



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: S.B. 1 of the 131st G.A.

Date: February 24, 2015

Status: As Passed by the Senate

Sponsor: Sens. Gardner and Peterson

Local Impact Statement Procedure Required: No

Contents: Revises various laws relative to agriculture, natural resources, and environmental protection, and declares an emergency

State Fiscal Highlights

Department of Agriculture and Department of Natural Resources

- **Application of fertilizer and manure.** The bill prohibits the application of fertilizer and manure in the western basin of Lake Erie on frozen ground, saturated soil, and during certain weather conditions. The Department of Agriculture and the Department of Natural Resources will incur new oversight costs as a consequence.
- **Penalties.** The oversight costs both departments incur would be offset to a certain degree by civil penalties collected from violators. Presumably, the proceeds from any potential penalties imposed would be deposited into the Pesticide Program Fund (Fund 6690) used by the Department of Agriculture and the Soil and Water Districts Assistance Fund (Fund 5BV0) used by the Department of Natural Resources.

Ohio Environmental Protection Agency

- **Federal Safe Drinking Water grants.** If Ohio fails to enact the bill's revisions to the statute governing the prevention of lead contamination of drinking water, it becomes ineligible to receive certain federal grant program funds amounting to roughly \$24 million a year, of which over 89%, or \$21.4 million, is distributed to local governments in the form of loans and grants.
- **Nutrient loading study.** If the Director of Environmental Protection opts to study nutrient loading in the Lake Erie basin and the Ohio River basin, the cost incurred over a two-year period is estimated at \$200,000, with required subsequent updates each costing \$30,000.
- **Dredged material prohibition.** The fiscal implications of the bill's provisions related to prohibiting generally the depositing of dredged material in Lake Erie and tributaries (effective July 1, 2020) are uncertain.

- **Strategic plan for harmful algae monitoring and response.** The one-time costs for the Ohio EPA to develop the strategic plan for harmful algae monitoring and response are uncertain.

Local Fiscal Highlights

- **Federal Safe Drinking Water grants.** If Ohio fails to enact the bill's revisions to the statute governing the prevention of lead contamination of drinking water, local governments would lose around \$21.4 million annually that is distributed by the Ohio Environmental Protection Agency to local governments in the form of loans and grants. In addition, local governments would no longer be eligible to apply directly to the U.S. Environmental Protection Agency for infrastructure grants that run in the millions of dollars annually.
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Detailed Fiscal Analysis

The bill makes a number of changes to laws pertaining to the application of fertilizer and manure on frozen fields and other water quality matters overseen by the Department of Agriculture, the Department of Natural Resources, and the Ohio Environmental Protection Agency. The bill's fiscal implications are detailed below.

Prohibition against application of fertilizer and manure on frozen fields

The bill prohibits, with certain exceptions, the application of fertilizer and manure in the western basin of Lake Erie under specified conditions. Specifically, the prohibition would apply in the following situations: (1) when the soil is snow-covered or frozen, (2) when the top two inches of soil are saturated from precipitation, or (3) when the weather forecast calls for greater than 50% chance of precipitation exceeding one-half inch in a 24-hour period. The bill requires the Director of Agriculture to administer the fertilizer provisions and the Chief of the Division of Soil and Water Resources within the Department of Natural Resources to administer the manure provisions. Both departments will be responsible for investigating complaints and enforcing the prohibitions when necessary, leading to new oversight and enforcement costs. However, these costs will at least be partially offset by civil penalties collected from violators. Receipts would likely be deposited into the Pesticide Program Fund (Fund 6690) used by the Department of Agriculture and the Soil and Water Districts Assistance Fund (Fund 5BV0) used by the Department of Natural Resources.

Under the bill, the fertilizer and manure provisions cease to operate five years after the bill's effective date unless the standing committees of the General Assembly that are primarily responsible for agriculture and natural resources matters jointly recommend continuing the prohibitions and their enforcement. The bill requires the committees to jointly review the effectiveness of the prohibitions and their enforcement not later than four years after the bill's effective date. The committees must issue a joint

report to the Governor containing their findings and recommendations. If they recommend continuing the prohibitions and their enforcement, they may also recommend revisions to the governing statutes.

Funding for conservation measures in the Western Lake Erie Basin

The bill amends earmarking language under the Department of Natural Resources' budget for FY 2014-FY 2015 that specifies the use of GRF appropriation item 725505, Healthy Lake Erie Fund. Currently, this appropriation item is to be used by the Director of Natural Resources in consultation with the directors of Agriculture and Environmental Protection to implement nonstatutory recommendations of the Agriculture Nutrients and Water Quality Working Group. Instead, the bill requires the appropriation item to be used in support of conservation measures in the Western Lake Erie Basin and for funding assistance for soil testing, winter cover crops, edge-of-field testing, tributary monitoring, animal waste abatement, and any additional efforts to reduce nutrient runoff. The FY 2015 appropriation for this line item is \$500,000. As of February 2015, DNR had distributed just under \$450,000 in grants and local assistance under this GRF line item. This leaves approximately \$50,000 that would be distributed in accordance with the revised uses permitted under the bill.

Lead contamination of drinking water from plumbing

The bill revises the statute governing the prevention of lead contamination of drinking water from plumbing, including certain prohibitions, required actions of the owner or operator of a public water system, and definitions. These revisions reflect changes to state law necessitated by amendments to the federal Safe Drinking Water Act signed into law on January 4, 2011. The state of Ohio and its political subdivisions become ineligible to receive this federal grant funding if it does not comply. Ohio's compliance with these federal amendments is a condition of the Ohio Environmental Protection Agency's (Ohio EPA) primacy agreement with the U.S. Environmental Protection Agency (U.S. EPA) to administer the Safe Drinking Water Act in Ohio, which includes about \$24 million in annual federal grant funding. Of the \$24 million, 11% is retained by the Ohio EPA for technical assistance and administration costs, and 89% is distributed to local governments in the form of grants and loans. Local governments would also become ineligible to apply directly to the U.S. EPA for infrastructure-related grants running in the millions of dollars annually.

Study of nutrient loading to Ohio watersheds

The bill permits the Director of Environmental Protection to conduct a study of nutrient loading to Ohio watersheds, with subsequent updates required biennially. Ohio EPA has estimated the two-year cost of the study at \$200,000. This total includes: (1) \$80,000 for staff allocated to the study, (2) \$70,000 for a contract with a state of Ohio university for development of a spreadsheet tool to estimate the relative contributions from point and nonpoint sources, and (3) \$50,000 to contract with the U.S. Geological

Survey for assistance with nutrient modeling. Subsequent updates are expected to cost around \$30,000.

Dredging material in Lake Erie and tributaries

The bill: (1) prohibits, beginning July 1, 2020, the depositing of dredged material that resulted from harbor or navigation maintenance activities in Lake Erie and tributaries unless authorized by the Director of Environmental Protection, and (2) requires the Director work with the U.S. Army Corps of Engineers on a dredging plan that focuses on long-term planning for the disposition of dredged material. The fiscal implication of the dredged material prohibition is uncertain. The presumably one-time cost to develop the required dredging plan is uncertain as well.

Strategic plan for harmful algae monitoring and response

The bill requires the Director of Environmental Protection or the Director's designee to prepare a strategic plan for monitoring water intake of harmful algae, providing support and training for monitoring intake of harmful algae, promoting emergency response, and potentially expanding to cover other waters of the state. The Director of Environmental Protection is required to consult with the directors of Agriculture, Health, and Natural Resources and representatives of local governments, publicly owned treatment works, and public water systems. The one-time costs to develop the strategic plan are uncertain.