



**Interested Party Testimony of Ohio Environmental Council Action Fund
State Biennial Operating Budget - Substitute House Bill 110
Presented to the Ohio Senate Local Government and Elections Committee
May 5, 2021**

Chairman Gavarone, Vice Chair O'Brien, Ranking Member Maharath and Members of the Ohio Senate Local Government and Elections Committee, thank you for the opportunity to testify before this committee today on Sub-House Bill 110 (HB 110) the proposed budget for Fiscal Years 2022-2023. My name is Trent Dougherty, General Counsel for the Ohio Environmental Council Action Fund (OECAF).

While this committee has a broad and varied jurisdiction, my remarks today focus on the activities of three of the agencies that we interface with the most: the Ohio EPA (OEPA), the Ohio Department of Agriculture (ODA), and the Ohio Department of Natural Resources (ODNR).

From an environmental protection and natural resource conservation perspective, these agencies have a mighty responsibility to ensure the public's safe use and enjoyment of modern life's most basic needs: air, water, land, and energy. Over the years and over successive administrations, we have continually supported robust budgets and staffing for the important role each plays in the lives of Ohioans. The OECAF has deep respect for Directors Mertz, Pelanda, and Stevenson, and their expert staff who work hard everyday to protect and conserve Ohio's environment and natural resources. We further appreciate the Governor's prioritization and commitment to the natural wonders of Ohio, as recognized in his proposed Operating Budget.

With that backdrop, the Governor's proposal not only shows how the executive branch wants to spend money, but shines a light on what are the priorities of Ohio and Ohioans. This proposed budget is the most pro-conservation budget in my sixteen years of work protecting Ohio's environment. We urge this committee to support this conservation budget, its investment in communities today, and its investment in the state's natural legacy. We urge this committee to resist amendments that rollback protections for our communities or starve environmental enforcement of necessary resources. Finally, we **urge this committee to oppose efforts to exploit Ohio's public lands at the expense of Ohio's taxpayers; restore the "As Introduced" version of funding for the successful H2Ohio program to ensure Ohioans have access to clean, safe and affordable drinking water.**

Fully Fund the Successful H2Ohio Program

The OECAF supports the proposed funding levels in HB 110 as introduced because it helps address many of the water quality issues we face in Ohio. **Gov. DeWine's increased investment in the H2Ohio program will continue to improve Ohio's water quality by building off the program's first year success.**

Being a water rich state, unfortunately, means that we face many water challenges in Ohio. These challenges include both legacy impacts from our industrial past and emerging water contamination that threatens our communities. Over the past decade we have experienced:

- Devastating toxic algal blooms, like the 2014 bloom when nearly half a million Toledoans were left without safe drinking water because the toxin produced by a harmful algal bloom got into the drinking water supply;
- Lead contamination, including 2016's 5-month long contamination of Sebring's water system after a change to the village's water treatment system; and
- Health risks from emerging contaminants such as PFAS which has been found, albeit at levels under the federal threshold, in [106 of the 1,550 public water systems tested by the Ohio EPA.](#)

Thankfully, the current budget proposal includes continued investment in H2Ohio funding at a total of \$240 million for the 2 year biennium. This worthwhile investment would provide the OEPA with \$46 million a year, the ODA would receive \$49.3 million a year, and the ODNR would receive \$25 million a year. This well rounded, science based, program made historic investments in improving Ohio waterways while making our landscapes more resilient to climate change.

So far through ODA, the program has helped fund thousands of agricultural conservation practices covering over a million acres of farmland in Northwest Ohio to help clean up Lake Erie. Through the OEPA, the program was able to connect thousands of Ohioans to better drinking and wastewater systems and they've removed 185 lead service water lines. Through ODNR, the program helped create thousands of acres of wetlands across the state which are filtering 60,000 acres of watershed improving water quality and improving flood mitigation.

The H2Ohio program provides direct funding to reduce pollution in our waterways and help communities across Ohio afford the necessary upgrades to provide residents safe and more affordable drinking water. To achieve continued success, including Ohio's commitment to reduce Lake Erie phosphorus loading by 40 percent, we will need sustained and increased investments in H2Ohio going forward starting with the budget bill.

Stop the Oil and Gas End-around on State Public Land Drilling

The House of Representatives Finance Committee, at the behest of the oil and gas industry, snuck an amendment into the [Budget Bill](#) that fast-tracks oil and gas development on public

lands, reneges on processes agreed upon in HB133 in 2011, and puts the state park natural legacy at risk (see pages 320 - 333).

Specifically, Sections 155.30 through 155.36 (Lines 9851 - 10252) seek to significantly alter the Oil and Gas Leasing Commission and public lands leasing process established in 2011 (HB 133; R.C. 1509.70 - 1509.77). The leasing commission process established nearly ten years ago is not perfect, but at the very least it established some mechanisms for transparency, objectivity, public oversight, and public involvement. This egregious bill language eliminates those checks and balances and in so doing breaks promises made to the public that have stood for nearly ten years.

Furthermore, the leasing system found in current law at least reinvests state leasing revenues into the acquisition of new public lands and the capital improvement of existing state parks and forests. This bill language perversely eliminates even these (ill-begotten) public benefits, and cuts the public completely out of any wealth that might flow from the exploitation of the lands they own. Per the House version, all leasing revenues are to be reinvested into the state lands leasing program and the promotion of further state lands leasing.

We urge the Ohio Senate to remove these provisions, and maintain current law.

The amended language in HB 110:

(1) Plows all leasing revenues back into facilitating more oil and gas industry development of our state parks, forests, and wildlife areas. Section 155.33(G) (lines 10155 - 10179) eliminates the arrangement under current law in which leasing revenues are to be reinvested in public land acquisitions and capital improvements. The bill language creates the oil and gas land management commission administration fund and directs that all state leasing revenues are to be credited to said fund. Section 155.35 (lines 10234 - 10245) specifies that the fund is to be spent by the leasing commission and ODNR to implement the state lands leasing program.

(2) Eliminates public involvement and oversight from the state public lands leasing process. Section 155.33 (line 9976 et seq.) frees state agencies to immediately begin leasing state public parcels prior to the creation of parcel nomination or public notice rules and independent of involvement or oversight by the leasing commission. This will eliminate the requirement, under current law, that state agencies consult with the leasing commission in order to lease public lands outside of the nomination process. The leasing commission, which this bill renames the "Oil and Gas Land Management Commission," includes representation from the public and a statewide environmental organization and plays an important public oversight and transparency role.

(3) Makes it state policy to "promote" drilling in state lands. Section 155.31 (line 9893) changes state policy from "providing access and support" for state public lands oil and gas development to "promote" said development.

Ohio's public lands are owned in common by all Ohioans. These places are natural treasures and they are vital to public health, outdoor recreation, and a strong environment. There is no way around this fact: oil and gas development in and under our public natural areas is in direct conflict with public enjoyment and public health. Surface infrastructure destroys visual integrity, and air pollution, which is unavoidable, is a serious threat to public health and enjoyment — a threat that does not respect property boundaries. The State of Ohio holds our state lands in trust for the people of Ohio, not for the oil and gas industry. Narrow interests — especially those that conflict with the interests of the broader public — should not be elevated above the interests of everyday Ohioans and their families. Yet this bill language does precisely that. And, by tipping the scales so far in favor of development, it preordains the basic decisions of the leasing oversight commission.

Support Increased Public Outdoor Recreation

The OECAF supports Governor DeWine's and ODNR's commitment to keeping the state's public lands open and serving the public at a high level. The COVID-19 pandemic has been in full swing in Ohio for nearly a year now. As we are seeing in real time, maintaining public access to quality outdoor recreation opportunities is now more important than ever. Ohio and out-of-state residents are escaping to the outdoors at record levels as a matter of basic health, sanity, and overall wellness. State Parks and their facilities, as well as ODNR properties in general, are seeing significant visitation increases. The modest budget increase proposed for Ohio's State Parks is needed to meet increased public demand. We urge this committee to support the Governor's proposed ODNR funding levels not just as a matter of conservation and good stewardship, but as a matter of public health as well.

The OECAF supports the House version's appropriation of financial support for important local outdoor recreation project investments, including the \$2M appropriation for the Baileys mountain bike trail project in the Wayne National Forest. These local recreation projects are important economic drivers and provide numerous public health and environmental benefits.

Separately, we do have some concerns to voice regarding provisions that would give the State the authority to conduct timber sales on federal lands, which for practical purposes means the Wayne National Forest. See Section 1503.271 (lines 15019 - 15022); and 1503.05 (lines 14798 - 14801). Under federal statute, this is referred to as "Good Neighbor" authority. The OECAF does see value in cross-boundary collaboration between the State and U.S. Forest Service. There is a significant need for scientifically-based and ecologically sensible forest management at a landscape scale in southeast Ohio. And, agency and private landowner collaboration needs to be part of that equation. However, "even-aged" commercial timber sales that clearcut or staged-clearcut (shelterwood) public forest are a major ecological net negative for forest health

and resiliency. Not to mention, counterproductive public policy for federal public forest in a time of climate crisis. We ask this committee to expressly exclude “timber sales” from the State’s “Good Neighbor” authority as proposed in this bill.

Invest in Local Communities through Brownfields Redevelopment

The OECAF writes to express our support for including brownfields redevelopment in the budget bill. A brownfields amendment could dedicate 75% of the excess liquor profits returned to the state from JobsOhio as the source of funding for CORF (the Clean Ohio Revitalization Fund), with the remaining 25% going to the General Revenue Fund.

Brownfields redevelopment is a smart investment and a jobs and economic generator for communities across Ohio. “Brownfields,” environmentally contaminated former industrial and commercial sites, are present in all 88 counties in the state. Providing communities with the resources to clean these sites up and repurpose them enhances property values, drives local investment, and supports local jobs growth.

Brownfield reclamation and redevelopment has suffered in Ohio since the sunset of the CORF in 2013. Reestablishing CORF now will help clean the environment and spur local economic growth at a time when local communities have been hit hard by the COVID-19 pandemic.

In short, brownfields funding is an important and much-needed investment in Ohio’s local communities, the local environment, and economic development.

In conclusion, Chairman and Members of the committee, thank you for considering our perspective and our recommendations. We are pleased with the budget that the Governor has proposed, and we look forward to working with the Senate during the upcoming weeks to craft a bill that protects Ohio’s communities today and preserves Ohio’s natural treasures for future generations.