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OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 119
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Sen. Reineke

Local Impact Statement Procedure Required: Yes

Robert Meeker, Budget Analyst

Highlights

- The Ohio Environmental Protection Agency could see an increase of up to \$77.2 million annually from increased solid waste transfer and disposal fees and construction and demolition debris (C&DD) fees.
- The Department of Agriculture could see an increase of up to \$9.5 million from increased solid waste transfer and disposal fees and C&DD fees.
- Local boards of health could see an increase of \$10.2 million annually from increased C&DD fees offset somewhat by the potential loss of one-time and ongoing permit and licensing fees should a new or existing solid waste facility be prohibited from licensing under the bill's rules. Additionally, additional revenue may be distributed to local boards of health via the new Local Landfill Oversight Fund, created under the bill, the magnitude of which is unknown.
- Counties and solid waste districts could see anywhere from a loss of \$7.5 million to an increase of \$52.2 million annually based on the standardization of locally retained solid waste disposal fees as well as increased administrative costs as a result of the unilateral withdrawal of a member of a solid waste management district (SWMD).
- Local subdivisions paying either solid waste disposal or C&DD fees will see increased expenses when paying for waste disposal fees directly, and will likely see increased contract costs for community waste collection and disposal, which, in time, may be mitigated as those costs are passed on to consumers.

Detailed Analysis

The bill generally (1) raises solid waste transfer and disposal fees, (2) raises construction and demolition debris (C&DD) fees, (3) places prohibitions on solid waste facility permits, and (4) allows certain counties to unilaterally withdraw from a joint solid waste district.

Solid waste management

State solid waste disposal fee changes

The bill increases total state fees on the transfer or disposal of solid waste (trash and other wastes) from \$4.75/ton to \$8.50/ton, an increase of 78.9%. Table 1 below shows that increased fees could result in annual revenues of \$126.9 million per year, an increase of \$56.0 million over FY 2022 revenues of \$70.9 million.

Fund	Fee per Ton (Current)	Fee per Ton (S.B. 119)	FY 2022 Revenue	Projected Annual Revenue (S.B. 119)
Hazardous Waste Facility Management Fund (Fund 5030)	\$0.20	\$0.17	\$2,976,000	\$2,537,000
Hazardous Waste Cleanup Fund (Fund 5050)	\$0.70	\$0.95	\$10,477,000	\$14,179,000
Solid Waste Fund (Fund 4K30)	\$0.75	\$1.42	\$11,238,000	\$21,194,000
Environmental Protection Fund (Fund 5BC0)	\$2.85	\$4.44	\$42,507,000	\$66,267,000
Soil and Water Conservation District Assistance Fund (Fund 5BV0)	\$0.25	\$0.39	\$3,696,000	\$5,821,000
National Priority List Remedial Support Fund (new fund)	--	\$0.13	--	\$1,940,000
Local Landfill Oversight Fund (new fund)	--	\$1.00	--	\$14,925,000
Total	\$4.75	\$8.50	\$70,894,000	\$126,863,000

As shown in Table 1 above, solid waste fee revenue is distributed between five funds under current law and seven funds under the bill including two new funds discussed in more detail below. The Soil and Water Conservation District Assistance Fund (Fund 5BV0), managed by the Department of Agriculture, will see an increase in annual revenues of \$2.1 million under the

bill. The remaining revenue increases, or \$53.8 million, will be to funds administered by Ohio Environmental Protection Agency (Ohio EPA), including two newly established funds:

The National Priority List Remedial Support Fund to consist of money credited to it from the collection of a 13¢ per ton fee collected on the transfer or disposal of solid waste. The bill requires Ohio EPA to use money deposited to the fund for the state's removal and remedial actions and long-term operation and maintenance costs for actions taken under the federal "Comprehensive Environmental Response, Compensation, and Liability Act" (CERCLA). The bill permits Ohio EPA to use money in the fund to enter into contracts with federal, state, or local government agencies, nonprofit organizations, colleges, and universities to carry out those removal and remedial duties on behalf of the agency.

The Local Landfill Oversight Fund to consist of money credited to it from the collection of a \$1.00 per ton fee collected on the transfer or disposal of solid waste. The bill requires the Ohio EPA Director to distribute moneys collected in the previous fiscal year to local boards of health based on the proportion of waste disposed of in each district. Districts, in turn, are required to use money distributed to them for the enforcement of solid waste laws.

The only fund to see a decrease in fee revenue under the bill is the Hazardous Waste Facility Management Fund (Fund 5030) which is used by Ohio EPA's Division of Environmental Response and Revitalization to pay for the costs of regulating facilities that generate, treat, store, or dispose of hazardous waste and used oil, and of providing technical assistance and outreach to the regulated community and the public. Under the bill, Fund 5030 will see revenues decrease by about \$439,000 per year.

Solid waste fees – county or joint solid waste management district

The bill permits a county or solid waste district to levy a fee of \$7.50 per ton or \$3.35 per cubic yard on the disposal of solid waste at a solid waste disposal facility within the district regardless of where the waste was generated. Under current law, a county or joint district is permitted to establish the rates for such disposal based on the where the waste is generated:

- For waste generated within the county/district: not less than \$1 per ton and not more than \$2 per ton;
- For waste generated outside the county/district: not less than \$2 per ton and not more than \$4 per ton;
- For waste generated outside of the state: not less than the fee for waste generated within the county/district.

Based on statewide fees for FY 2022, if all districts charged the per ton fee, \$111.9 million could be generated by this fee annually. Local revenue data is not available, but under current law the fee could generate revenues of between \$59.7 million and \$119.4 million based on a minimum fee of \$4/ton and a maximum fee of \$8/ton. According to practitioners, it is also possible that there are districts that would opt to not charge the fees as permitted by the bill.

The bill also modifies how revenue is distributed among members in a joint solid waste district. Under the bill, when a county or joint district without a solid waste disposal facility enters into an agreement with a county or district for the joint use of solid waste facilities, the generating county or district is to receive 50% of disposal fees for solid waste generated within the territory. Under current law the generating county or district receives an amount equal to

the difference between fees assessed on waste generated inside the receiving county or district and fees assessed on waste generated outside of the county or district.

County withdrawal from an SWMD

The bill allows a county that generates 75% or more of a joint solid waste management district's (SWMD) annual revenue to unilaterally withdraw from that district without the approval of the other counties comprising the joint district.

The bill (1) requires the board of county commissioners of the unilaterally withdrawing county to submit a copy of the withdrawal resolution to the board of directors of the joint district and to the Ohio EPA Director, and (2) the withdrawal to occur not later than 90 days after the county submits the withdrawal resolution to the board of directors of the joint district and requires the Ohio EPA Director to take all actions necessary to effectuate the withdrawal within that 90-day period. The bill prohibits the Director from requiring the withdrawing county to rejoin the joint district from which it is withdrawing.

Potential fiscal effects for any affected SWMD is difficult to predict, however, at a minimum any affected SWMD would be required to create a new solid waste plan which would increase administrative costs for the district.

Solid waste facility permit

The bill prohibits Ohio EPA or a board of health from issuing or renewing a permit for a new or expanded solid waste facility unless the facility will serve the public interest, convenience, and necessity. The result will be a potential decrease in permit fees remitted to Ohio EPA and local boards of health.

There are over 50 fees collected through Ohio EPA's waste management programs including solid waste facilities, and scrap tire monocell or monofill facilities – and excluding hazardous waste and infectious waste facilities. Fees include application fees and annual licensing fees ranging from \$100 (various) to \$80,000 (maximum scrap tire monocell or monofill permit). A number of annual facility license fees include a \$2,500 portion retained by a local health district.

Construction and demolition debris (C&DD) fee changes

The bill increases fees associated with the transfer or disposal of C&DD from a total of 85¢/cubic yard or \$1.70/ton to \$3.75/cubic yard or \$7.50/ton. Table 2 below shows that these increased fees could result in annual revenues of \$53.3 million per year, an increase of \$40.9 million over FY 2022 revenues of \$12.5 million.

Fund	Current Fee	Fee Under S.B. 119	FY 2022 Revenue	Projected Annual Revenue, S.B. 119
Local Boards of Health*	\$0.27 per cubic yard or \$0.54 per ton**	\$1.19 per cubic yard or \$2.58 per ton**	\$2,979,000	\$13,130,000

Table 2. C&DD Fee Revenue, FY 2022 Compared to Projected Future Revenues by Fund

Fund	Current Fee	Fee Under S.B. 119	FY 2022 Revenue	Projected Annual Revenue, S.B. 119
Solid Waste Fund (Fund 4K30)	\$0.03 per cubic yard or \$0.06 per ton**	\$0.14 per cubic yard or \$0.28 per ton**	\$829,000	\$3,869,000
Soil and Water Conservation District Assistance Fund (Fund 5BV0)	\$0.125 per cubic yard or \$0.25 per ton	\$0.55 per cubic yard or \$1.10 per ton	\$2,162,000	\$9,512,000
Recycling and Litter Prevention Fund (Fund 5320)	\$0.375 per cubic yard or \$0.75 per ton	\$1.55 per cubic yard or \$3.10 per ton	\$6,485,000	\$26,806,000
Total	\$0.80 per cubic yard or \$1.60 per ton	\$3.43 per cubic yard or \$7.06 per ton	\$12,455,000	\$53,316,000

*This fee may also be collected directly by Ohio EPA.

**The "up to" amounts permitted under the Revised Code for these fees (both current laws and under the bill) are slightly higher, but the amounts reflected in the table illustrate what is currently being assessed, or predicted to be assessed once enacted.

As shown in Table 2 above, C&DD fee revenue is distributed between local boards of health and three state funds. Local boards of health will see an aggregate annual increase of \$10.2 million. The Soil and Water Conservation District Assistance Fund (Fund 5BV0), managed by the Department of Agriculture, will see an increase in annual revenues of \$7.4 million under the bill. The remaining revenue increases, or \$23.4 million, will be to funds administered by Ohio EPA.

A portion of the fee increased under the bill which is designated to be used to fund and conduct ground water monitoring at C&DD facilities by boards of health and Ohio EPA is not currently collected as the administrative rule regulated its collection was rescinded in 2016 and is not reflected in the table above. The fee increases to up to 22¢/cubic yard or 44¢/ton from up to 5¢/cubic yard or 10¢/ton and could add an estimated additional \$4.0 million annually split between local boards of health (\$780,000) and Ohio EPA's C&DD Facility Ground Water Monitoring Fund, Fund 5BT0, (\$3.3 million) should it be collected.

Local subdivision and state waste disposal costs

Because of the bill's solid waste disposal and C&DD fee increases, local subdivisions may see increased costs when: (1) disposing of their own locally generated waste, and (2) contracting with a waste collection and disposal company to dispose of community-generated waste such as city-wide trash collection. Increased contract costs for community waste collection and removal, may, in time, be passed along to consumers through increased fees or other cost recovery mechanisms such as property taxes.

State agencies may also be impacted by these increased costs, the extent of which would vary from agency to agency.