority payable out of the revenues of the authority that are pledged for such payment, without preference or priority of the first bonds issued, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues, provided that revenues of the authority as defined in division (H) of section [6123.01](#) of the Revised Code shall not be pledged for the payment of water development revenue bonds or notes issuable by the authority under Chapter 6121. of the Revised Code, and revenues of the authority as defined in division (O) of section [6121.01](#) of the Revised Code shall not be pledged for the payment of development revenue bonds or notes. Such pledge shall be valid and binding from the time the pledge is made and the revenues so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded, except in the records of the authority.

Whether or not the bonds or notes are of such form and character as to be negotiable instruments, they have all the qualities and incidents of negotiable instruments, subject only to the provisions of the bonds or notes for

registration.

The bonds and notes shall be authorized by resolution of the authority, bear such date or dates, and mature at such time or times, in the case of any such note or any renewals thereof not exceeding five years from the date of issue of such original note and in the case of any such bond not exceeding forty years from the date of issue, as such resolution or resolutions may provide. The bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at, or at not less than, such price or prices as the authority determines. The bonds and notes shall be executed by the chairman and vice-chairman of the authority, either or both of whom may use a facsimile signature, the official seal of the authority or a facsimile thereof shall be affixed thereto or printed thereon and attested, manually or by facsimile signature, by the secretary-treasurer of the authority, and any coupons attached thereto shall bear the signature or facsimile signature of the chairman of the authority. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes, or coupons ceases to be such officer before their delivery, such signature or facsimile is sufficient for all purposes, the same as if he had remained in office until such delivery, and in case the seal of the authority has been changed after a facsimile has been imprinted on such bonds or notes, such facsimile seal will continue to be sufficient for all purposes.

Any resolution or resolutions authorizing any bonds or notes or any issue thereof may contain provisions, subject to such agreements with bondholders or noteholders as may then exist, which are a part of the contract with the holders thereof, as to: the pledging of all or any part of the revenues of the authority to secure the payment of the bonds or notes or of any issue thereof; the use and disposition of revenues of the authority; a covenant to fix, alter, and collect rentals and other charges so that pledged revenues will be sufficient to pay costs of operation, maintenance, and repairs, pay principal of and interest on bonds or notes secured by the pledge of such revenues, and provide such reserves as may be required by the applicable resolution or trust agreement; the setting aside of reserve funds, sinking funds, or replacement and improvement funds and the regulation and disposition thereof; the crediting of the proceeds of the sale of bonds or notes to and among the funds referred to or provided for in the resolution authorizing the issuance of the bonds or notes; the use, lease, sale, or other disposition of any development project or any other assets of the authority; limitations on the purpose to which the proceeds of sale of bonds or notes may be applied and the pledging of such proceeds to secure the payment of the bonds or notes or of any issue thereof; as to notes issued in anticipation of the issuance of bonds, the agreement of the authority to do all things necessary for the authorization, issuance, and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitations on the issuance of additional bonds or notes; the terms upon which additional bonds or notes may be issued and secured; the refunding of outstanding bonds or notes; the procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given; limitations on the amount of moneys to be expended by the authority for operating, administrative, or other expenses of the authority; securing any bonds or notes by a trust agreement in accordance with section [6123.08](#) of the Revised Code; or any other matters, of like or different character, that in any way affect the security or protection of the bonds or notes.

Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

Effective Date: 10-16-1980 .

[6123.07 Bond issuance need not comply with state requirements.](#)

The issuance of development revenue bonds and notes or development revenue refunding bonds under Chapter 6123. of the Revised Code need not comply with any other law applicable to the issuance of bonds or notes.

Effective Date: 09-28-1979 .

[6123.08 Revenue bonds or notes or development revenue refunding bonds secured by a trust agreement.](#)

In the discretion of the Ohio water development authority, any development revenue bonds or notes or development revenue refunding bonds issued under Chapter 6123. of the Revised Code may be secured by a trust agreement between the authority and a corporate trustee, which trustee may be any trust company or bank having the powers of a trust company within or without the state.

Any such trust agreement may pledge or assign revenues of the authority to be received, but shall not convey or mortgage any development project or any part thereof. Any such trust agreement or any resolution providing for the issuance of such bonds or notes may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation, and insurance of the development project or projects in connection with which such bonds or notes are authorized, the rentals or other charges to be imposed for the use or services of any development project, the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such development project or projects. Any bank or trust company incorporated under the laws of this state that may act as depository of the proceeds of bonds or notes or of revenues may furnish such indemnifying bonds or may pledge such securities as are required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee, and may restrict the individual right of action by bondholders and noteholders as is customary in trust agreements or trust indentures securing similar bonds. Such trust agreement may contain such other provisions as the authority deems reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the development project or projects. Any such trust agreement or resolution authorizing the issuance of development revenue bonds may provide the method whereby the general administrative overhead expenses of the authority shall be allocated among the several projects acquired or constructed by it as a factor of the operation expense of each such project.

Effective Date: 09-28-1979 .

6123.09 Holder of development revenue bonds to enforce rights.

Any holder of development revenue bonds issued under Chapter 6123. of the Revised Code, or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given by such chapter may be restricted by the applicable resolution or such trust agreement, may by suit, action, mandamus, or other proceedings, protect and enforce any rights under the laws of the state or granted under such chapter, trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by such chapter, or by the trust agreement or resolution, to be performed by the Ohio water development authority or any officer thereof, including the fixing, charging, and collecting of rentals or other charges.

Effective Date: 09-28-1979 .

6123.10 Development revenue bonds and notes and development revenue refunding bonds not a debt.

Development revenue bonds and notes and development revenue refunding bonds issued under Chapter 6123. of the Revised Code do not constitute a debt, or a pledge of the faith and credit, of the state or of any political subdivision thereof, and the holders or owners thereof have no right to have taxes levied by the general assembly or taxing authority of any political subdivision of the state for the payment of the principal thereof or interest thereon, but such bonds and notes are payable solely from the revenues and funds pledged for their payment as authorized by such chapter, unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under such chapter, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by such chapter. All such bonds and notes shall contain on the face thereof a statement to the effect that the bonds or notes, as to both principal and interest, are not debts of the state or any political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

All expenses incurred in carrying out Chapter 6123. of the Revised Code are payable solely from funds provided under such chapter. Such chapter does not authorize the Ohio water development authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

Effective Date: 09-28-1979 .

6123.11 Ohio water development authority moneys, funds, properties, and assets held in trust.

All moneys, funds, properties, and assets acquired by the Ohio water development authority under Chapter 6123. of the Revised Code, whether as proceeds from the sale of development revenue bonds or as revenues, or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, shall be used and reused as provided in such chapter, and shall at no time be part of other public funds. Such funds, except as otherwise provided in any resolution authorizing its development revenue bonds or in any trust agreement securing the same, or except when invested pursuant to section [6123.12](#) of the Revised Code, shall be kept in depositories selected by the authority in the manner provided in Chapter 135. of the Revised Code, and the deposits shall be secured as provided in Chapter 135. of the Revised Code. The resolution authorizing the issuance of such bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys are paid shall act as trustee of such moneys and hold and apply them for the purposes hereof, subject to such conditions as such chapter and such resolutions or trust agreement provide.

Effective Date: 09-28-1979 .

6123.12 Investment of moneys in excess of current needs.

Moneys of the Ohio water development authority, except as otherwise provided in any resolution authorizing the issuance of its development or water development revenue bonds or in any trust agreement securing the same, in excess of current needs, may be invested in notes, bonds, or other obligations of the United States, or of any agency or instrumentality thereof, or in obligations of this state or any political subdivision thereof. Income from all such investments of moneys in any fund shall be credited to such funds as the authority determines, subject to the provisions of any such resolution or trust agreement, and such investments may be sold at such times as the authority determines.

Effective Date: 09-28-1979 .

6123.13 Charge, alter, and collection of rentals or other charges for use or services of development project.

The Ohio water development authority may charge, alter, and collect rentals or other charges for the use or services of any development project and contract in the manner provided by this section with one or more persons, one or more governmental agencies, or any combination thereof, desiring the use or services thereof, and fix the terms, conditions, rentals, or other charges for such use or services. Such rentals or other charges shall not be subject to supervision or regulation by any other authority, commission, board, bureau, or agency of the state and such contract may provide for acquisition by such person or governmental agency of all or any part of such development project for such consideration payable over the period of the contract or otherwise as the authority in its sole discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of development revenue bonds or notes or development revenue refunding bonds of the authority or any trust agreement securing the same. Any governmental agency which has power to construct, operate, and maintain development facilities may enter into a contract or lease with the authority whereby the use or services of any development project of the authority will be made available to such governmental agency and pay for such use or services such rentals or other charges as may be agreed to by the authority and such governmental agency.

Any governmental agency or combination thereof may cooperate with the authority in the acquisition or construction of a development project and shall enter into such agreements with the authority as are necessary,

with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for such contributions by the parties thereto in such proportion as may be agreed upon and such other terms as may be mutually satisfactory to the parties including, without limitation, the authorization of the construction of the project by one of the parties acting as agent for all of the parties; the ownership and control of the project by the authority to the extent necessary or appropriate for purposes of the issuance of development revenue bonds by the authority; contracting for the operation, leasing, or subleasing for such term and with such person or governmental agency as may be agreed upon; and the sale or other disposition of such project to such governmental agency as may be agreed upon. The authority shall not enter into such a cooperative agreement with any governmental agency if the authority determines that the project to be acquired or constructed under the agreement would undermine the financial feasibility of an existing development project acquired or constructed under a cooperative agreement between the authority and another governmental agency because the proposed project would serve substantially the same geographic area as the existing project. Any governmental agency may provide the funds for the payment of such contribution as is required under such agreements by the levy of taxes, assessments, or rentals and other charges for the use of the utility system of which the development project is a part or to which it is connected, if otherwise authorized by the laws governing such governmental agency in the construction of the type of development project provided for in the agreements, and may pay the proceeds from the collection of such taxes, assessments, utility rentals, or other charges to the authority pursuant to such agreements; or the governmental agency may issue bonds or notes, if authorized by such laws, in anticipation of the collection of such taxes, assessments, utility rentals, or other charges and may pay the proceeds of such bonds or notes to the authority pursuant to such agreements. In addition any governmental agency may provide the funds for the payment of such contribution by the appropriation of money or, if otherwise authorized by law, by the issuance of bonds or notes and may pay such appropriated money or the proceeds of such bonds or notes to the authority pursuant to such agreements. The agreement by the governmental agency to provide such contribution, whether from appropriated money or from the proceeds of such taxes, assessments, utility rentals, or other charges, or such bonds or notes, or any combination thereof, is not subject to Chapter 133. of the Revised Code or any regulations or limitations contained therein. The proceeds from the collection of such taxes or assessments, and any interest earned thereon, shall be paid into a special fund immediately upon the collection thereof by the governmental agency for the purpose of providing such contribution at the times required under such agreements.

When the contribution of any governmental agency is to be made over a period of time from the proceeds of the collection of special assessments, the interest accrued and to accrue before the first installment of such assessments is collected, which is payable by such governmental agency on such contribution under the terms and provisions of such agreements, shall be treated as part of the cost of the improvement for which such assessments are levied, and that portion of such assessments as are collected in installments shall bear interest at the same rate as such governmental agency is obligated to pay on such contribution under the terms and provisions of such agreements and for the same period of time as the contribution is to be made under such agreements. If the assessment or any installment thereof is not paid when due, it shall bear interest until the payment thereof at the same rate as such contribution and the county auditor shall annually place on the tax list and duplicate the interest applicable to such assessment and the penalty and any additional interest thereon as otherwise authorized by law.

Any governmental agency, pursuant to a favorable vote of the electors in an election held before or after July 13, 1970 for the purpose of issuing bonds to provide funds to acquire, construct, or equip, or provide real estate and interests in real estate for, a solid waste facility, whether or not such governmental agency, at the time of such election, had the authority to pay the proceeds from such bonds or notes issued in anticipation thereof to the authority as provided in this section, may issue such bonds or notes in anticipation of the issuance thereof and pay the proceeds thereof to the authority in accordance with its agreement with the authority; provided, that the legislative authority of the governmental agency finds and determines that the solid waste facility to be acquired or constructed by the authority in cooperation with such governmental agency will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the governmental agency with the proceeds of such bonds or notes.

Effective Date: 09-21-1982 .

6123.14 Maintenance and repair of development projects.

Each development project other than one consisting of a voluntary action, when constructed and placed in operation, shall be maintained and kept in good condition and repair by the Ohio water development authority or the authority shall cause it to be maintained and kept in good condition and repair. Each such project shall be operated by such operating employees as the authority employs or pursuant to a contract or lease with a person or governmental agency. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition, as nearly as practicable, or adequate compensation shall be paid therefor from funds provided under this chapter.

On or before the first day of April each year, the authority shall make a report of its activities for the preceding calendar year to the governor and the general assembly. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of its projects.

Nothing in this section diminishes the exemption from liability afforded the authority under section [3746.24](#) of the Revised Code. Regardless of the nature or extent of any assistance provided by the authority to any person or governmental agency that undertakes a voluntary action, the authority is not liable to any such person or governmental agency that fails to obtain a no further action letter under section [3746.11](#) of the Revised Code, fails to obtain a covenant not to sue under section [3746.12](#) of the Revised Code, or fails to recover any costs of conducting the voluntary action under section [3746.23](#) of the Revised Code. No such failure in any way alters or diminishes any obligation of the person or governmental agency to the authority assumed or incurred in connection with the person's or governmental agency's obtaining assistance from the authority.

Effective Date: 09-28-1994 .

6123.15 Development revenue bonds lawful investments.

All development revenue bonds issued under this chapter are lawful investments of banks, societies for savings, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund of the state, the administrator of workers' compensation, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, and are acceptable as security for the deposit of public moneys.

Effective Date: 11-02-1999 .

6123.16 No taxes or assessments upon development project, or property acquired or used by Ohio water development authority.

The exercise of the powers granted by Chapter 6123. of the Revised Code, will be for the benefit of the people of the state, for the improvement of their health, safety, convenience, and welfare, and for the enhancement of their residential, agricultural, recreational, economic, commercial, and industrial opportunities and is a public purpose. As the operation and maintenance of development projects will constitute the performance of essential governmental functions, the Ohio water development authority shall not be required to pay any taxes or assessments upon any development project, or upon any property acquired or used by the authority under Chapter 6123. of the Revised Code, or upon the income therefrom, nor shall the transfer to or from the Ohio water development authority of title or possession of any development project, part thereof, or item included or to be included in any such project, be subject to the taxes levied pursuant to Chapters 5739. and 5741. of the Revised Code, and the bonds and notes issued under this chapter, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

Effective Date: 09-28-1979 .

6123.17 Acquisition of real property interest.

The Ohio water development authority may acquire by purchase, whenever it determines such purchase expedient, any land, property, rights, rights-of-way franchises, easements, and other interests in lands which it finds to be necessary or convenient for the construction and operation of any development project, upon such terms and at such price as it considers reasonable and are agreed upon between the authority and the owner thereof, and take title thereto in the name of the state.

Any governmental agency, notwithstanding any contrary provision of law may lease, lend, grant, or convey to the authority, at its request, upon such terms as the proper authorities of such governmental agencies determine to be reasonable and fair and without the necessity for an advertisement, auction, order of court, or other action or formality, other than the regular and formal action of the governmental agency concerned, any real property or interests therein including improvements thereto or personal property which is necessary or convenient to effect the authorized purposes of the authority, including public roads and real or personal property already devoted to public use.

Effective Date: 09-28-1979 .

6123.18 Reconstruction of road, highways, railroads or public utilities.

When the Ohio water development authority finds it necessary to change the location of any portion of any public road, state highway, railroad, or public utility facility in connection with the construction of a development project, it shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad, or public utility facility finds most favorable. Such construction shall be of substantially the same type and in as good condition as the original road, highway, railroad, or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility shall be paid by the authority as a part of the cost of such development project.

When the authority finds it necessary that any public highway or portion thereof be vacated by reason of the acquisition or construction of a development project, the authority may request the director of transportation, in writing, to vacate such highway or portion thereof in accordance with section [5511.07](#) of the Revised Code if the highway or portion thereof to be vacated is on the state highway system, or, if the highway or portion thereof to be vacated is under the jurisdiction of the county commissioners, the authority shall request the director, in writing, to petition the county commissioners, in the manner provided in section [5553.041](#) of the Revised Code, to vacate such highway or portion thereof.

The authority shall pay to the director or the county, as a part of the cost of such development project, any amounts required to be deposited with any court in connection with proceedings for the determination of compensation and damages and all amounts of compensation and damages finally determined to be payable as a result of such vacation.

The authority may make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of railroad or public utility facilities in, on, over, or under any development project. Whenever the authority determines that it is necessary that any such facilities installed or constructed in, on, over, or under property of the authority pursuant to such regulations be relocated, the public utility owning or operating such facilities shall relocate or remove them in accordance with the order of the authority. The cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, may be paid by the authority as a part of the cost of such development project. In case of any such relocation or removal of facilities, the railroad or public utility owning or operating them, its successors, or assigns may maintain and operate such facilities, with the necessary appurtenances, in the new location in, on, over, or under the property of the authority for as long a period and upon the same terms as it had the right to maintain and operate such facilities in their former location.

Effective Date: 09-28-1979 .

6123.19 [Repealed].

Effective Date: 01-01-1974 .

6123.20 Public meetings and records.

All meetings of the Ohio water development authority shall be public and the records of the authority shall be open to public inspection at all reasonable times, except as otherwise provided in this section. All final actions of the authority shall be journalized and such journal shall also be open to inspection of the public at all reasonable times. Any records or information relating to secret processes or secret methods of manufacture or production which may be obtained by the authority or other persons acting under Chapter 6123. of the Revised Code are confidential and shall not be disclosed.

Effective Date: 07-13-1970 .

6123.21 Liberal construction of statutes.

Sections [6123.01](#) to [6123.20](#), inclusive, of the Revised Code being necessary for the welfare of the state and its inhabitants shall be liberally construed to effect the purposes thereof.

Effective Date: 07-13-1970 .

6123.99 [Repealed].

Effective Date: 01-01-1974 .