

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 372** DATE: **December 8, 2008**

STATUS: **As Reported by Senate Energy, Natural Resources & Environment** SPONSOR: **Sen. Niehaus**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **To extend the Environmental Audit Privilege Law sunset date from January 1, 2009 to January 1, 2014 and to declare an emergency**

State Fiscal Highlights

- No new direct fiscal effect on the state. The bill extends the sunset date of the Environmental Audit Privilege Law and the Ohio Environmental Protection Agency's responsibility for overseeing the law from January 1, 2009 to January 1, 2014. The agency has received approximately 100 such applications under this law since its inception in 1997.

Local Fiscal Highlights

- No new apparent direct fiscal effect on political subdivisions. Extending the sunset of the Environmental Audit Privilege Law from January 1, 2009 to January 1, 2014 could lead to a small reduction in the number of court cases and related prosecution and adjudication costs that might otherwise occur absent the extension.



Detailed Fiscal Analysis

Background

The bill extends the Environmental Audit Privilege Law sunset date from January 1, 2009 to January 1, 2014. The law was originally enacted in 1997 and is enforced by the Ohio Environmental Protection Agency (EPA). It allows regulated entities to perform voluntary self-audits to determine compliance with current environmental regulations. The law also gives these entities privilege of not having the information contained in the audits used against them in future civil or administrative proceedings, and gives them immunity from civil penalties for any violations that are found as a result of the audit. Additionally, the law sets out exemptions from the privilege and immunity provisions above. The bill would retain these specific exemptions, which are listed in the LSC bill analysis. The bill also declares an emergency to ensure that it goes into effect before the existing January 1, 2009 sunset date arrives.

Applications and EPA costs

Since the Environmental Audit Privilege Law was enacted, there have been approximately 100 applications for privilege or immunity based upon voluntary audits undertaken by regulated entities. Of those requests, approximately 40 have been approved, 40 have been denied, and 20 are still pending. Because there are very few applications in any given year, the EPA does not devote any full-time employees to handle these cases directly. Rather, the cases are absorbed into the workload of current agency employees within various divisions of the agency. As a result, the extension of this program will not result in any new costs to the agency.

Local fiscal impacts

Extending the Environmental Audit Privilege Law could forestall some litigation that would otherwise occur in common pleas courts if the law were to sunset. However, since the EPA has approved few applications under the law, the savings would be minimal.

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