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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 7  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 7's Bill Analysis](#)

**Version:** As Passed by the House

**Primary Sponsors:** Reps. Ghanbari and Patterson

**Local Impact Statement Procedure Required:** No

Shannon Pleiman, Budget Analyst and other LBO staff

### Highlights

- The bill creates the H2Ohio Trust Fund for the purpose of protecting, preserving, and improving the water quality in the state through loans, land purchases, or grants to fund cooperative research. The H2Ohio Trust Fund is to be funded through appropriations, proceeds from real property transactions, and the issuance of obligations by the Treasurer of State (TOS). The fund is created as a custodial fund, not in the state treasury and is limited to disbursing up to \$100 million per fiscal year.
- The bill requires the Ohio Water Development Authority (OWDA) to be trustee of the H2Ohio Trust Fund and disburse money for approved funding recommendations for water quality activities coordinated by the H2Ohio Advisory Council. OWDA may incur increased administrative costs to oversee the H2Ohio Trust Fund and other expenses to possibly contract with investment advisors or accountant experts, and to pay for other services related to overseeing the H2Ohio Trust Fund.
- The TOS may incur additional expenses to serve as the Executive Director of the H2Ohio Trust Fund. The TOS is responsible for requesting distributions of excess GRF revenues at the end of each fiscal year, in an amount to be determined by the Director of Budget and Management, to pay for these water quality activities. Those funds would be deposited in the H2Ohio Trust Fund.
- The bill creates the H2Ohio Advisory Council to coordinate grant and loan programs, support research, and oversee water quality initiatives to be funded by the H2Ohio Trust Fund. The departments of Agriculture and Natural Resources, as well as the Ohio Environmental Protection Agency, may incur costs to prepare annual plans detailing the use of moneys they receive from the H2Ohio Trust Fund.

- The Department of Natural Resources will incur new costs to conduct a pilot program to study the environmental impact of water withdrawals on stream flow under the bill.

## Detailed Analysis

### H2Ohio Trust Fund

The bill creates the H2Ohio Trust Fund (hereafter Trust Fund), to be funded by moneys appropriated to it, proceeds from the issuance of obligations, some proceeds from real property transactions, loan repayments, and bequests. The Trust Fund is established as a custodial fund, not in the state treasury, meaning that appropriations of the General Assembly would not be required to disburse moneys from the Trust Fund. Funds are administered by the H2Ohio Advisory Council and the Ohio Water Development Authority (OWDA) for the purpose of protecting, preserving, and improving the water quality in the state. These purposes are to be achieved fiscally through development loans, land purchases, and grants to fund water quality research. The bill limits disbursements from the Trust Fund to \$100 million per fiscal year.

The bill allows the Trust Fund to be used for the following purposes: (1) the disbursement of funds by OWDA, (2) acquisition of real property or interests in real property by OWDA, (3) administrative expenses incurred by the H2Ohio Advisory Council and OWDA, (4) costs and expenses related to the issuance of obligations and functions of OWDA, and (5) costs and expenses related to the investment of the Trust Fund.

The bill requires OWDA to serve as trustee of the Trust Fund, including the authority to invest money in the Trust Fund; the bill specifies that earnings of the Trust Fund are to be credited to the Trust Fund. The bill authorizes the Treasurer of State (TOS) to enter into bond proceedings based on recommendations from OWDA. The obligations are backed by (1) repayments of loans issued from the Trust Fund, (2) moneys received from the lease, sale, or other disposition or use of projects funded from the Trust Fund, (3) accrued interest received from the sale of obligations, (4) income from the investment of money in the Trust Fund, (5) any gifts, grants, donations, or pledges, and receipts available for the payment of debt service, and (6) additional or any other specific revenues or receipts available for the payment of debt services. The obligations are not general obligations the repayment of which would be backed by the full faith and credit of the state. Net proceeds of obligations are to be deposited into the Trust Fund.

The bill requires the TOS to serve as the Executive Director of the Trust Fund, and to coordinate efforts between OWDA, the H2Ohio Advisory Council, and the TOS. The additional administrative duties could result in additional expenses for the TOS.

Additionally, the bill creates the H2Ohio Bond Service Fund, which is to consist of all revenues received and required by bond proceedings and all other money transferred or allocated to or received for the purposes of the fund.

### Ohio Water Development Authority

The Trust Fund may also be used to provide for the administrative expenses incurred by the OWDA. OWDA may incur costs to appoint administrative, investment, financial, or accounting experts as necessary to carry out OWDA's duties and buying, selling, or leasing real property. The bill provides that the costs and expenses related to the functions of OWDA are to be paid from the Trust Fund. OWDA is a quasi-public agency and its operating budget is not

subject to the appropriation process. Operating expenses, including employee salaries and fringe benefits, of OWDA are supported by administrative fees charged as a percentage of the total cost of each project OWDA assists by providing financing.

## Transfer of surplus GRF revenues requested by OWDA

The bill changes the existing formula for the disposition of surplus GRF revenues, defined in R.C. 131.44(B)(1). Surplus GRF revenues at the end of a fiscal year, if any, are deposited in the Budget Stabilization Fund (BSF) until the target level of 8.5% of GRF revenue is reached under current law. Under the bill, the TOS is to submit a request by June 1 each year to the Director of Budget and Management to transfer an amount of the surplus revenue to the Trust Fund. If additional surplus revenue above the amount reserved to the BSF is available, the bill provides that an amount up to the amount requested by the TOS, as determined by the Director of Budget and Management and approved by the Controlling Board, is allocated to the Trust Fund. Once the distribution to the Trust Fund is made, the current law distribution formula resumes, and distributions are made to the Income Tax Reduction Fund (ITRF).

Surplus GRF revenues are not available every fiscal year. The following table shows the surplus GRF revenue amounts from FY 2014 to FY 2018. As the table shows, surplus revenue has been distributed to the BSF in four of the last five fiscal years. In those fiscal years, moneys would have been available for transfer to the Trust Fund. Transfers to the Trust Fund as under the bill would have the effect of reducing amounts available for the ITRF, thereby reducing amounts available to be returned to Ohio income taxpayers. The requests and needs of OWDA, and hence the fiscal effect on the ITRF and other funds is yet unknown.<sup>1</sup> Biennial budgets sometimes include provisions which supersede a statutory formula; in such a case the formula described above and potential fiscal impact would be changed.

GRF Ending Balance and Distributions by Fiscal Year (\$ in millions)					
Fiscal Year as of June 30	GRF Ending Balance *	Amount Retained by the GRF	Surplus Revenue	Transfer to BSF in July	Transfer to Other Funds
FY 2014	\$1,277.4	\$146.2	\$1,131.2	\$0.0	\$1,131.2
FY 2015	\$1,286.5	\$157.4	\$1,129.1	\$425.5	\$703.6
FY 2016	\$764.7	\$169.5	\$595.2	\$29.5	\$565.7
FY 2017	\$170.9	\$170.9	\$0.0	\$0.0	\$0.0
FY 2018	\$849.9	\$162.4	\$687.5	\$657.5	\$30.0

\*GRF ending cash balance less reservations for prior year encumbrances

<sup>1</sup> The authorized retained balance reflects moneys set aside pursuant to law for specific purposes such as pre-funding the cost of subsequent fiscal years' income tax reductions. More information regarding disposition of the GRF surplus ending balance in a particular fiscal year is available on the Office of Budget and Management website in the July edition of that year's Monthly Financial Report.

## **H2Ohio Advisory Council**

The bill creates the H2Ohio Advisory Council consisting of 18 members for the purpose of (1) setting priorities of the Trust Fund detailed in a statewide strategic vision and comprehensive periodic water protection and restoration strategy, (2) reviewing and approving annual plans submitted by the departments of Agriculture and Natural Resources, and the Ohio Environmental Protection Agency (EPA), (3) setting procedures for loan and grant applications, and (4) notifying the public on how to apply for loans and grants from the Trust Fund. The Advisory Council, in coordination with the Ohio Lake Erie Commission, is required to prepare an annual report detailing the revenues, expenses, and activities of the Trust Fund during the prior fiscal year. Advisory Council members will be reimbursed for their actual and necessary traveling and other expenses incurred in their official Advisory Council duties.

## **Departments of Agriculture, Natural Resources, and Environmental Protection Agency**

The departments of Agriculture and Natural Resources, as well as the Ohio EPA are required to prepare an annual plan detailing how the money will be spent under the Trust Fund for programs that address water quality issues for the year covered by the plan. The bill also requires these agencies to include internal auditing mechanisms in the plan to ensure funded projects are achieving the intended water quality improvements. The audits are required to be completed at least once every 12 months after a funded project is implemented. The agencies must prepare an annual plan by March 1 of each year. As a result, these agencies may have to hire new employees to prepare an annual plan and may incur a cost to conduct annual audits. The number of new employees needed would ultimately depend on the scope of priorities and program development to be included in the annual plan. The H2Ohio Advisory Council must approve the annual plan in whole or part before an agency expends money appropriated to it from the Trust Fund.

## **Stream flow monitoring program**

The Department of Natural Resources (DNR) will incur more than minimal new costs to conduct a pilot program to study the environmental impact of water withdrawals on stream flow under the bill. The bill requires DNR to conduct the program using continuous stream flow monitoring technology and conclude the study on or before December 31, 2021. Upon conclusion of the study, the bill requires DNR to report the study's findings to the General Assembly.

According to DNR, stream flow monitoring programs vary from project to project, including differences in the types of equipment that may be needed, installation requirements, accessibility to monitoring locations, and maintenance at each particular stream monitoring station that might be included in the study. Due to these variables, it is difficult to determine a specific cost to implement the study. On average, stream flow monitoring gauges cost approximately \$25,000 per year to operate and maintain. Since several of these gauges may be needed to conduct the study, it is plausible that the pilot program could cost a considerable amount of money.