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H.B. 308*
135th General Assembly

Bill Analysis

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Version: As Reported by Senate Energy and Public Utilities

Primary Sponsors: Reps. Stein and Brennan

Rocky Hernandez, Attorney and other LSC staff

SUMMARY

Oil and Gas Land Management Commission leases

- Increases, from three to five years, the term of the standard lease adopted by the Oil and Gas Land Management Commission for use by a state agency when leasing oil and gas rights on property owned or managed by the state agency.

Broadband Pole Replacement and Undergrounding Program

- Modifies the reimbursement formula under the Broadband Pole Replacement and Undergrounding Program as follows:
 - For actual and reasonable costs to perform a pole replacement or mid-span pole installation, reimbursements are equal to the lesser of \$7,500 multiplied by the number of pole replacements and mid-pole installations in an application or 75% of the total eligible costs therein.
 - For actual and reasonable undergrounding costs, reimbursements must not exceed 75% of the total eligible costs, except that the reimbursements cannot exceed the amount that would be available if the applicant did a pole replacement or mid-span pole installation instead.
- Adds undergrounding costs needed because the process for obtaining access to poles is causing, or is reasonably anticipated to cause, a delay that impacts the applicant's ability to meet required deadlines to those costs that are eligible for reimbursement under the program.

* This analysis was prepared before the report of the Senate Energy and Public Utilities Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

Board of health special funds

- Expands the purposes for which money derived from the general disposal fee on construction and demolition debris (C&DD) disposed of at a C&DD facility or a solid waste facility may be used by a board of health to include both of the following:
 - Administration and enforcement of the laws governing solid and hazardous waste;
 - Mitigation of any impacts to the public from a C&DD facility and solid waste disposal or transfer facility within the health district, including ensuring inspection of any such facility to prevent any negative public impact.

Nuclear energy as green energy

- Includes energy generated by a nuclear reaction as “green energy.”

DETAILED ANALYSIS

Oil and Gas Land Management Commission leases

The bill increases, from three years (current law) to five years, the term of the standard lease the Oil and Gas Land Management Commission must adopt for a state agency to use when leasing oil and gas rights on property owned or managed by the state agency.

Under continuing law, a “state agency” means (1) every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, and (2) each of the state universities or colleges identified in law and the Northeast Ohio Medical University. State agency does not include JobsOhio.¹

Broadband Pole Replacement and Undergrounding Program

Reimbursement formula

Existing law establishes a formula for reimbursements under the Broadband Pole Replacement and Undergrounding Program. For both the actual and reasonable costs to perform a pole replacement or a mid-span pole installation, and actual and reasonable undergrounding costs, the program reimbursement amount is equal to the lesser of: (1) \$7,500 or (2) 75% of the total amount paid by each applicant for each pole replacement or mid-span pole installation. For undergrounding costs, the reimbursements cannot exceed the amount that would be available if the applicant had attached broadband infrastructure to utility poles instead of undergrounding that infrastructure.

The bill modifies the reimbursement formula to be the following:

- For actual and reasonable costs to perform a pole replacement or mid-span pole installation, the reimbursement amount is equal to the lesser of: (1) \$7,500 multiplied by

¹ R.C. 155.34(A)(1)(c); R.C. 1.60, 155.30, and 3345.12, not in the bill.

the number of pole replacements and mid-span pole installations in the application or (2) 75% of the total eligible costs therein.

- For actual and reasonable undergrounding costs, the reimbursement amount is not to exceed 75% of the total eligible costs therein, but cannot exceed the reimbursement amount that would be available if the applicant did a pole replacement or mid-span pole installation instead of undergrounding that infrastructure.

Continuing law, unchanged by the bill, defines all of the following terms:

- “Pole replacement” as the removal of an existing utility pole and replacement of that pole with a new utility pole to which a provider attaches broadband infrastructure;
- “Mid-span pole installation” as the installation of, and attachment of broadband infrastructure to, a new utility pole that is installed between or adjacent to one or more existing utility poles or replaced utility poles to which poles broadband infrastructure is attached;
- “Undergrounding” as the placement of broadband infrastructure underground, including by directly burying the infrastructure or through the underground placement of new ducts or conduits and installation of the infrastructure in them.²

Eligible undergrounding costs

Existing law conditions eligibility for program reimbursement for actual and reasonable undergrounding costs on the undergrounding being either of the following: (1) required by law, regulation, or local ordinance or (2) more economical than the cost of performing a pole replacement.

The bill adds that undergrounding costs are eligible for reimbursement if the undergrounding is needed because the process for obtaining access to poles is causing, or is reasonably anticipated to cause, a delay that will impact the ability of the applicant to meet deadlines required by agreement or terms of support to provide qualifying broadband service to an address within an underserved area.

Continuing law, unchanged by the bill, defines “qualifying broadband service” as a retail wireline broadband service that is capable of delivering symmetrical internet access at download and upload speeds of at least 100 Megabits per second (Mbps) with a latency level sufficient to permit real-time, interactive applications. “Unserved area” is defined as an area in the state that is without access to fixed, terrestrial broadband service capable of delivering internet access at download speeds of at least 25 Mbps and upload speeds of at least three Mbps.³

² R.C. 191.17; R.C. 191.01, not in the bill.

³ R.C. 191.21; R.C. 191.01, not in the bill.

Board of health special funds

Background

Under law unaffected by the bill, a fee of \$0.30 per cubic yard, or \$0.60 per ton, is assessed against the disposal of construction and demolition debris (C&DD) and asbestos, or asbestos-containing materials or products, at a licensed C&DD facility or solid waste facility. The owner and operators of such facilities determine whether to use the per-cubic-yard or per-ton approach to collect the charge from those disposers, and must comply with certain requirements in the law applicable to how to measure the cubic yards/tonnage. The facility owners must calculate the amount of money generated from the fee and hold that amount as a trustee for the appropriate health district or the state, consistent with continuing law. The facility owners must file monthly returns, and the amounts collected for the month, with either the appropriate board of health or the Director of the Ohio Environmental Protection Agency, whichever is applicable.⁴

Purpose of the funds

The bill expands the purposes for which a board of health must use the amounts it receives as described above. Current law requires these funds to be used solely for purposes of administering and enforcing the state's C&DD laws and regulations and abating abandoned accumulations of C&DD. The bill adds both of the following as purposes for which money in the funds may be spent: (1) to administer and enforce the provisions of the state's solid and hazardous waste laws and regulations and (2) to mitigate any impacts to public health, safety, and welfare of any C&DD facility and solid waste disposal or transfer facility within the health district, including ensuring appropriate inspection of any such facility to prevent any negative public health, safety, and welfare impact.⁵

Nuclear energy as green energy

The bill includes energy generated using a nuclear reaction as "green energy." Under current law, "green energy" means any energy generated by using an energy resource that does one or more of the following:

- Releases reduced air pollutants, thereby reducing cumulative air emissions;
- Is more sustainable and reliable relative to some fossil fuels.

Current law further includes energy generated by using natural gas as a resource as green energy.⁶

The effects of the bill's inclusion are unclear as the term "green energy" is not used in the Revised Code.

⁴ R.C. 3714.07(A)(1) to (3).

⁵ R.C. 3714.07(A)(4); R.C. Chapter 3734; and R.C. 3714.074, not in the bill.

⁶ R.C. 4928.01(A)(43).

HISTORY

Action	Date
Introduced	10-24-23
Reported, H. Energy and Natural Resources	04-24-24
Passed the House (87-10)	06-26-24
Reported, S. Energy & Public Utilities	--
