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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

H.B. 385
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 385's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Rep. Cross

Local Impact Statement Procedure Required: Yes

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Highlights

- Approximately 150 local governmental entities located within the Western Basin of Lake Erie will be prohibited to discharge waste, whether treated or untreated, in Ohio waters. The Ohio Environmental Protection Agency (Ohio EPA) is required to revoke any existing National Pollutant Discharge Elimination System (NPDES) permits for the impacted entities.
- Impacted local entities may be fined \$250,000 on a first offense and \$100,000 on each subsequent offense for violating the bill's prohibitions. If the violation involves pollution that exceeds 100 million gallons or more within a 12-month period, the municipal corporation must pay an additional fine of \$1 million. Fines would be assessed by Ohio EPA and credited to the Surface Water Protection Fund (Fund 4K40) and the Environmental Education Fund (Fund 6A10).
- Ohio EPA will experience a decrease in fee revenue for issuing NPDES permits, which are credited to the Surface Water Protection Fund (Fund 4K40). The initial application fee is \$200 and the annual discharge fees for holders of NPDES permits issued under the Water Pollution Control Law range from \$200 to \$62,100 depending on flow and volume.
- Ohio EPA will experience an annual expenditure increase related to enforcement of the bill's requirements, including investigating complaints and then assessing and collecting fines, the magnitude of which is uncertain.

Detailed Analysis

Overview

The bill prohibits a municipal corporation located within the Western Basin of Lake Erie from discharging any amount of waste into Ohio waters. By prohibiting this action, the Director of the Ohio Environmental Protection Agency (Ohio EPA) is required to revoke all water pollution discharge permits issued to municipal corporations in the Western Basin for their treatment works and sewerage systems. No new discharge permits for this geographical area may be issued after the bill's effective date.

The bill specifies that a municipal corporation that knowingly violates the prohibition must be fined \$250,000 on a first offense and \$100,000 on each subsequent offense. If the violation involves pollution that exceeds 100 million gallons or more within a 12-month period, the municipal corporation must pay an additional fine of \$1 million. Each day of violation is a separate offense and if the municipal corporation is convicted of or found guilty of violating the bill's prohibition, the entity must reimburse any state agency or a political subdivision for any actual costs that it incurred in responding to the violation, excluding prosecution costs.

Publicly operated treatment works located within the Western Basin

Approximately 150 publicly operated treatment works (POTW) are located in the Western Basin of Lake Erie, each of which has an existing National Pollutant Discharge Elimination System (NPDES) permit on file with Ohio EPA.¹ A complete listing of the impacted entities and areas is below. Of these entities, 121 are municipalities that own or operate a POTW with an NPDES permit, and 33 public entities (cities, villages, townships, or counties) own a satellite system tributary to a permitted POTW. All of these permits would be revoked under the bill and any discharge, whether treated or nontreated, would no longer be permitted. There are 11 impacted watersheds located in the Western Basin.

Fiscal impact

The bill effectively eliminates a municipal corporation's ability to operate a treatment works or sewerage system that disposes of waste into or around Lake Erie and its watersheds. It is unclear how these discharges would be managed if the bill is enacted. It is possible that treated wastewater or storm water runoff would need to be transported out of the area or discharged into some other area that is not considered to be a water of the state. There is no current infrastructure in place to accommodate the removal of such waste.

¹ Currently, Ohio law prohibits a municipal corporation (or any other person) from causing pollution or placing or causing to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any Ohio waters. However, a person may discharge such wastes in accordance with a valid discharge permit issued by Ohio EPA. NPDES permits regulate wastewater discharges by limiting the quantities of pollutants to be discharged and imposing monitoring requirements and other conditions.

Conversations with the city of Toledo, a sizable POTW, indicates that this could be unmanageable. The city of Toledo treats on average 200 million gallons of wastewater (not storm water) per day. It is currently under a U.S. EPA consent decree requiring that at least 80% of its combined sewer overflow system be revamped. This was done in 2002 at a cost of \$527 million. Underground storage facilities were constructed to help mitigate extreme storm events and store untreated sewer/storm water for a period of time so that the water treatment plant can catch up and treat the overflow.²

Without a feasible mitigation solution, it seems reasonable to presume that the approximate 150 locally operated POTWs would continue operations, and possibly be subjected to the fines outlined in the bill. Ohio EPA would have oversight of the bill's requirements and would experience a one-time administrative cost to revoke all existing NPDES permits for those POTWs located within the Western Basin of Lake Erie. Annual, ongoing administrative costs for enforcement of the bill's requirements, including investigating complaints, then assessing, and collecting fines, is uncertain. If fines are assessed and collected, those amounts would be deposited to the credit of the Surface Water Protection Fund (Fund 4K40) and the Environmental Education Fund (Fund 6A10).

Revenue associated with the issuance of NPDES permits will also decrease. The initial application fee is \$200 and the annual discharge fees for holders of NPDES permits issued under the Water Pollution Control Law range from \$200 to \$62,100 depending on flow and volume. These fees are deposited to the credit of the Surface Water Protection Fund (Fund 4K40).

Table 1. Affected NPDES Permittee in the Western Basin of Lake Erie

WWTP = Waste Water Treatment Plant STP = Sewage Treatment Plant WPC = Water Pollution Control WRRF = Water Resource Recovery Facility			
Ada WWTP	Lindsey WWTP	Lindsey WWTP	Port Clinton WWTP
Antwerp WWTP	Luckey WWTP	Luckey WWTP	Put-In-Bay WWTP
Archbold WWTP	Lyons STP	Lyons STP	Rawson WWTP
Arlington WWTP	Malinta WWTP	Malinta WWTP	Republic WWTP
Attica STP	McClure WWTP	McClure WWTP	Risingsun WWTP
Beaverdam WWTP	McComb Village WWTP	McComb Village WWTP	Rockford STP
Bettsville WWTP	Mendon WWTP	Mendon WWTP	Sandusky WPC

² A study was done in 2009 to determine the costs of mitigating the remaining 20% of the system's runoff. At that time, the cost estimate was \$2 billion. U.S. EPA is not mandating that this be undertaken, but under the bill, even the treated wastewater would not be permitted to be released.

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WWTP = Waste Water Treatment Plant STP = Sewage Treatment Plant WPC = Water Pollution Control WRRF = Water Resource Recovery Facility			
Bloomdale WWTP	Metamora WWTP	Metamora WWTP	Sawmill Creek WWTP
Bloomville WWTP	Middle Point WWTP	Middle Point WWTP	Sherwood WWTP
Bluffton WWTP	Montpelier WWTP	Montpelier WWTP	Spencerville WWTP
Bowling Green	Mt. Blanchard WWTP	Mt. Blanchard WWTP	St. Marys City WWTP
Bradner WWTP	Napoleon WWTP	Napoleon WWTP	Stryker STP
Bryan WWTP	Nevada WWTP	Nevada WWTP	Swanton WRRF
Buckland WWTP	New Bremen WWTP	New Bremen WWTP	Sycamore WWTP
Bucyrus WWTP	New Knoxville STP	New Knoxville STP	Tiffin WWTP
Carey WWTP	New Washington WWTP	New Washington WWTP	Toledo Bay View Park WWTP
Cecil WWTP	Ney WWT Lagoon	Ney WWT Lagoon	Tontogany WWTP
City of Bellevue WWTP	North Baltimore WWTP	North Baltimore WWTP	Uniopolis WWTP
Clyde WWTP	Oak Harbor WWTP	Oak Harbor WWTP	Upper Sandusky WWTP
Columbus Grove WWTP	Oakwood WWTP	Oakwood WWTP	Van Wert WWTP
Continental WWTP	Ohio City WWTP	Ohio City WWTP	Vanlue STP
Convoy WWTP	Oregon WWTP	Oregon WWTP	Wapakoneta WWTP
Crestline WWTP	Ottawa WWTP	Ottawa WWTP	Wauseon WWTP
Cridersville WWTP	Ottoville WWTP	Ottoville WWTP	Wayne WWTP
Custar WWTP	Pandora WWTP	Pandora WWTP	West Unity STP
Cygnets WWTP	Paulding WWTP	Paulding WWTP	Westminster WWTP
Defiance WWTP	Payne WWTP	Payne WWTP	Weston WWTP
Delphos WWTP	Pemberville WWTP	Pemberville WWTP	Wharton WWTP
Delta WWTP	Perrysburg WWTP	Perrysburg WWTP	Willshire WWTP

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Deshler WWTP	Pioneer WWTP	Pioneer WWTP	Woodville WWTP
Dunkirk WWTP			

Table 2. Affected Satellite Operations Located in the Western Basin of Lake Erie

Arcadia	Holland	Okolona	Rudolph
Auglaize County	Jackson Township	Ottawa County	Sandusky County
Ayersville	Jerry City	Ottawa Hills	Shawnee Oaks
Defiance County	Middleton Township	Perrysburg Township	Sylvania Township
Erie County	Millbury	Portage	Van Buren
Fulton County	Moline	Putnam County	Walbridge
Glandorf	New Riegel	Ridgeville	Washington Township
Green Springs	Northwood	Rossford	West Millgrove
Harbor View			

Table 3. Western Basin of Lake Erie Watersheds³

Ottawa-Stony
Raisin
St. Joseph
St. Marys

³ Map source: U.S. Department of Agriculture; www.nrcs.usda.gov/wps/portal/nrcs/oh/programs/landscape/western+lake+erie+basin+project/.

Table 3. Western Basin of Lake Erie Watersheds³

Upper Maumee
Tiffin
Auglaize
Blanchard
Lower Maumee
Cedar-Portage
Sandusky

