



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

Substitute Bill Comparative Synopsis

Sub. H.B. 175

134th General Assembly

Senate Agriculture and Natural Resources

Helena Volzer, Attorney

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Passed by the House)	Latest Version (I_134_1042-3)
Ephemeral features and Water Pollution Control Laws	
Excludes all ephemeral features from regulation under Ohio Water Pollution Control Laws, including the section 401 water quality certification program (<i>R.C. 6111.01(H) and (V)</i>).	Instead, does all of the following: <ol style="list-style-type: none"> 1. Excludes only ephemeral features that are not subject to regulation by the U.S. Army Corps of Engineers (Corps) under the federal Clean Water Act from the Ohio Water Pollution Control Law; 2. Establishes a specific set of requirements and procedures that apply to impacts to ephemeral features that are subject to regulation by the Corps under the federal Clean Water Act,

Previous Version (As Passed by the House)	Latest Version (I_134_1042-3)
	<p>including mitigation requirements and best management practices (see below);</p> <p>3. Prohibits the Director of Environmental Protection (OEPA) from imposing any requirements beyond those specified with respect to any activity impacting such ephemeral features (<i>R.C. 6111.01(H) and (V); R.C. 6111.31 to 6111.316</i>).</p>
Mitigation and best management practices	
No provision.	<p>Establishes all of the following requirements concerning those ephemeral features over which the Corps has regulatory authority:</p> <ol style="list-style-type: none"> 1. Mitigation requirements and standards that apply when a feature will be permanently impacted; 2. Mitigation requirements and standards that apply when a feature will be temporarily impacted; and 3. Best management practices that the Director may impose for: <ol style="list-style-type: none"> a. Permanent impacts when the Director requires a person to conduct mitigation by constructing an equivalent area of channel or site-specific measurement to provide a geomorphically stable feature in the impacted watershed; and b. Any temporary impact (<i>R.C. 6111.313(B) and 6111.315</i>).
Monitoring and reporting requirements	
No provision.	<p>Specifies both of the following:</p> <ol style="list-style-type: none"> 1. Monitoring and reporting requirements that the Director may impose on a person conducting mitigation for a permanent impact by constructing an equivalent area of channel or site-

Previous Version (As Passed by the House)	Latest Version (I_134_1042-3)
	<p>specific measurement to provide a geomorphically stable feature in the impacted watershed; and</p> <p>2. Additional reporting and demonstration requirements that the Director may impose (such as providing the minimum acreage of the mitigation and demonstrating other factors regarding the mitigation) up to two years after the completion of construction of any required mitigation <i>(R.C. 6111.314(A) and (B))</i>.</p>
Exclusions from mitigation requirements and procedures	
No provision.	<p>Exempts both of the following from the bill's mitigation requirements and procedures:</p> <ol style="list-style-type: none"> 1. A restoration or enhancement project that will result in a net improvement of water quality when the person demonstrates as part of the mitigation proposal that the project will result in that net improvement; and 2. A dredge and fill project that impacts $\frac{3}{100}$ of an acre or less of streambed (specifying that if culvert maintenance or replacement is involved, only an impact that goes beyond the existing culvert structure must be included in the impacted streambed acreage calculation) <i>(R.C. 6111.316(A) and (B))</i>.
Interagency Review Team appointees	
No provision.	Requires the Director of OEPA, the Director of Natural Resources, and the Director of Transportation to each appoint an agency designee and an alternate to the federal Interagency Review Team (IRT) (which reviews documentation and advises Corps district engineers on mitigation projects) and specifies both of the following:

Previous Version (As Passed by the House)	Latest Version (I_134_1042-3)
	<ol style="list-style-type: none"> 1. Each appointed person must have significant experience in at least one specified subject area (wetland or stream restoration, enhancement and protection of wetlands or streams, or compensatory mitigation plan development); 2. At least one appointee must maintain minutes of IRT meetings and those minutes are a public record (<i>R.C. 6111.31(A) and (B)</i>).
Standards for evaluating mitigation proposals and other associated requirements	
No provision.	<p>Regarding a provision of current law that requires all substantive standards used by the Director to evaluate section 401 water quality certification mitigation proposals to be adopted via rule in accordance with the Administrative Procedure Act, specifies all of the following:</p> <ol style="list-style-type: none"> 1. The provision applies to all substantive standards used by the IRT when reviewing documentation related to mitigation activities; 2. The provision applies to any guidance or guidelines used by the Director or the IRT; 3. That a mitigation proposal may include proposals involving a wetland mitigation bank or stream mitigation bank, in-lieu fee mitigation, or permittee responsible mitigation; and 4. That the provision also applies to the establishment of performance metrics, a request for credit release, or termination of monitoring requirements (<i>R.C. 6111.31(C)</i>).

Previous Version (As Passed by the House)	Latest Version (I_134_1042-3)
No provision.	Eliminates a provision of current law authorizing the Director to use additional mitigation standards, criteria, etc. (without going through administrative procedures) in reviewing a mitigation proposal if the Director notifies the applicant in advance that additional standards will be considered as part of the review process (<i>R.C. 6111.31(C)</i>).
No provision.	<p>Regarding the timing and implementation of the changes to the provisions of current law, specifies all of the following:</p> <ol style="list-style-type: none"> 1. The Director must review and adopt the substantive standards not later than 24 months after the bill's effective date; 2. Beginning on the date the Director adopts the standards or 24 months after the bill's effective date, whichever is earlier, standards that have not been adopted by rule do not have the force of law and cannot be used in the review of any certification, permit denial, or as a standard of mitigation; 3. The administrative actions taken by the Director are not subject to requirements governing the elimination of existing regulatory restrictions; and 4. Until the effective date of actions taken by the Director or 24 months after the bill's effective date, whichever is earlier, the Director may continue evaluating the adequacy of a mitigation proposal contained in an application for a section 401 water quality certification in accordance with current law (<i>R.C. 6111.31(C) and Section 4</i>).

Previous Version (As Passed by the House)	Latest Version (I_134_1042-3)
Property tax exemption	
No provision.	Establishes a property tax exemption for property held by a 501(c)(3) organization organized for conservation purposes if either of the following apply: <ul style="list-style-type: none">1. The property is subject to a mitigation requirement pursuant to a section 401 water quality certification or isolated wetland permit; or2. The property is a nature water project that receives funding through the H2Ohio program (<i>R.C. 5709.09 and Section 3</i>).