
DEPARTMENT OF NATURAL RESOURCES

State Park Maintenance Fund

- Creates the State Park Maintenance Fund, and requires the Department of Natural Resources (ODNR) to use Fund money only for maintenance, repair, and renovation projects at state parks that are approved by the ODNR Director.
- Authorizes the ODNR Director to request the Director of Budget and Management (OBM) to annually transfer cash to the State Park Maintenance Fund in an amount not exceeding 5% of the annual average revenue received by the State Park Fund.
- For FY 2018:
 - Requires, on July 1, 2017, or as soon as possible thereafter, that the ODNR Director certify 5% of the average of the previous five years of deposits in the State Park Fund to OBM.
 - Authorizes OBM to transfer up to \$1.5 million from the State Park Fund to the State Park Maintenance Fund at that time.
- Prohibits ODNR from using money in the State Park Maintenance Fund to construct new facilities.

Wildfire suppression payments

- Increases the money annually available for wildfire suppression payments from ODNR to local firefighting agencies or companies from up to \$100,000 to up to \$200,000.
- Eliminates the Wildfire Suppression Fund and the required annual transfer of money from the State Forest Fund to it for wildfire suppression payment purposes.
- Requires wildfire suppression payments to be made directly from the State Forest Fund.
- Replaces the Chief of the Division of Forestry with the ODNR Director or the Director's designee as the state agent responsible for distributing money for wildfire suppression payments to firefighting agencies or companies.

Injection Well Review Fund

- Eliminates the Injection Well Review Fund.



- Requires the 15% portion of permit fees collected under the injection well permit program that were deposited in the Injection Well Review Fund to instead be deposited in the Geological Mapping Fund.
- Requires the permit fees deposited in the Geological Mapping Fund to be used by specified Divisions within ODNR to execute ODNR's duties under the Class II injection well permit program.

Property tax valuation of oil and gas reserves (VETOED)

- Would have specified that a discounted cash flow formula used to value certain producing oil and gas reserves for property tax purposes is the only method for valuing all oil and gas reserves.

Oil and Gas Well Fund

- Requires the OBM Director, in consultation with the Chief of the Division of Oil and Gas Resources Management, to establish an accounting code to track expenditures from the Oil and Gas Well Fund that are associated with plugging idle and orphaned wells.

Oil and Gas Leasing Commission (VETOED)

- Would have required the Speaker of the House and the President of the Senate to appoint the four appointed members of the Oil and Gas Leasing Commission instead of the Governor.

Liability coverage for oil and gas wells

- Authorizes a board of county commissioners of a county that is an owner of an oil and gas well to comply with liability coverage requirements by participating in a joint self-insurance pool in accordance with the law governing those pools.
- Allows liability insurance companies *approved* to do business in Ohio, in addition to liability insurance companies authorized to do business in Ohio as under continuing law, to provide coverage to an owner of any oil and gas well.

Mine Regulation and Safety Fund

- Eliminates the Unreclaimed Lands Fund, the Surface Mining Fund, the Mining Regulation Fund, and the Coal Mining Administration and Reclamation Reserve Fund and consolidates them into a new fund called the Mining Regulation and Safety Fund.



- Allocates all money that was credited to the consolidated Funds to the Mining Regulation and Safety Fund.
- Specifies that the purposes for and the authorized expenditures from the consolidated Funds now apply to the Mining Regulation and Safety Fund.
- Reallocates money derived from the severance tax on coal (including coal mined by surface mining), salt, limestone, dolomite, sand, gravel, clay, sandstone or conglomerate, shale, gypsum, or quartzite to the new Fund in specified percentages.
- Prohibits Fund money that is derived from severance taxes from the mining of limestone, dolomite, sand, or gravel from being used for coal mining and reclamation purposes.

Surface mining safety inspections

- Eliminates the requirement that the Chief of the Division of Mineral Resources Management conduct at least two safety inspections following a year in which a surface mining operation identified a lost-time accident rate that was greater than the national average.
- Instead of the above requirement, requires the Chief to conduct at least two safety inspections during the year following an inspection conducted by the federal Mine Safety and Health Administration that found three or more violations per day.
- Authorizes the Chief, in consultation with a statewide association that represents the surface mining industry, to adopt rules establishing exceptions to the safety inspection requirement.

Dam construction filing fee and annual fee

- Eliminates the statutorily imposed filing fee schedule for dam construction permits, and requires the Chief of the Division of Water Resources to adopt rules establishing the fee schedule.
- Eliminates the statutorily imposed fee schedule for annual fees required to be submitted by owners of Class I, Class II, or Class III dams, and requires the Chief to adopt rules establishing the annual fee schedule.

Aquatic species

- Requires the Chief of the Division of Wildlife to establish a risk assessment policy for aquatic species.



- Requires the risk assessment policy to provide for both:
 - An evaluation of overall risk of a species based on best available biological information derived from professionally accepted science and practices; and
 - A determination of whether a species should be listed as an injurious aquatic invasive species.

Nonresident hunting and fishing permits and licenses

- Increases the nonresident fees for a deer or wild turkey permit, hunting license, or fishing license.
- Specifies that a nonresident on active duty in the U.S. Armed Forces, while on leave or furlough, is eligible to obtain a deer or wild turkey permit at the resident rate.

Game quadruped includes elk

- Adds elk to the list of game quadruped animals, which effectively allows ODNR to regulate and manage the propagation, preservation, and protection of elk.

State Park Maintenance Fund

(R.C. 1501.08; Section 343.20)

The act creates the State Park Maintenance Fund, and requires the Department of Natural Resources (ODNR) to use money in the Fund for maintenance, repair, and renovation projects at state parks that are approved by the ODNR Director. The act authorizes the ODNR Director to request the Director of Budget and Management (OBM) to annually transfer cash to the State Park Maintenance Fund from the State Park Fund in an amount not exceeding 5% of the average revenue received by the State Park Fund. However, for FY 2018, it does both of the following:

(1) Requires, on July 1, 2017, or as soon as possible thereafter, that the Director certify 5% of the average of the previous five years of deposits in the State Park Fund to OBM; and

(2) Authorizes OBM to transfer up to \$1.5 million from the State Park Fund to the State Park Maintenance Fund at that time.

ODNR cannot use money in the State Park Maintenance Fund to construct new facilities. In order to receive money for projects, the Chief of the Division of Parks and



Watercraft must submit to the Director a list of projects. The Chief must include with each request a description of necessary maintenance, repairs, and renovations at state park facilities, and the Director must determine which projects are eligible for disbursement from the Fund. The Chief may not begin any project for which a request was submitted before obtaining the Director's approval.

Wildfire suppression payments

(R.C. 1503.141 and 1503.05)

The act revises procedures for wildfire suppression payments made to local firefighting agencies and companies. First, it increases the money annually available for the payments from up to \$100,000 to up to \$200,000. Next, it eliminates the Wildfire Suppression Fund, from which the payments had been made, and, accordingly, the required annual transfer of money to it from the State Forest Fund for the payments. Instead, it requires the payments to be made directly from the State Forest Fund. Finally, it replaces the Chief of the Division of Forestry with the Director, or the Director's designee, as the state agent responsible for distributing money for wildfire suppression payments to firefighting agencies or companies.

Injection Well Review Fund

(R.C. 1505.09 and 6111.046; repealed R.C. 1501.022)

The act eliminates the Injection Well Review Fund and redirects the 15% of the permit fees collected under the injection well permit program that were previously deposited in it to the Geological Mapping Fund. ODNR's use of the money from the permit fees appears to remain unchanged. The Divisions of Mineral Resources Management, Oil and Gas Resources Management, Geological Survey, and Water Resources in ODNR used money in the Injection Well Review Fund to pay expenses under the Class II injection well program. That program generally governs the underground injection into wells of wastes derived from oil and gas operations. The money redirected to the Geological Mapping Fund under the act generally must be used for the same purposes as the money previously deposited in the Injection Well Review Fund.

Property tax valuation of oil and gas reserves (VETOED)

(R.C. 5713.051; Section 757.50)

The Governor vetoed a provision that would have stated that the "only method" for valuing oil and gas reserves is to employ an existing discounted cash flow formula. Under continuing law retained as a result of the Governor's veto, this formula appears



to apply only for the purposes of calculating the tax value of oil and gas reserves exploited by an active well that was not the subject of a recent arm's length sale.

The act would have specified that county auditors could employ no other method to determine the tax value of all oil or gas reserves, even in the absence of a developing and producing well. It is not clear how the act would have changed the property tax valuation methods of oil and gas reserves that existed prior to the act, if it would have changed them at all. It could have simply confirmed the Tax Commissioner's rule that suggests that undeveloped oil and gas reserves may be valued only according to that formula. Conversely, the act's new language could have overridden continuing law's explicit admonition that the discounted cash value formula applies only to producing oil and gas reserves. It also is not clear whether the act would have required county auditors to apply the discounted cash flow formula to oil and gas reserves exploited by a well and recently sold at arm's length or to undeveloped oil and gas mineral interests recently sold at arm's length.¹³³

The act would have stated that it clarifies the General Assembly's intent that the discounted cash flow formula "continues to represent" the only method of valuing oil and gas reserves for property tax purposes. The valuation changes, if any, would have applied with respect to property added to the tax list, or charged with past-due tax, on or after September 29, 2017.

Oil and Gas Well Fund

(R.C. 1509.071)

The act requires OBM, in consultation with the Chief of the Division of Oil and Gas Resources Management, to establish an accounting code to track expenditures from the Oil and Gas Well Fund for the following purposes:

- (1) Plugging idle and orphaned wells;
- (2) Restoring surface lands at idle and orphaned wells; and

¹³³ Article XII, Section 2 of the Ohio Constitution requires that, for property tax purposes, "[l]and and improvements thereon shall be taxed by uniform rule according to value." This provision is generally referred to as the "uniform rule." The Ohio Supreme Court has repeatedly held that the best method of determining a property's tax value for complying with the uniform rule is the actual price paid for property in an arm's-length transaction. Only in the absence of such a sale has the Court held that the uniform rule permits the use of other factors to determine a property's taxable value. See *State ex rel Park Inv. Co. v. Bd. of Tax Appeals*, 170 Ohio St. 410 (1964), *Berea City Sch. Dist. v. Cuyahoga Cty. Bd. of Revision*, 106 Ohio St.3d 269 (2005), and *Cummins Property Services, L.L.C. v. Franklin Cty. Bd. of Revision*, 117 Ohio St.3d 516 (2008).



(3) Correcting conditions that the Chief has reasonably determined are causing imminent health or safety risks at an idle or orphaned well or well for which the owner cannot be reached.

Under continuing law, the Chief must spend at least 14% of the revenue credited to the Fund during the previous fiscal year for the above purposes. The Fund consists of money collected from forfeitures of bonds posted for remedying idle and orphaned wells, but also includes money collected from oil and gas severance taxes and other sources under the law governing oil and gas, such as permit fees, fines, and civil penalties.¹³⁴

Oil and Gas Leasing Commission (VETOED)

(R.C. 1509.71)

The Governor vetoed a provision that would have required the Speaker of the House and the President of the Senate to appoint four of the five members of the Oil and Gas Leasing Commission instead of the Governor.¹³⁵ The Governor was required to appoint the four members by October 30, 2011, but has not yet done so. The act would have required the Speaker to appoint two members from a list of at least four persons recommended by a statewide organization representing the oil and gas industry. The President would have had to appoint one member of the public with expertise in finance or real estate and one member representing a statewide environmental or conservation organization. Because the Governor has not appointed the members of the Commission, and the Commission generally is the legal means by which state lands may be leased for oil and gas exploration, it appears there currently is not a mechanism by which the state may enter into oil and gas leases with respect to state land.

Liability coverage for oil and gas wells

(R.C. 1509.07)

The act authorizes a board of county commissioners of a county that is an owner of an oil and gas well to comply with the oil and gas well liability coverage requirements by participating in a joint self-insurance pool in accordance with the law governing those pools.

¹³⁴ R.C. 1509.02, not in the act.

¹³⁵ On July 6, 2017, the House voted to override the Governor's veto of this item. The Senate had not acted on the override when this analysis was published.



The act also allows liability insurance companies *approved* to do business in Ohio, in addition to liability insurance companies *authorized* to do business in Ohio as under law unchanged by the act, to provide coverage to an owner of any oil and gas well.

Mine Regulation and Safety Fund

(Repealed R.C. 1513.181, 1513.30, 1514.06, and 1561.48; Section 512.90; conforming changes in numerous other R.C. sections)

The act eliminates the Unreclaimed Lands Fund, the Surface Mining Fund, the Mining Regulation Fund, and the Coal Mining Administrative and Reclamation Reserve Fund and consolidates them into a new fund called the Mining Regulation and Safety Fund. All money that was credited to the consolidated Funds must be credited to the Mining Regulation and Safety Fund. Likewise, all money that was in those consolidated funds is transferred to the new Fund. The purposes for and expenditures authorized from the consolidated funds now apply to the new Fund. Under prior law, the consolidated funds, the revenue source for each of the consolidated funds, and the authorized uses of each of the consolidated funds were as follows:

| Funds consolidated into the new Mining Regulation and Safety Fund | | |
|--|---|--|
| Abolished fund name | Source of revenue | Authorized uses |
| Unreclaimed Lands Fund | Was derived from all of the following: (1) money received from the sale of reclaimed lands, or in payment for easements, leases, or royalties, (2) money collected from liens that result from specified reclamation activities, and (3) a portion of the money collected from the coal severance tax and a portion of the severance tax on limestone, dolomite, or gravel. | Was used for the following purposes: (1) reclaiming land affected by mining, or controlling mine drainage for which no cash was held in the continuing Reclamation Forfeiture Fund or the eliminated Surface Mining Fund, (2) purchasing any eroded land, including land affected by strip mining, for which no cash was held in the continuing Reclamation Forfeiture Fund, and (3) making grants for the payment of up to 75% of reclamation expenses incurred by specified entities regarding unreclaimed land affected by mining before April 10, 1972. |
| Surface Mining Fund | Was derived from all of the following: (1) Surface mining permit fees; (2) Annual filing and acreage fees collected from surface or in-stream mining operations; (3) Collection of liens imposed on a | Was used for the following purposes: (1) reclaiming land affected by surface or in-stream mining under specified circumstances, (2) administering and enforcing the law governing surface mining, and (3) mine safety and first aid training. |



| Funds consolidated into the new Mining Regulation and Safety Fund | | |
|--|--|---|
| Abolished fund name | Source of revenue | Authorized uses |
| | <p>surface or in-stream mine operator for forfeiting a performance bond;</p> <p>(4) Civil penalties assessed and criminal fines imposed for violating the laws governing surface mining;</p> <p>(5) Criminal fines imposed for violating the law governing usage of roads in connection with surface mining operations;</p> <p>(6) Mine safety training fees for surface or in-stream mine operators;</p> <p>(7) Safety, first aid, and rescue class fees for miners;</p> <p>(8) A portion of the money collected from limestone, dolomite, and sand and gravel severance taxes; and</p> <p>(9) Clay, sandstone or conglomerate, shale, gypsum, and quartzite severance taxes.</p> | |
| Mining Regulation Fund | Was derived from money collected from both of the following: (1) certification/recertification for mine-related employment, and (2) criminal fines for violating laws governed by the Division of Mineral Resources Management. | Was used for paying the operating expenses of the Division. |
| Coal Mining Administration and Reclamation Reserve Fund | Was derived from both of the following: (1) a portion of the money collected from the coal severance tax, and (2) transfers from the Unreclaimed Lands Fund. | Was used for the administration and enforcement of the law governing coal mining and for reclaiming land affected by coal mining under specified circumstances. |

Severance tax allocation

(R.C. 5749.02 and 1514.11)

The act allocates money generated from certain severance taxes to the new Mining Regulation and Safety Fund as follows:



| Severance tax | Severance tax (unchanged by the act) | Disbursement of money generated from tax under prior law | Disbursement of money generated from tax under the act |
|--|---|---|---|
| Coal | 10¢ per ton of coal removed from the ground | -- 80.95% to the Coal Mining Administration and Reclamation Fund; -- 14.29% to the Unreclaimed Lands Fund; and -- 4.76% to the Geological Mapping Fund (this Fund is not consolidated under the act*) | 100% to the Mining Regulation and Safety Fund |
| Salt | 4¢ per ton of salt removed from the ground | 100% to the Geological Mapping Fund | 100% to the Mining Regulation and Safety Fund |
| Limestone, dolomite, or sand and gravel | 2¢ per ton of limestone, dolomite, or sand and gravel removed from the ground | -- 50% to the Surface Mining Fund; -- 42.5% to the Unreclaimed Lands Fund; and -- 7.5% to the Geological Mapping Fund | -- 92.5% to the Mining Regulation and Safety Fund -- 7.5% to the Geological Mapping Fund |
| Clay, sandstone or conglomerate, shale, gypsum, or quartzite | 1¢ per ton of clay, sand or conglomerate, shale, gypsum, or quartzite removed from the ground | 100% to the Surface Mining Fund | 100% to the Mining Regulation and Safety Fund |
| Coal mined by surface mining methods | 1.2¢ per ton of coal mined by surface mining methods removed from the ground | 100% to the Unreclaimed Lands Fund | 100% to the Mining Regulation and Safety Fund |

* The Geological Mapping Fund is used by the Division of Geological Survey to map and make public reports on the geology, geologic hazards, energy and mineral resources of Ohio, and for Department's duties under the injection well program (see, "**Injection Well Review Fund**," above).



The act also prohibits money credited to the Mining Regulation and Safety Fund that is derived from severance taxes from the mining of limestone, dolomite, sand, or gravel (aggregates) from being used for coal mining and reclamation purposes. Therefore, that money may only be used for reclaiming areas of land affected by surface or in-stream mining related to aggregates and for operating expenses of the Division of Mineral Resources Management.

Surface mining safety inspections

(R.C. 1514.41)

The act replaces the requirement that the Chief of the Division of Mineral Resources Management conduct at least two inspections of a surface mining operation during a year following a year in which a safety inspection identifies a lost-time accident rate greater than the national average. Instead, the Chief must conduct a minimum of two safety inspections of a surface mining operation during a year following a year in which an inspection by the U.S. Mine Safety and Health Administration found three or more violations per day.

The Chief may, in consultation with a statewide association that represents the surface mining industry, adopt rules establishing exceptions to the safety inspection requirement.

Dam construction filing fee and annual fee

(R.C. 1521.06 and 1521.063)

The act removes the statutorily imposed filing fee schedule for dam construction permits, and requires the Chief of the Division of Water Resources to adopt rules establishing the fee schedule. Under continuing law, a person who seeks a permit to construct a dam must file plans and specifications with the Chief along with a filing fee. The filing fee schedule set forth under prior law was as follows:

- (1) For the first \$100,000 of estimated cost, a fee of 4%;
- (2) For the next \$400,000 of estimated cost, a fee of 3%;
- (3) For the next \$500,000 of estimated cost, a fee of 2%; and
- (4) For all costs exceeding \$1 million, a fee of 0.5%.

The act also removes the statutorily imposed schedule for the annual fees that owners of Class I, Class II, and Class III dams must submit to the Division, and requires



the Chief to adopt rules establishing the annual fee schedule. Under prior law, the owners had to pay an annual fee to the Division by June 30, as follows:

(1) For a Class I dam, \$300 plus \$10 per foot of height of the dam, 5¢ per foot of length of the dam, and 5¢ per acre-foot of water impounded by the dam;

(2) For a Class II dam, \$90 plus \$6 per foot of height of the dam, 5¢ per foot of length of the dam, and 5¢ per acre-foot of water impounded; and

(3) For a Class III dam, \$90 plus \$4 per foot of height of the dam, 5¢ per foot of length of the dam, and 5¢ per acre-foot of volume of water impounded.

The act retains the specification that the annual fee schedule must be based on the height and linear foot length of the dam, and the per-acre-foot of volume of water impounded by the dam.

Aquatic species

(R.C. 1531.06)

The act requires the Chief of the Division of Wildlife to establish both of the following before September 29, 2018:

(1) A definition of injurious invasive aquatic species; and

(2) A risk assessment policy regarding aquatic species that provides for both:

--An evaluation of overall risk of a species based on best available biological information derived from professionally accepted science and practices in fisheries or aquatic invasive species management; and

--A determination of whether a species should be listed as an injurious aquatic invasive species.

The Chief must adopt rules necessary to administer the act's provisions regarding aquatic species.

Nonresident hunting and fishing permits and licenses

(R.C. 1533.10, 1533.11, 1533.12, and 1533.32)

The act increases the fees for nonresident applicants for a deer or wild turkey permit, a hunting license, or a fishing license so that the fees are as follows:



| Type of permit/license | Fee under: | | Difference |
|---|------------|---------|---------------------|
| | Prior law | The act | |
| Deer permit – nonresident, ages 18-65 | \$23 | \$74 | Increase of \$51 |
| Deer permit – nonresident, under 18 | \$11.50 | \$74 | Increase of \$62.50 |
| Deer permit, nonresident, over 65 | \$23 | \$74 | Increase of \$51 |
| Wild turkey permit – nonresident, ages 18-65 | \$23 | \$28 | Increase of \$5 |
| Wild turkey permit – nonresident, under 18 | \$11.50 | \$28 | Increase of \$16.50 |
| Wild turkey permit, nonresident, over 65 | \$23 | \$28 | Increase of \$5 |
| *Nonresident hunting license, ages 18 and over, nonreciprocal state | \$124 | \$174 | Increase of \$50 |
| *Nonresident hunting license, under 18, nonreciprocal state | \$9 | \$174 | Increase of \$165 |
| *Nonresident apprentice hunting license, 18 and over, nonreciprocal state | \$124 | \$174 | Increase of \$50 |
| *Nonresident apprentice hunting license, under 18, nonreciprocal state | \$9 | \$174 | Increase of \$165 |
| *Nonresident fishing license, over 15, nonreciprocal state | \$39 | \$49 | Increase of \$10 |

* A nonreciprocal state is a state that does not have a hunting or fishing agreement with Ohio.

Prior law did not delineate between a nonresident and a resident deer and wild turkey permit. Therefore, the act creates a nonresident deer permit and wild turkey permit for nonresidents of all ages. It also specifies that a nonresident on active duty in the U.S. Armed Forces, while on leave or furlough, is eligible to obtain a deer or wild turkey permit at the resident rate. A person on active duty can also obtain hunting and fishing license at the resident rate under continuing law.



Game quadruped includes elk

(R.C. 1531.01)

The act adds elk to the list of game quadruped animals, which effectively allows ODNR to regulate and manage the propagation, preservation, and protection of elk.

