



Ohio Legislative Service Commission

Bill Analysis

Eric Vendel

S.B. 181

128th General Assembly

(As Re-referred to S. Environment & Natural Resources)

Sens. Stewart, Goodman, Schaffer, Seitz

BILL SUMMARY

- Grants an eligible landowner qualified immunity from liability for: (1) injury or damage suffered by a person working under the direct supervision of a reclamation project sponsor or by a third party that arises out of or occurs as a result of an act or omission of a reclamation project sponsor or as a result of the reclamation project, (2) any pollution resulting from a reclamation project, or (3) generally the operation, maintenance, or repair of any water pollution abatement facility constructed or installed during a reclamation project.
- Requires an eligible landowner to notify a reclamation project sponsor of a known, latent, or dangerous condition at a reclamation project work area that is not the subject of the reclamation project.
- Provides that the immunity does not apply to an eligible landowner if the landowner fails to notify a project sponsor as described above, the landowner engages in unlawful acts with respect to a reclamation project, or the injury or damage results from a landowner's reckless acts or omissions, gross negligence, or willful or wanton misconduct.

CONTENT AND OPERATION

Immunity from liability of eligible landowner in relation to reclamation project

The bill provides that, with certain exceptions described below, an "eligible landowner" is immune from liability as follows (terms in quotation marks are defined in "**Definitions**," below):

(1) For any injury to or damage suffered by a person working under the direct supervision of the "reclamation project sponsor" while the person is within the "reclamation project work area";

(2) For any injury to or damage suffered by a third party that arises out of or occurs as a result of an act or omission of the reclamation project sponsor during the implementation of the "reclamation project";

(3) For any injury to or damage suffered by a third party that arises out of or occurs as a result of the reclamation project;

(4) For any pollution (see **COMMENT 1**) resulting from a reclamation project;

(5) For the operation, maintenance, or repair of any water pollution abatement facility constructed or installed during a reclamation project unless the eligible landowner negligently damages or destroys the water pollution abatement facility or denies access to the reclamation project sponsor who is responsible for the operation, maintenance, or repair of the water pollution abatement facility. (R.C. 1513.151(B).)

Notification of dangerous condition; exceptions to immunity

The bill requires the eligible landowner to notify a project sponsor of a known, latent, or dangerous condition located at a reclamation project work area that is not the subject of the reclamation project. The immunity of an eligible landowner provided by the bill does not apply to any injury, damage, or pollution (see **COMMENT 1**) resulting from the landowner's failure to notify the project sponsor of such a known, latent, or dangerous condition. (R.C. 1513.151(C).)

The immunity additionally does not apply in both of the following circumstances:

(1) An injury to a person within the reclamation project work area that results from an eligible landowner's acts or omissions that are reckless or constitute gross negligence or willful or wanton misconduct;

(2) An eligible landowner who engages in any unlawful activities with respect to a reclamation project. (R.C. 1513.151(D).)

Rules

The bill requires the Chief of the Division of Mineral Resources Management in the Department of Natural Resources to adopt rules under the Administrative Procedure Act that are necessary to implement the bill (R.C. 1513.151(E)).

Definitions

The bill defines the following terms:

(1) "Eligible landowner" means a landowner who provides access to abandoned mine lands located on the landowner's land or water resource, without charge or other consideration, for the purpose of allowing the implementation of a reclamation project on the abandoned mine lands. "Eligible landowner" does not include a person that is or will become responsible under state or federal law to reclaim the land or address water pollution existing or emanating from the land as a result of past coal mining. (See **COMMENT 2**.)

(2) "Landowner" means a person who holds a fee interest in real property.

(3) "Reclamation project" means reclamation and any water pollution abatement project associated with the reclamation conducted in compliance with the Coal Surface Mining Law and the Water Pollution Control Law and rules adopted under those Laws, as applicable, on abandoned mine lands located on land owned by an eligible landowner.

(4) "Reclamation project sponsor" means a person that provides equipment, materials, or services at no cost or at cost for a reclamation project. "Reclamation project sponsor" does not include a person that is or will become responsible under state or federal law to reclaim the land or address water pollution existing or emanating from the land as a result of past coal mining.

(5) "Reclamation project work area" means the portion of a parcel of real property on which a reclamation project is conducted. (R.C. 1513.151(A).)

COMMENT

1. The Coal Surface Mining Law defines "pollution" as placing any sediments, solids, or waterborne mining related wastes, including, but not limited to, acids, metallic cations, or their salts, in excess of amounts prescribed by the Chief of the Division of Mineral Resources Management into any waters of the state or affecting the properties of any waters of the state in a manner that renders those waters harmful or inimical to the public health, or to animal or aquatic life, or to the use of the waters for domestic water supply, industrial or agricultural purposes, or recreation (R.C. 1513.01(N), not in the bill).

2. The Coal Surface Mining Law defines "reclamation" as backfilling, grading, resoiling, planting, and other work that has the effect of restoring an area of land affected by coal mining so that it may be used for forest growth, grazing, agricultural,

recreational, and wildlife purpose, or some other useful purpose of equal or greater value than existed prior to any mining (R.C. 1513.01(P), not in the bill).

HISTORY

ACTION	DATE
Introduced	10-06-09
Referred, S. Judiciary - Civil Justice	10-20-09
Re-referred, S. Environment and Natural Resources	11-18-09

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