



OEC [Action Fund]

**Proponent Testimony - Ohio Senate Bill 2
Ohio House Energy & Natural Resources Committee
May 9, 2017**

Good afternoon, Chairman Landis, Vice Chair Hagan, Ranking Member O'Brien, and members of the Ohio House Energy & Natural Resources Committee. My name is Trent Dougherty, General Counsel for the Ohio Environmental Council Action Fund (OECAF). Thank you for allowing us to testify today in support of the Amended Senate Bill 2 (SB2)-- Ohio EPA's proposed amendments to protections to Lake Erie, surface and drinking waters, and solid waste.

First, we want to thank Ohio EPA for taking the initiative of conducting a series of stakeholder meetings in late summer/early fall 2016. Ohio EPA brought opposing parties together, listened to each of their ideas and concerns, incorporated suggestions from each side of each of these issues, and developed a bill that demonstrates progress and compromise.

As a package, SB2 represents important improvements to the protection of Ohio's waters, and the people, communities, and businesses that rely on clean and accessible water. **Specifically we would like to highlight SB2's efforts to:**

1. **Develop a regulatory structure for Construction and Demolition Debris ("C&DD") processing facilities.** The agency, here, recognized an environmental and economic problem, and developed a reasonable solution. When there are environmental emergencies at C&DD processing facilities, or when bad actors seek a competitive advantage by bucking the system, there needs to be clear system of law and order to protect the rights of people and businesses. The bill will subject these processing facilities to licensing and siting requirements that puts the industry actors on an even playing field while at the same time providing the Agency with authority to respond to emergency situations.
2. **Ensure the safety of drinking water in our communities.** Ohioans deserve to feel secure that when they turn on their tap, the water will be safe to drink. In furtherance of that, SB 2 would require public water systems to demonstrate technical, financial, and managerial capability by implementing an asset management program. This includes an inventory and evaluation of assets, operation and maintenance programs, emergency preparedness programs, and long-term planning for funding, infrastructure replacements and capacity projections.

3. **Protect Lake Erie by encouraging better use of dredge materials.** Each year river mouths and harbors on our north shore must be dredged to allow for Lake Erie's maritime commerce to thrive. For decades the sediments dredged from these river mouths and harbors, which are deemed clean, have been dumped back into Lake Erie. Thanks to the enactment of Senate Bill 1 in the last General Assembly, open-lake disposal will no longer be an option as of July 1, 2020. SB 2, would give authority to Ohio EPA to develop private sector business opportunities around the beneficial use of dredge sediments under sound scientific principles that protect both the Lake and end users of the reclaimed dredged sediments.
4. **Refocus Lake Erie Commission's role.** In June 2015, the governors of Ohio and Michigan, and the premier of Ontario signed the Western Basin of Lake Erie Collaborative Agreement formalizing their commitment to reduce phosphorus loadings entering western Lake Erie by 40 percent. In furtherance of this goal, Ohio issued its Western Lake Erie Basin Collaborative Implementation Framework (Framework) that greatly increases the importance of the Lake Erie Commission (Commission) by giving it a lead coordinating role. Senate Bill 2 better positions the Commission to implement tasks and duties specified in the Framework. Additionally, Senate Bill 2 tasks the Commission with publishing a Lake Erie Protection and Restoration Strategy (Strategy) every odd-numbered year, "that describes the goals of the commission and prioritizes the uses of the Lake Erie protection fund and other funds for the following state fiscal year." Given the Strategy's importance, and historically the detail provided in past Lake Erie Protection and Restoration Plans¹, we urge SB 2 to direct the Commission to consolidate plans, budgets, reports or other relevant materials into the Strategy, demonstrating how our state agencies will achieve specified objectives and priorities.
5. **Provides transparency and accountability for Water Quality Professionals.** With the loss of over 90% of Ohio's natural wetlands, and the continued risk of our local streams becoming conduits of pollution to larger rivers and lakes, the need to ensure that proper and reasonable safeguards are in place is more important than ever. In response, in 2015 Ohio EPA developed the certified water quality professional certification to assess streams and categorize wetlands in support of applications for Section 401 Water Quality Certifications and Isolated Wetland Permits. SB 2, updates that law by incentivising the use of these professionals by project applicants, while at the same time requiring transparency of the credentials and work product of these professionals and accountability audits of their work. The bill also sets up a diverse multi-sector work group to develop rules around this program.

Thank you for the opportunity to comment in support of SB2, and for considering the OECAF's perspective. The OECAF looks forward to continuing to engage with this Committee and the Ohio EPA as we move forward together to protect waters of the state of Ohio.

¹Caveat: The [2016 Lake Erie Protection and Restoration Plan](#) significantly departs from previous versions in the level of detail and direction. Should it serve as the model for future Strategies under SB2, there are serious concerns the lack of specificity will undermine its effectiveness and utility.