



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 294 of the 129th G.A.

Date: May 1, 2012

Status: As Passed by the Senate

Sponsor: Sen. Schaffer

Local Impact Statement Procedure Required: No

Contents: Environmental protection law changes

State Fiscal Highlights

STATE FUND

FY 2013 – FUTURE YEARS

Certain State Special Revenue (SSR) Funds

Revenues Factors gaining and losing revenues, with net minimal annual effect

Expenditures Factors increasing and decreasing expenditures, with net minimal annual effect

Note: The state fiscal year is July 1 through June 30. For example, FY 2013 is July 1, 2012 – June 30, 2013.

- The bill's various environmental law changes will result in a mix of revenue gains/losses and expenditures increases/decreases to various non-GRF funds used by the Ohio Environmental Protection Agency (EPA) and the Department of Natural Resources. The net annual effect on the revenues or expenditures of any of these funds will be minimal.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2012 – FUTURE YEARS

Certain Local Boards of Health

Revenues Annual loss in infectious waste fees of around \$40,000 statewide plus annual gain in construction and demolition debris fees of around \$10,000 statewide

Expenditures Changes in expenditures mirroring revenue gains or losses for specified activities

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The elimination of the requirement that the EPA remit half of the annual infectious waste generator registration and renewal fees to certain local boards of health will reduce the revenue distributed to the latter by around \$40,000 per year. However, the bill also eliminates the requirement that these local boards of health perform compliance inspections that were funded by this state funding.
- The change in the assessment of solid waste disposal and construction and demolition debris fees will result in an annual revenue increase of \$9,628 distributed to certain local boards of health. This money will be credited to special local funds for rule enforcement and monitoring ground water quality.

Detailed Fiscal Analysis

Construction and demolition debris fees

Revenue decrease. Under current law, asbestos or asbestos-containing material or products may be disposed of at construction and demolition debris (C&DD) or municipal solid waste (MSW) landfills that have the proper permits. C&DD landfills assess a disposal fee of \$1.70 per ton, while MSW landfills assess a disposal fee of \$4.75 per ton because the material is considered solid waste. Under the bill, both of these types of facilities will assess the C&DD disposal fee of \$1.70 on this material. This change will eliminate the solid waste disposal fee revenue that would otherwise have been collected at MSW landfills statewide and forwarded for deposit in the state treasury to various funds used by the Ohio Environmental Protection Agency (EPA) and the Department of Natural Resources (DNR). The estimated total loss in state revenue is around \$82,000 per year. The affected state funds and the estimated annual revenue loss for each are summarized in the table below.

Estimated Annual Revenue Loss for State Funds Receiving Solid Waste Disposal Fees			
State Agency	Fund	Fund Name	Annual Revenue Decrease*
EPA	4K30	Solid Waste	\$17,195
EPA	5030	Hazardous Waste Facility Management	\$8,598
EPA	5050	Hazardous Waste Cleanup	\$8,598
EPA	5BC0	Environmental Protection Fund	\$42,988
DNR	5BV0	Soil and Water Districts	\$4,299
Total			\$81,678

* These estimates are based on the amount of asbestos or asbestos-containing material or products disposed in MSW landfills in 2010.

Revenue increase. This disposal fee change will also generate revenue for certain state and local funds, as the fees collected for the disposal of asbestos or asbestos-containing material or products at MSW landfills will be distributed differently from solid waste disposal fees. The estimated total increase in state and local revenue is around \$29,000 per year. The affected state and local funds and the estimated annual revenue increase for each are summarized in the table below.

Estimated Annual Revenue Increase for State and Local Funds Receiving C&DD Disposal Fees			
Agency	Fund	Fund Name	Annual Revenue Increase*
Local Boards of Health	----	C&DD Rule Enforcement	\$9,285
Local Boards of Health	----	C&DD Groundwater Monitoring	\$343
EPA	5BTO	C&DD Groundwater Monitoring	\$1,376
EPA	4U70	C&DD	\$1,032
DNR	5BV0	Soil and Water Districts	\$4,299
DNR	5320	Litter Control and Recycling	\$12,896
Total			\$29,231

* These estimates are based on the amount of asbestos or asbestos-containing material or products disposed in MSW landfills in 2010.

Net effect of revenue changes. The net effect of the above-described revenue changes will be a minimal annual decrease in revenues used by the EPA, a minimal annual increase in revenues used by DNR, and an at most minimal annual increase in revenues credited to certain local boards of health.

Safe Drinking Water Law enforcement

The bill creates criminal penalties for violations of the Safe Drinking Water Law. As these penalties mirror existing general criminal law provisions that are currently used for prosecuting such violations, there will be no state or local fiscal effects. Under current law, the EPA has investigated an average of three cases per year with one of those three typically being referred to the Attorney General for further action.

Water supply and wastewater system operator certification fees

Under current law, the EPA is the only provider of water supply and wastewater system certification examinations. Potential operators pay a \$45 application fee and an examination fee ranging from \$35 to \$100, both of which are deposited into the Drinking Water Protection Fund (Fund 4K50). Under the bill, potential operators will instead pay a single examination fee of \$80 to \$145. The replacement of the application fee and the examination fee by a single examination fee is expected to produce a minimal administrative cost savings.

The bill also allows for entities other than the EPA to provide certification examinations and creates a one-time \$500 application fee to become such a provider. It is expected that at least two entities, and possibly more over time, could become certified examination providers. Initially, \$1,000 in one-time provider application fees is expected to be collected and credited to Fund 4K50.

Approximately 50% of the operators currently taking EPA-provided examinations are expected to switch to examinations by approved providers. Individuals taking certification examinations from these providers will be responsible for paying an examination fee to the provider (not collected or set by the EPA) as well

as a new \$45 certification fee to the EPA. Additionally, examination providers must pay a new annual fee equal to 10% of the fees that the providers collect for the administration of certification examinations. The inclusion of private providers and related changes to the fee schedule is expected to decrease revenue to Fund 4K50 by \$60,000 annually.

Isolated wetlands

The bill authorizes DNR to establish and operate a wetland mitigation bank and authorizes the EPA or DNR to establish and operate an in-lieu fee mitigation program. The potential increase in either state agency's annual operating expenses is likely to be no more than minimal.

Coal combustion waste

The bill exempts coal combustion wastes from solid waste management district generation fees. Under current law, an exemption exists for wastes disposed of at facilities that are used exclusively to dispose of coal combustion waste and are owned by the generators. The expansion of this exemption is expected to have a minimal impact on state and local revenues, as most coal combustion waste is currently disposed of using the exemption available under current law.

Infectious waste

The bill makes various changes to the fees associated with the generation, transportation, and treatment of infectious waste. These fee changes will lead to an estimated annual decrease in revenue for the Infectious Waste Management Fund (Fund 6600) of around \$48,000, and an estimated annual decrease of around \$40,000 in remittances from the fund to certain local boards of health.

State revenues. Ohio currently has 868 generators of infectious waste across 3,882 registered locations. Under current law, these generators pay a \$300 registration certificate fee every three years. This fee structure raises an average of \$86,800 annually. Approximately 40% of the 3,882 registered locations in Ohio generate more than 50 pounds of infectious waste in any month. Under the bill, only these locations will be subject to the revised fee schedule. As a result, the amount of generator revenue credited to Fund 6600 annually will decrease to \$38,820, a loss of \$47,980 per year.

Health districts. Eliminating the requirement that half the fees be remitted to local boards of health will reduce Fund 6600's annual expenditures by \$40,050. The largest recipient of these funds in FY 2011 was Lucas County, which received \$9,000. The elimination of this distribution requirement is not expected to have a fiscal impact on local boards of health as the funding was designated to reimburse them for conducting compliance inspections of infectious waste generators and the bill eliminates that requirement.