



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 193
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 193's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Reps. K. Miller and Lampton

Local Impact Statement Procedure Required: No

Jared Cape, Budget Analyst, and other LBO staff

Highlights

- The bill's provisions may result in a decrease in the number of lagoons and facilities issued permits which, in turn, may result in a decrease in one-time and annual fee revenues collected by the Ohio Environmental Protection Agency (Ohio EPA) from such facilities.
- The bill's changes to current agricultural use valuation (CAUV) may tend to increase tax revenue by reducing agricultural land qualifying for CAUV tax reductions. Indirect effects, however, could offset this tendency, as landowners respond to these changes.
- Counties may incur minimal costs to review and potentially take action on biosolid lagoon or biodigestion facility proposals. Counties and townships may incur some costs if they choose to regulate biosolid lagoons and biodigestion facilities through zoning resolutions.

Detailed Analysis

The bill, with certain exceptions, allows townships and counties, through a zoning resolution, to provide for the regulation of biosolid lagoons and biodigestion facilities. It also defines the Ohio Environmental Protection Agency's (Ohio EPA) role in permitting these operations. Finally, the bill modifies the requirements that land used in biofuel production must meet in order to be valued for property tax purposes at its current agricultural use value (CAUV). The overall result of these changes is that there might be fewer biosolid lagoons or biodigestion facilities installed, depending on the decisions of counties to approve, disapprove, or limit the operations of these facilities. If counties authorize additional operations, they as well as townships could incur some additional cost for zoning these facilities. The changes related to CAUV appear to limit the increase in land qualifying for CAUV treatment. If so, more property would be subject to higher taxes as non-CAUV property, increasing tax revenue.

County and township costs

Counties could incur minimal costs to first review and then approve, disapprove, or limit the boundaries of a biosolid lagoon or biodigestion facility prior to the Ohio EPA taking any action on a permit for the lagoon or facility. The bill enables a county to issue a veto or limit the boundaries of the lagoon or facility within 90 days of a required public meeting. This meeting is to be held by the proposing person or entity. Counties and townships could also incur some costs if they opt to regulate biosolid lagoons and biodigestion facilities through zoning resolutions as allowed under the bill.

Ohio Environmental Protection Agency

Permitting impacts

Under current law, a person who wishes to install, operate, or modify a biosolid lagoon or biodigestion facility must obtain a permit to do so from the Ohio EPA under Ohio's Water Pollution Control Law. Under the bill, the Ohio EPA may only proceed to issue or deny a permit for a proposed lagoon or facility if both of the following has occurred: (1) the person has held the required public meeting, and (2) the board of county commissioners has not adopted a resolution disapproving of the construction of the lagoon or facility. If a board of county commissioners fails to adopt a resolution within 90 days of the public meeting required under the bill, the Ohio EPA may proceed to approve or deny the plans for the biosolid lagoon or biodigestion facility. If the board of county commissioners adopts a resolution to limit the boundaries of the lagoon or facility, the Ohio EPA also must so limit the boundaries of the lagoon or facility.

The bill may result in the installation of fewer biosolid lagoons or biodigestion facilities, which in turn would result in reduced revenue collected by the Ohio EPA in the form of application fees, installation fees, and ongoing annual sludge fees based on the size of the facility. According to the Ohio EPA, 11 facilities were subject to annual fees statewide in CY 2022. The overall impact to the revenue stream is dependent on the number of resolutions adopted by counties possibly disapproving of the construction of the lagoon or facility after the bill's effective date. Fees for which a biosolid lagoon or biodigestion facility may be assessed under current law (unchanged by the bill) include:

- National Pollutant Discharge Elimination System (NPDES) Application Fee of \$200, deposited to the GRF;
- Design Flow Discharge Fees up to \$750 based on daily discharge, deposited to the Surface Water Protection Fund (Fund 4K40);¹
- Annual Sludge Treatment or Disposal Fee ranging from \$100 to \$20,000 based on \$3.50 per dry ton of sewage sludge, deposited to Fund 4K40;
- Permit to Install Fee (Division of Surface Water) of either \$12,500 for nonhazardous waste or \$30,000 for hazardous waste deposited to the Underground Injection Control Fund (Fund 4J00);

¹ As of September 2023, there are no facilities that pay this fee.

- Permit to Install and Operate Fee (Division of Air Pollution Control) of between \$200 and \$1,250 based on process weight rate, deposited to the Clean Air Fund (Fund 4K20); and
- Annual Emissions Fee – Minor Source of between \$100 and \$700 based on total tons of regulated pollutants emitted per year, deposited to Fund 4K20.

Biosolid lagoon coverings

The bill requires the Ohio EPA Director to adopt rules that require a biosolid lagoon owner to ensure that the lagoon has an adequate cover at all times to effectively protect against nuisance odors and other harms to public health. It is likely that the Ohio EPA can adopt additional rules as part of normal day-to-day operations without additional staff or other fiscal resources.

Current agricultural use valuation change

The bill amends CAUV law, which allows land devoted exclusively to commercial agricultural use to be valued based on use in agriculture instead of in its “highest and best” potential use. This tends to lower the land’s taxable value, particularly in urban and suburban areas. In tax year 2022, CAUV reduced the taxable value of agricultural land in the state by about 77%.

Land may qualify for CAUV treatment in various ways. One of these ways is if the land is devoted exclusively to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production, and satisfies certain conditions. To qualify in this way, the land on which the production facility is located must be contiguous to or part of a parcel of land under common ownership or leasehold that is otherwise devoted exclusively to agricultural use. At least 50% of the feedstock used in the production must be agricultural feedstock. At least 20% of the agricultural feedstock used in the production must be derived from parcels of land under common ownership or leasehold. None of the feedstock used in the production may consist of human waste.

The bill would allow land enrolled in the CAUV program in 2023 to continue to be valued in this way if it continues to satisfy the above criteria. But for future applicants the criteria for CAUV treatment are tightened. All agricultural feedstock used, up from 20% in current law, must be from land that is contiguous to or part of a parcel of land under common ownership or leasehold of the parcel of land on which the production facility is located and that is otherwise devoted exclusively to agricultural use. None of the feedstock may be industrial waste, down from as much as 50% in current law, implicit in the current requirement that at least 50% be agricultural feedstock. A prohibition on use of human waste as a feedstock remains unchanged.

These tightened criteria will tend to limit the increase in land qualifying for CAUV treatment. This limitation may result in more property being subject to higher taxes as non-CAUV property, increasing tax revenue. Possible indirect effects of the bill include encouraging development of production facilities in ways that satisfy the tighter qualification requirements for such facilities. Alternatively, the bill could discourage future development of land devoted to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production. Landowner responses to the bill’s changes to CAUV qualifications could potentially offset the bill’s tendency to increase future tax revenue, possibly resulting in no change in tax revenues from what they would be if current law remained in force.