



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 85 of the 128th G.A.

Date: September 28, 2009

Status: As Passed by the Senate

Sponsor: Sen. Stewart

Local Impact Statement Procedure Required: No — Permissive

Contents: Authorizes certain political subdivisions to use professional service contracts for water storage tank maintenance

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

- Instead of the competitive bidding process required under current law, the bill authorizes political subdivisions to use a request for proposal (RFP) or request for qualifications (RFQ) process to enter into multi-year, asset management professional service contracts for the engineering, repair, and maintenance of water storage tanks and related equipment.
- Although the bill gives political subdivisions the flexibility to pay for expensive work over time, project costs could be higher because of the asset management fees that these contracts contain.
- Political subdivisions potentially affected by the bill include counties, municipalities, conservancy districts, sanitary districts, and regional water and sewer districts.

Detailed Fiscal Analysis

Overview

The bill authorizes a county, conservancy district, sanitary district, regional water and sewer district, or municipal corporation to enter into a multi-year, asset management professional service contract for the engineering, repair, sustainability, water quality management, and maintenance of a water storage tank and appurtenant facilities. Under the bill, the political subdivision would be able to select a vendor by direct negotiation or through requests for proposals (RFP) or requests for qualifications (RFQ), provided that the contract entered into meets the following conditions:

1. Payments due in a single year may not exceed the water utility charges collected by the political subdivision during that year;
2. The work performed must be done under the supervision of a licensed professional engineer who certifies that the work will be performed in compliance with all applicable codes and engineering standards;
3. If the contract is for work to bring the tank or facilities into compliance with federal, state, or local requirements, then the vendor must provide the needed engineering, repair, sustainability, water quality management, or service to do so;
4. The cost of work needed to comply with federal, state, or local requirements must be itemized separately, with the cost of these charges due in payments spread over a period of three years from the date the contract commenced.

Fiscal impact

The bill allows political subdivisions to use an alternative type of contract for work on water storage tanks. Whatever impact this would have on overall water storage tank maintenance expenses is uncertain, but it would allow for tank cleaning and renovation costs to be spread over time. This may ease the burden of these expenses on political subdivisions, which, under current law, must pay for these costs upon completion. For example, the Ohio Environmental Protection Agency requires the inside of all such tanks be cleaned once every four years. Under current law, a political subdivision must make a lump sum payment for the costs of the cleaning once the work is completed. Under the form of contract permitted by the bill, a political subdivision would be able to space out the payment of these cleaning costs over a longer period of time.

It should also be noted that the bill requires a political subdivision opting to use this form of contract to pay an asset management fee to the selected vendor. As an example, if a sanitary district entered into a contract with an asset management professional service contractor for a \$600,000 renovation of a water storage tank, under the bill, the sanitary district would be able to spread the cost of the renovation over the

course of three years instead of a lump sum payment. However, upon completion of the renovation, the sanitary district would be required to pay an annual fee for the asset management program, and to use the vendor for all future maintenance over the life of the contract. Under this scenario, the sanitary district could end up paying higher costs for such projects in order to maintain the flexibility to spread out its renovation payments over a longer period of time.

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