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Fiscal Note & Local Impact Statement

Bill: H.B. 105 of the 132nd G.A.

Status: As Introduced

Sponsor: Reps. Cera and Hill

Local Impact Statement Procedure Required: No

Subject: Distributes a portion of revenue deposited into the Oil and Gas Well Fund to certain political subdivisions for various defined purposes

State & Local Fiscal Highlights

- The bill requires revenue deposited to the credit of the Oil and Gas Well Fund (Fund 5180), in excess of $18.0 million each fiscal year, to be distributed to counties, townships, municipal corporations, and other entities to be used for capital improvement projects, road construction and maintenance, and other specified purposes.
- Based on current estimates that FY 2017 year-end revenues will exceed $52.0 million, more than $34.0 million could be transferred from Fund 5180 to political subdivisions each fiscal year for the various purposes specified under the bill.
- Seventeen counties in the Utica and Marcellus shale formation could receive more than $23.8 million each fiscal year of this excess revenue to support capital improvement projects, road construction and maintenance, and the purchase of firefighting and EMT equipment and vehicles.
- Under the bill, more than $10.2 million in excess Fund 5180 revenue could be distributed each fiscal year to counties, townships, and municipal corporations, with injection wells to support capital improvement projects and supplement general funds. A portion of this total would also be used to provide grants to specified entities, including state agencies, counties, townships, municipal corporations, and school districts to purchase or convert vehicles to use specified alternative fuels.

Detailed Fiscal Analysis

Overview

Under current law, all revenue credited to the Oil and Gas Well Fund (Fund 5180) (primarily oil and natural gas severance taxes and oil and gas administrative and permitting fees) must be used for regulatory and administrative activities of the Department of Natural Resources' (DNR) Division of Oil and Natural Gas Resources and the Division's idle and orphaned well plugging activities. The bill limits the amount credited to Fund 5180 that may be used for these purposes to $18.0 million per fiscal year. Under the bill, revenue in excess of $18.0 million per fiscal year would instead be distributed to certain political subdivisions for the following purposes: (1) to fund local capital improvements (50% of such revenue), (2) to fund township road construction and repairs (15%), (3) to provide grants for firefighting and EMT equipment (5%), (4) to fund local capital improvements in counties where injection wells are located (10%), (5) to provide general revenue for municipal corporations where injection wells are located (10%), and (6) to provide grants to local governments and school districts to convert their vehicles to alternative fuels (10%). The bill also requires an amount equal to the balance of Fund 5180 as of the end of FY 2017 to be distributed and used for these purposes. Overall, millions of dollars would be distributed to political subdivisions under the bill. Additional detail is discussed under the headings below.

Oil and Gas Well Fund (Fund 5180) revenue summary

Over the past several years, revenue deposited to the credit of Fund 5180 has grown significantly due to the expansion of oil and gas resources development in the Utica and Marcellus shale formations. For FY 2012, revenue deposited to the credit of Fund 5180 totaled slightly more than $7.2 million. By comparison, as of May 15, 2017, through the first ten accounting periods of FY 2017, Fund 5180 revenue was nearly $51.7 million. Total FY 2017 revenue is expected to be more than $52.0 million. Based on this amount, under the bill, more than $34.0 million ($52.0 million - $18.0 million) in excess revenue would be distributed to counties, townships, municipal corporations, and other entities as described below.

Distributions to the shale region

Under the bill, 70% of excess revenue in Fund 5180 is distributed to or otherwise benefits local governments located in the "shale region." Whether a local government is in the "shale region" for revenue distribution purposes depends on whether the subdivision is located in a county where one or more wells are producing oil or gas in the Utica or Marcellus formation. The bill requires the Director of DNR to calculate the number of producing wells in each such county as a proportion of the total number of such wells in all such counties and to certify each county's proportionate shale activity by June 15 of each year to the Office of Budget and Management (OBM) and the State Fire Marshal to enable them to distribute excess Oil and Gas Well Fund revenue. Based on calendar year 2016 production reports, the "shale region" would include 17 counties.[1] Based on current revenue for Fund 5180, more than $23.8 million ($34.0 million x 70%) could be distributed to shale region counties each fiscal year for the following purposes.

Shale region capital improvements

Under the bill, 50% of the excess revenue deposited into Fund 5180 each fiscal year would be distributed to shale region counties and paid to a special county fund to be allocated to the county and each municipal corporation and township in the county in the same proportion as Local Government Fund money is allocated through the county's undivided local government fund. Revenue received by a subdivision must be used to pay the costs of constructing or improving roads, bridges, waste water and water supply systems, and waste disposal and treatment facilities. Based on current FY 2017 year-end revenue estimates for Fund 5180, more than $17.0 million ($34.0 million x 50%) could be distributed to shale region counties for these purposes each fiscal year.

Shale region township roads

Under the bill, 15% of the excess revenue deposited in Fund 5180 each fiscal year would be directed to shale region counties for allocation to support the construction and maintenance of township roads. Under the bill specific use of the funding would be determined by a township road maintenance committee to be created in each county receiving funds and that consists of a trustee from each township in the county. Under the bill, in determining each township's share of the funding the committee must consider the number of road miles in the township, the amount of money received by the township for capital improvements under the bill's revenue distribution system, and the number and locations of producing oil and gas wells in the township. Based on current FY 2017 year-end revenue estimates for Fund 5180, more than $5.1 million ($34.0 million x 15%) could be distributed to shale region townships for these purposes each fiscal year.

Shale region firefighting and EMT equipment grants

Under the bill, 5% of the excess revenue deposited in Fund 5180 each fiscal year would be directed to a new fund, the Shale Region Firefighting Equipment Fund and used by the State Fire Marshal to provide grants to fire departments with a service area that includes territory in a shale region county. Under the bill, these grants could be used to purchase firefighting and EMT vehicles and equipment. Based on current FY 2017 year-end revenue estimates for Fund 5180, more than $1.7 million

[1] Based on calendar year 2016 production reports, "shale region" counties and their respective proportionate shale activity include: Carroll (30.7%), Harrison (19.3%), Belmont (14.1%), Monroe (10.3%), Noble (8.6%), Guernsey (8.6%), Columbiana (4.3%), Jefferson (1.9%), Mahoning (0.8%), Washington (0.4%), Tuscarawas (0.4%), Trumbull (0.2%), Stark, Morgan, Coshocton, Portage, and Muskingum (0.1% each).

($34.0 million x 5%) could be granted to shale region fire departments for these purposes each fiscal year.

Other distributions

The remaining 30% of excess revenue deposited in Fund 5180 each fiscal year would be distributed to certain counties, townships, municipal corporations, and school districts for specific purposes as described below.

Injection well – subdivision capital improvements

Under the bill, 10% of the excess revenue would be distributed to counties that have been certified by DNR as having a permitted well that stores brine and oil and gas drilling waste (injection well) during the preceding year. Each eligible county under this provision would receive an amount in proportion to the number of injection wells located in the county compared to the number of all injection wells in the state. Funding received by each county under this provision would then be allocated to the county, townships and municipal corporations in the county in the same proportions as Local Government Fund money is allocated through the county's undivided local government fund. Revenue received by a subdivision under this provision must be used to pay the costs of capital improvements. Based on current revenue trends for Fund 5180, more than $3.4 million ($34.0 million x 10%) could be distributed to counties, townships, and municipal corporations under this provision each fiscal year.

Injection well – township and municipal general revenue

Under the bill, 10% of the excess revenue deposited in Fund 5180 each fiscal year would be distributed to each municipal corporation or township in which an injection well is located. This distribution would be deposited into each entity's general fund and could be used for operating expenses or any other purpose. Allocations to eligible municipal corporations and townships would be determined by the volume of brine and other water injected into each well within the respective entity's boundaries during the preceding year compared to the total amount injected into wells statewide. Under this provision, more than $3.4 million ($34.0 million x 10%) could be distributed to township and municipal corporation general funds each fiscal year based on current revenue trends for Fund 5180.

Gaseous fuel vehicle conversion program

The remaining 10% of excess revenue deposited in Fund 5180 each fiscal year would be distributed to a new state fund to provide grants to state agencies, political subdivisions, school districts, transit systems, and nonprofit corporations for the conversion of vehicles to operate on compressed or liquefied natural gas or liquefied petroleum gas, or for the purchase of gaseous fuel vehicles. These grants would be awarded by the Director of Environmental Protection. Based on current revenue trends, more than $3.4 million ($34.0 million x 10%) could be awarded each fiscal year under the grant program.

Fiscal year 2017 fund balance transfer

In addition to requiring the annual transfer of excess Fund 5180 revenue, the bill requires an amount equal to the balance of Fund 5180 as of the end of fiscal year 2017 to be transferred from the fund and used for the purposes and programs described above. This one-time transfer must occur by the end of fiscal year 2018. As of May 15, 2017 the cash balance in Fund 5180 was nearly $38.4 million.

Well plugging program

Under continuing law, DNR has a duty to plug oil and gas wells that have been abandoned or for which the bond has been forfeited ("idle and orphaned wells"), restore land affected by drilling or extraction, and take corrective actions to avoid imminent health or safety risks at an idle and orphaned well or a well for which the owner cannot be contacted. Current law requires the Chief of DNR's Division of Oil and Gas Resources Management to annually spend at least 14% of the Oil and Gas Well Fund's revenue to pay costs associated with those purposes.

The bill removes the requirement for the Chief to use 14% of the fund's revenue for these purposes, but gives the Chief permissive authority to do so. Instead, the bill annually credits 14% of the revenue in the Oil and Gas Well Fund, up to the $18 million limit, to the new Well Plugging Fund. Thus, a maximum of $2.52 million ($18 million x 14%) could be credited to the Well Plugging Fund in a fiscal year via this required transfer mechanism. The Chief is required to use all revenue in the Well Plugging Fund to pay costs associated with plugging idle and orphaned oil and gas wells and corrective actions related to such wells.

Funded by this dedicated revenue source, the bill creates a new program within DNR's Division of Oil and Gas Resources Management called the Well Plugging Program, which is required to develop and maintain an inventory of all known and suspected idle and orphaned wells and prioritize the plugging of those wells based on each well's risk to public health and safety. The Chief must provide staff assistance to the program and prepare a report for the General Assembly detailing the resources needed to develop a statewide inventory of idle and orphaned wells. Additionally, the bill requires the Chief to annually report the Division's well plugging activities to the General Assembly.

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