



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 181 of the 128th G.A. **Date:** May 25, 2010
Status: As Re-referred to House Finance & Appropriations **Sponsor:** Sen. Stewart

Local Impact Statement Procedure Required: No — No local cost

Contents: Grants certain reclamation activities immunity from liability, authorizes cash transfers for certain Department of Natural Resources functions, and makes other changes

State Fiscal Highlights

Department of Natural Resources

- The bill authorizes the transfer of \$2.28 million in FY 2011 from the Bureau of Workers' Compensation's Coal Workers' Pneumoconiosis Fund to the Coal Mining Administration and Reclamation Reserve Fund (Fund 5260) to cover shortfalls for the regulation of coal mining activities.
- The bill authorizes the transfer of up to \$1.2 million during the FY 2011-FY 2012 biennium from the Natural Areas and Preserves Fund (Fund 5220) to the Departmental Projects Fund (Fund 1550) to support permanent staff of the Division of Natural Areas and Preserves.
- The Division of Mineral Resources Management could incur minimal administrative costs from Fund 5260 to implement the bill's reclamation immunity provisions.

Environmental Protection Agency

- The bill expands the permissible uses of the Clean Water and Drinking Water State Revolving Loan funds to include additional purposes consistent with federal law.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Overview

The bill contains provisions that affect the operations of the Division of Mineral Resources Management and the Division of Natural Areas and Preserves within the Department of Natural Resources (DNR). These provisions involve cash transfers from other sources to supplement funding for various functions carried out by these divisions. The bill also extends liability protections for reclamation activities on certain abandoned mine lands. In addition, the bill provides the Environmental Protection Agency with greater flexibility to fund projects supported by the Clean Water and Drinking Water Revolving Loan funds. Finally, the bill defines methane emitted by an abandoned coal mine as a renewable energy resource. The fiscal effects of these provisions are described in further detail below.

Department of Natural Resources

Cash transfer to support coal mine regulation

The bill authorizes the transfer of \$2.28 million in FY 2011 from the investment earnings of the Coal Workers' Pneumoconiosis Fund administered by the Bureau of Workers' Compensation (BWC), also known as the Black Lung Fund, to the Coal Mining Administration and Reclamation Reserve Fund (Fund 5260) in the Department of Natural Resources' budget. This transferred cash would be used to cover costs that the Division of Mineral Resources Management (DMRM) incurs for administering the Coal Regulatory Program, make up for an anticipated shortfall of approximately \$480,000 in federal funding, and offset a reduction in GRF appropriations for the Division in FY 2011. According to BWC, the Black Lung Fund contained net assets of \$191.4 million as of March 31, 2010, with anticipated investment earnings of \$10 million in FY 2010.

Immunity from liability for reclamation activities

The bill grants immunity from liability to eligible landowners and nonprofit organizations that provide access to qualifying abandoned mine lands for reclamation activities overseen by DMRM. This immunity would cover (1) injury or damage suffered by a person working under the direct supervision of the Division while the person is within the reclamation project work area, (2) injury or damage suffered by a third party due to an act or omission by the Division, (3) any failure of a Division-supervised acid mine drainage abatement facility constructed or installed during a reclamation project, and (4) the operation, maintenance, or repair of any acid mine drainage abatement facility constructed or installed during a reclamation project. The bill also requires a landowner to notify DMRM of known, latent, or dangerous conditions in the work area, and specifies that the immunity does not apply if the landowner fails to meet the notification requirements or otherwise engages in unlawful,

negligent, reckless, or other specified activities. The bill requires DMRM to adopt rules to implement these provisions, which could result in minimal administrative costs incurred by Fund 5260.

Cash transfer for Division of Natural Areas and Preserves employee salaries

Under current law, the Natural Areas and Preserves Fund (Fund 5220), which consists primarily of revenues from the donation of personal income tax refunds, or "check-offs," may be used to support the payroll costs of temporary and seasonal employees of the Division of Natural Areas and Preserves (DNAP). However, Fund 5220 may not be used to fund the salaries of permanent, full-time employees. The bill authorizes the transfer of up to \$1.2 million from Fund 5220 to the Departmental Projects Fund (Fund 1550) in order to pay the salaries of permanent DNAP employees during FY 2011 and FY 2012. The bill also requires DNR to submit a detailed report of expenditures paid using the transferred funds to the Speaker of the House of Representatives and the President of the Senate. Additionally, the bill specifies that if the 129th General Assembly does not appropriate funds for DNAP in its main operating budget act, then it is the intent of the 128th General Assembly that a portion of the transferred funds may be used to pay the unemployment compensation costs of former permanent DNAP employees.

Ohio Natural Areas Council

The bill reestablishes the Ohio Natural Areas Council in order to advise DNAP on the administration of nature preserves and the preservation of natural areas. The Council is to consist of at least five members to be appointed by the Director of Natural Resources. The bill prohibits members from receiving compensation or reimbursement for expenses related to their duties.

Environmental Protection Agency

The bill gives the Environmental Protection Agency (EPA) additional flexibility in administering the Clean Water and Drinking Water State Revolving Loan funds. This will allow the EPA to provide funding for additional projects consistent with federal law and offer some fiscal benefit to local governments.

Methane from abandoned coal mines

Currently, methane emitted by an abandoned coal mine is included in the statutory definition of an "advanced energy resource." The bill removes methane from this definition and instead classifies it as a "renewable energy resource." The effect of this provision would be to make coal mine methane an eligible resource for the purposes of renewable energy programs and renewable energy credits. However, there is no direct fiscal effect from the change in definition.