



Ohio Legislative Service Commission

Bill Analysis

Bethany Boyd

H.B. 134

130th General Assembly
(As Introduced)

Reps. Cera, Antonio, Driehaus, O'Brien, Slesnick, Fedor, R. Hagan, Barborak

BILL SUMMARY

- Authorizes a municipal corporation to transfer, to its general fund, surplus water works funds received under contracts for the sale of water for use in well stimulation, in an amount not to exceed the amount collected under the contracts during the preceding year.

CONTENT AND OPERATION

Transfer of surplus water works funds

The bill authorizes the legislative authority of a municipal corporation that contracts for the sale of water from its water works for use in well stimulation, including hydraulic fracking, to transfer all or a portion of its surplus water works funds to the municipal corporation's general fund in the manner provided in existing law, as explained below. The amount transferred in any calendar year cannot exceed the amount collected under the terms of the contract or contracts for the sale of water for use in well stimulation during the preceding calendar year.¹

The bill appears to apply only to municipal corporations that do not have charters, or whose charters are silent regarding the transfer of surplus water works funds. This statement is supported by an Attorney General's Opinion advising that a municipality operating under a charter may lawfully provide in its charter that the surplus revenues arising from the operation of a municipally owned waterworks plant may be used for general municipal purposes.²

¹ R.C. 743.05(C).

² 1915 O.A.G. vol. 1, p. 973 (1915).

Process for transferring surplus water works funds

Existing law allows the taxing authority of a political subdivision, in this case, the council or other legislative authority of a municipal corporation, to transfer from one fund to another any public funds under its supervision, except for certain types of proceeds specified in law, for example, proceeds derived from tax levies.³ Briefly, to initiate the transfer of surplus water works funds as authorized by the bill, the council or legislative authority of the municipal corporation must adopt a resolution declaring the necessity for the transfer of those funds and must prepare a petition that contains information about the fund, addressed to the court of common pleas of the county in which the funds are held. A copy of the petition must be forwarded to the Tax Commissioner for examination and approval.

If the Tax Commissioner approves the petition, it is marked with such approval and forwarded to the court. The Tax Commissioner also notifies the petitioner of the approval, and the petitioner files the petition with the court. The petitioner gives notice, in a newspaper of general circulation in the territory affected by the transfer of funds, of the petition and the time it will be heard, and the court hears the approved petition. Those objecting to the transfer of funds may file objections and are entitled to be heard. After the hearing, if the court finds that notice was properly given, that the petition states sufficient facts, that there are good reasons, or that a necessity exists, for the transfer, and that no injury will result from it, the court must grant the petition and order that the funds be transferred.

If the petition is disapproved by the Tax Commissioner, it is returned within ten days of its receipt to the petitioner who submitted it, with a memorandum of the Commissioner's objections.⁴

"Well stimulation"

Continuing law defines "well stimulation" as the process of enhancing well productivity, including hydraulic fracturing operations. And a "well" is any borehole, whether drilled or bored, within Ohio for production, extraction, or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil field waters.⁵

³ R.C. 5705.15, not in the bill.

⁴ R.C. 5705.16, not in the bill.

⁵ R.C. 1509.01(A) and (Z), not in the bill.



HISTORY

ACTION

DATE

Introduced

04-17-13

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