Ohio Legislative Service Commission

Bill Analysis

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H.B. 510

128th General Assembly
(As Introduced)

Reps. Carney, Domenick

BILL SUMMARY

- Establishes a dam construction permit pilot program.
- Requires the Chief of the Division of Soil and Water Resources in the Department of Natural Resources to determine the filing fee for an eligible dam project for purposes of the pilot program.
- Authorizes the Chief to accept a surety bond or other security for an eligible dam project that is less than the surety bond or other security required under current law governing dams, and authorizes the Chief to accept incremental surety bond or other security amounts in accordance with specified requirements.
- Prohibits the bond or other security from being released until the reservoir is filled to a normal operating pool level and final approval is given by the Chief if the eligible dam project cannot be filled to the normal operating pool level within one year after the approval of the completed construction.
- Requires the Chief within 30 days after the issuance of the construction permit for the eligible dam project that is the subject of the pilot program to submit a report to the General Assembly outlining the Chief's findings as to the efficacy of the pilot program.

CONTENT AND OPERATION

Current law generally requires a person who wishes to construct a dam to obtain a construction permit from the Chief of the Division of Soil and Water Resources in the Department of Natural Resources. In order to obtain a permit, the person must submit copies of the dam's plans and specifications, including a detailed cost estimate, and a filing fee that is based on the cost estimate determined in accordance with a statutory

schedule. The filing fee cannot be less than $1,000 or more than $100,000. (R.C. 1521.06, not in the bill.) The person also must file a surety bond or other security conditioned on satisfactory completion of the project. The bond or other surety must be in an amount that is equal to 50% of the estimated cost of the project. (R.C. 1521.061, not in the bill.)

The bill establishes a dam construction permit pilot program for which the Chief of the Division of Soil and Water Resources is required to select one eligible dam project (Section 1(B)). Under the bill, "eligible dam project" means a proposed upground reservoir that has an estimated construction cost exceeding $40 million (Section 1(A)). The bill requires the eligible dam project to comply with all applicable requirements established in and rules adopted under current law governing dams, except as discussed below (Section 1(B)).

The bill states that notwithstanding the specific requirements regarding the amount of a filing fee established in current law, as discussed above, the filing fee for an eligible dam project for purposes of the pilot program, must be determined by the Chief, but cannot exceed 1% of the detailed cost estimate for the eligible dam project that is filed with and approved by the Chief (Section 1(C)).

Additionally, under the bill, the Chief may accept a surety bond or other security for an eligible dam project that is less than the surety bond or other security otherwise required under current law, as discussed above, if the applicant for the permit demonstrates a lesser cost to mitigate a potential failure of the eligible dam project during construction or first filling of the eligible dam project. The bill also authorizes the Chief to accept incremental surety bond or other security amounts scheduled over the construction period of the eligible dam project if the applicant demonstrates that the incremental amounts are sufficient to mitigate a potential failure during different phases of construction. The Chief is required to include the phased surety schedule as a term of the permit issued for the eligible dam project under current law governing dams. (Section 1(D)(1).)

The bill states that if the eligible dam project cannot be filled to the normal operating pool level within one year after the approval of the completed construction, the bond or other security cannot be released until: the reservoir is filled to a normal operating pool level and final approval is given by the Chief. The bill also states that the bond or other security for the eligible dam project must be released within 30 days after the approval of the Chief has been given. (Section 1(D)(2).)

The bill requires that within 30 days after the issuance of the construction permit for the eligible dam project that is the subject of the dam construction permit pilot program, the Chief must submit a report to the General Assembly outlining the Chief's findings as to the efficacy of the pilot program. The report may include

recommendations regarding statutory changes necessary for the effective regulation of dams in Ohio. (Section 1(E).) The provisions of the bill expire upon the submission of the report (Section 1(F)).

HISTORY

ACTION	DATE
Introduced	05-13-10

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