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H.B. 170
136th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsors: Reps. Robb Blasdel and Peterson

Local Impact Statement Procedure Required: No

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Highlights

- The bill establishes the framework for the regulation of carbon dioxide sequestration in underground wells by the Division of Oil and Gas Resources. While the Division's costs and revenues are likely to increase significantly, it is plausible for the overall fiscal effect to be neutral.
- The bill creates two new funds: the Carbon Capture Administrative Fund to pay the costs of administering the bill's regulatory requirements, and the Carbon Dioxide Storage Facility Fund to pay the costs of post-closure maintenance of carbon dioxide storage facilities. These funds are capitalized with per metric ton fees imposed on the owners and operators of carbon dioxide storage facilities, respectively.
- The bill provides for civil penalties of not more than \$10,000 or criminal penalties of \$100 to \$1,000 for a first offense, and \$200 to \$2,000 for subsequent offenses for each offense for anyone who violates the bill, and any rules adopted under it or any orders or terms or conditions of a permit regarding carbon capture. Each day of violation constitutes a separate offense. Continuing law specifies that offenders would not be subject to both civil and criminal penalties for the same offense.
- Funding to initiate the Division's carbon dioxide storage regulatory efforts would likely be paid from the Oil and Gas Well Fund (Fund 5180) until revenue in the Carbon Capture Administrative Fund was sufficient to pay the new program's costs.

Detailed Analysis

The bill establishes a framework by which the Ohio Department of Natural Resources (ODNR) Division of Oil and Gas Resources Management would regulate carbon capture and storage technologies and the sequestration of carbon dioxide for long-term storage in Class VI

injection wells. Under the bill, revenue collected and expenditures paid by the Division will both increase. It is likely that, eventually, both revenues and expenditures will total millions of dollars per year. However, it is difficult to quantify precisely due to several unknowns, including the overall scale of the program. In any case, it is plausible that the net fiscal effect will be neutral, as the bill allows the Chief of the Division of Oil and Gas Resources some leeway in establishing the amount of certain fees created by the bill. Therefore, this fiscal note assumes those fees will be set to cover the costs of the program. Details concerning the potential fiscal effects of the bill are provided under the headings below.

Funds and fees

Carbon Capture Administrative Fund

The bill creates the Carbon Capture Administrative Fund in the state treasury. Under the bill, the fund would consist of money collected from a per metric ton fee imposed on owners of carbon dioxide wells. Under the bill, the amount of this well owner fee is set by the Chief by rule. Money credited to the fund must be used to administer the bill's provisions associated with the injection and sequestration of carbon dioxide in Class VI injection wells or other purposes determined by the Chief. The bill specifies that all interest earnings of the fund are to be credited to the fund. Presumably, the fee amount established by the Chief would be sufficient to cover expenses of the program.

Carbon Dioxide Storage Facility Fund

The bill also creates the Carbon Dioxide Storage Facility Fund to defray Division expenses that are associated with post-closure care of sequestered carbon dioxide in a storage facility. This fee would be used to cover maintenance of the well, associated surface facilities, remediation of any environmental impacts from the injected carbon dioxide, and plugging and monitoring of the wells.

Under the bill, the fund consists of a per-ton fee imposed on storage facility operations set at a rate of 5.25¢ per metric ton of carbon dioxide injected for storage. The fund would also receive surety bonds or other financial responsibility mechanisms, penalties imposed for violations under the bill, and orders and terms and conditions of a permit issued under the bill. Because the bill does not establish specific penalties for violations, it is not clear what money would be deposited because of a violation or whether any penalties in existing law under Chapter 1509 would apply. The bill specifies that the fund retains any earned interest.

Statutory consolidation application processing fee

Under the bill, a storage facility operator or UIC Class VI permit applicant who has obtained the consent of the owners of at least 70% of the pore space¹ may submit a statutory consolidation application to pool the pore space in a single storage facility. The bill requires applicants to pay a processing fee based on the actual application processing costs incurred by the Division. The bill requires the Division to return any unused portion of an applicant's

¹ Under the bill, "pore space" is defined as "subsurface cavities and voids, whether natural or artificially created, that are suitable for use as a sequestration space for carbon dioxide."

processing fee to the applicant. The bill does not specify which fund the collected amounts would be credited to.

Certificates of project completion

The bill allows the Chief to issue a certificate of project completion after carbon dioxide injection into a storage facility ceases once conditions imposed under the bill are satisfied. However, the bill prohibits a certificate from being issued until at least 50 years after carbon dioxide injections ceased, or until an established alternative timeline, approved by the Chief, has elapsed. Once the certificate is issued, the storage operator is released from all regulatory requirements associated with the continued storage and maintenance of the storage facility, the operator's surety bond or other financial responsibility instrument is returned to the operator (unless one of the bill exceptions apply), and the state assumes primary responsibility and liability for the stored or injected carbon dioxide. Costs paid by ODNR for maintenance of storage facilities once the Department has assumed control would be paid from the Carbon Dioxide Storage Facility Fund.

Fines

The bill establishes civil and criminal penalties for each offense for anyone who violates the bill, and any rules adopted under it or any orders or terms or conditions of a permit regarding carbon capture. Civil penalties are capped at \$10,000 for each offense. Criminal penalties are set at \$100 to \$1,000 for a first offense and between \$200 and \$2,000 for subsequent offenses. The bill specifies that each day of violation constitutes a separate offense. Continuing law specifies that an offender would not be subject to both civil and criminal penalties for the same offense. Civil penalties collected under the bill would be deposited to the credit of the Carbon Dioxide Storage Facility Fund. Criminal fines would be retained by the county in which the offense occurred and deposited to the credit of the county general fund.

Seed funding

Although this fiscal note assumes the program would be fiscally self-sustaining once operational, the Division is likely to incur some costs to establish the program prior to the receipt of any revenue under the bill. If so, these costs would likely be paid from the Oil and Gas Well Fund (Fund 5180).