



# Ohio Legislative Service Commission

Tom Wert

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## Fiscal Note & Local Impact Statement

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**Bill:** Sub. S.B. 150 of the 130th G.A.

**Date:** November 13, 2013

**Status:** In Senate Agriculture

**Sponsor:** Sens. Hite and Peterson

**Local Impact Statement Procedure Required:** No

**Contents:** Modifies the laws governing the application of fertilizer and the abatement of agricultural pollution

### State and Local Fiscal Highlights

- The Department of Agriculture (AGR) would likely incur minimal costs to create a fertilizer applicator certification program and process applications for certification once the program is implemented. Any new costs could be at least partially offset by certification fees allowed under the bill. The fees would likely be deposited into the Pesticide, Fertilizer, and Lime Program Fund (Fund 6690).
- Modifications to penalties for violations of the Agricultural Additives, Lime, and Fertilizer Law under the bill could affect penalty revenues collected by AGR and county common pleas and municipal courts.
- The Division of Soil and Water Resources in the Department of Natural Resources and soil and water conservation districts would likely incur some new but minimal costs to develop and approve voluntary fertilizer management plans under the bill. The Division of Soil and Water Resources is supported by the GRF and solid waste disposal fees deposited into the Soil and Water Districts Assistance Fund (Fund 5BV0).
- Modifications affecting fertilizer inspection fees and licenses to manufacture or distribute fertilizer would likely have only a negligible effect on fees collected by AGR and deposited into Fund 6690.

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## Detailed Fiscal Analysis

The bill revises provisions and establishes new requirements governing the application of fertilizers and the abatement of agricultural pollution that may have fiscal implications for the Department of Agriculture (AGR), the Division of Soil and Water Resources within the Department of Natural Resources, and soil and water conservation districts. Provisions that may have fiscal effects include (1) a requirement that the Director of Agriculture create a fertilizer applicator certification program, (2) modifications to the enforcement of the Agricultural Additives, Lime, and Fertilizer Law, (3) the creation of voluntary fertilizer management plans affecting owners or operators of agricultural land, and (4) changes to fertilizer inspections and licensing of fertilizer distribution locations. The potential fiscal effects of these provisions are discussed in more detail under the headings below.

### **Fertilizer applicator certification**

The bill requires the Director of Agriculture to create a fertilizer applicator certification program and establish fees for the program. Under the bill, a person applying fertilizer in agricultural production is required to achieve certification by September 30th of the third year following the bill's effective date. Individuals applying "start-up" fertilizer through a planter or who apply fertilizer to 50 contiguous acres or less would not require certification. The bill requires individuals who are licensed as a commercial or private applicator of pesticides under continuing law to become certified but exempts them from certification fees. Uncodified language in the bill requires the Director to authorize applicants for commercial and private pesticide applicator licenses to obtain additional training and temporary certification in fertilizer application simultaneously with pesticide application training at no additional cost until rules establishing the certification program are adopted. These provisions would result in the Department of Agriculture (AGR) incurring costs to establish the certification program and to process applications for certification once the program is implemented. Any new costs could be offset by revenue from the certification fees. Ultimately, the net fiscal impact will be determined by the number of individuals that seek certification and the fees established by the Department. Certification fees would likely be deposited into the Pesticide, Fertilizer, and Lime Program Fund (Fund 6690).

### **Penalties for violations of the Agricultural Additives, Lime, and Fertilizer Law**

The bill grants the Director of Agriculture discretion in enforcing the Agricultural Additives, Lime, and Fertilizer Law. Under the bill, pursuant to a hearing, if the Director finds that a violation has occurred the Director may require the violator to pay a civil penalty in accordance with the schedule of civil penalties established in rules. Each day of violation would constitute a separate violation under the bill. The bill also modifies criminal penalties for violations. The bill reduces a first offense from a

misdeemeanor of the second degree to a misdemeanor of the third degree. Similarly, a second offense is reduced from a misdemeanor of the first degree to a misdemeanor of the second degree. Any additional offenses would be considered first degree misdemeanors under the bill. As a result, penalty revenues collected by AGR and county common pleas and municipal courts could be affected depending on the nature of offenses. Additionally, the bill specifically authorizes the Director to issue a written warning in lieu of initiating any enforcement action if the Director believes a written warning best serves the public interest. In this case, no penalty revenues would be collected.

### **Voluntary fertilizer management plans**

The bill creates voluntary fertilizer management plans for owners or operators of agricultural land that contain voluntary implementation schedules and operational procedures for the application of fertilizer. Under the bill, these plans may be developed by the Chief of the Division of Soil and Water Resources within DNR, the Chief's designee, the supervisors of the applicable soil and water conservation district or the owner or operator of agricultural land. The plans must meet standards established by the Chief and must be approved by either the Chief or the supervisors of the applicable soil and water conservation district. The Division of Soil and Water Resources, and soil and water conservation districts may incur new costs as a result of additional work to develop or approve voluntary fertilizer management plans. However, because the Division of Soil and Water and soil and water conservation districts already develop and approve operation and management plans for the abatement of agricultural pollution, any new costs are likely to be minimal at most. The Division of Soil and Water Resources is supported by the GRF and by fees associated with the disposal of various solid wastes and the sale of new tires which are deposited into the Soil and Water Districts Assistance Fund (Fund 5BV0).

### **Fertilizer inspections and fertilizer distribution licensing**

The bill modifies the inspection of fertilizer and licensing of fertilizer distribution locations. Under current law, the registrant of an agricultural additive or the holder of a license to manufacture or distribute fertilizer must pay an inspection fee of 28¢ for each metric ton or 25¢ for each standard ton of fertilizer it distributes in Ohio. The bill eliminates the fee based on metric tons and requires the 25¢ per ton fee to be paid on (1) all fertilizer distributed to a person that does not hold a fertilizer manufacturing or distribution license, (2) all fertilizer that the licensee applies during agricultural production if certified under the bill to do so, and (3) all fertilizer that a registrant distributes in Ohio. Additionally, the bill adds each location outside Ohio from which fertilizer is distributed into Ohio and all locations within Ohio from which fertilizer is distributed to the list of locations for which a \$5 license to manufacture and distribute fertilizer must be obtained. Under current law, only fixed locations and mobile units used to manufacture fertilizer, and out-of-state locations that distribute fertilizer to nonlicensees in Ohio, must be licensed. According to AGR, these provisions are not

likely to have more than a negligible fiscal effect. Inspection and licensing fees are deposited into the Pesticide, Fertilizer, and Lime Program Fund (Fund 6690).

### **Other provisions**

The bill contains several provisions that do not appear to have a significant fiscal effect. Among these include modifications to the composition of Ohio Soil and Water Conservation Commission, prohibiting DNR and soil and water conservation districts from releasing proprietary information that may be part of an operations and management plan, and changes to the Director of Agriculture's authority to revoke certain applicators licenses. Please see the LSC Bill Analysis for more information.

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