



**Interested Party Testimony of Ohio Environmental Council Action Fund  
State Biennial Operating Budget - Substitute House Bill 166 (As Passed by the House)  
Presented to the Ohio Senate Finance Committee  
May 23, 2019**

Chairman Dolan, Vice Chair Burke, Ranking Member Sykes, and Members of the Ohio Senate Finance Committee, thank for the opportunity to testify before this committee today on the House Passed Substitute version of the biennial operating budget for Fiscal Years 2020-2021 (“Sub HB166”). My name is Trent Dougherty, General Counsel for the Ohio Environmental Council Action Fund (OECAF).

As an environmental and conservation advocacy organization that works to ensure clean air, land and water for all who call Ohio home, we support the state agencies that are tasked with protecting and preserving Ohio’s health, natural resources, and natural wonders. From an environmental protection and natural resource conservation perspective, the Department of Agriculture, Department of Natural Resources, and Environmental Protection Agency have a mighty responsibility to ensure the public’s safe use and enjoyment of modern life’s most basic needs: air, water, land, food, and energy. Over the years and over successive administrations, we have continually supported robust budgets and staffing for the important role each play in the lives of Ohioans. The OECAF has deep respect for Directors Pelanda, Mertz, 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, there are many policy provisions in this bill of great importance to the state’s plans to administer essential protections for the environment and health of Ohioans. So, when analyzing and amending the Governor’s proposal, we urge this Committee and the full Senate to prioritize four specific areas:

**Adequate resources to preserve and protect Ohio’s most sensitive public lands**

The strong conservation ethic of Governor DeWine’s administration is evident in this Budget, and the Ohio Environmental Council Action Fund fully supports the proposed language. The three main highlights are: state acquisition of the AEP ReCreation Land, a boost for state parks infrastructure modernization and repair, and the reinstatement of funding for our state nature

preserves. Other important items include: support for public service forestry, and conservation funding through license and permit fee adjustments.

By favorably moving Sub HB 166, this Committee secures the funding necessary to preserve and protect Ohio's most sensitive public lands. This includes:

- **Investing \$47 million to enable the once-in-a-lifetime opportunity for preservation of public access to the AEP ReCreation Land and continued public access on approximately 60,000 contiguous acres**

The preservation of public access to the AEP ReCreation Land is a once-in-a-lifetime opportunity to protect public access on approximately 60,000 contiguous acres. If acquired, the ReCreation Land would be one of only two state parcels of this size and contiguity in Ohio. The Governor's budget includes a \$47 million increase in bond authority to enable state acquisition. The OECAF fully supports this vitally important proposal. Absent state acquisition, 50 years of public access to this property will likely be lost. As a state hungry for public land (Ohio generally falls somewhere between 42<sup>nd</sup> and 47<sup>th</sup> in public land acres available per person), we cannot afford to let this opportunity get away. The AEP ReCreation Land boasts 40 miles of horse trails, 10 miles of mountain bike trails, and 28 miles of hiking trails (including the Buckeye Trail), as well as numerous campsites and over 350 lakes and ponds. It boasts some of the best fishing in the state of Ohio. Please support Governor DeWine's funding request on this item.

- **Making Ohio's nature preserves a priority by supporting the Governor's reinstatement of Division of Natural Areas and Preserves (DNAP) funding**

The reinstatement of the Division of Natural Areas and Preserves (DNAP) is long-overdue. Many of our nature preserves are great hiking destinations. Most importantly, though, they are our most rare, biodiverse, and sensitive places. In short, Ohio's nature preserves are our most special places — the best of the best. These fragile ecosystems have been neglected in the state's budget for too long. They are under constant threat from non-native invasive species invasions. If we neglect these places, we will lose what makes them so special. Reinstating DNAP and providing it with the basic funding it needs is one of the most important things the General Assembly can do for public lands in this state. The OECAF is thrilled that Governor DeWine has made Ohio's nature preserves a priority in this budget. We ask that you please support the Governor's reinstatement of DNAP funding.

- **Adjusting fishing licenses and hunting permit fee adjustments for the Division of Wildlife to support vital conservation programs and projects in this state**

We fully support license and permit fee adjustments for the Division of Wildlife. Revenues from fishing licenses and hunting permit sales support vital conservation programs and projects in this state. The proposed adjustments have been needed for a long time.

- **Supplying the financial resources to provide Ohioans in every region with modern state parks**

State Parks infrastructure repair and modernization gets an important boost in this budget proposal, and this should be high priority for the general assembly. Residents and visitors to the state want and need safe and enjoyable accommodations. Again, outdoor recreation is a huge economic driver in this state. Every dollar we invest in our state parks is an investment our economy and our brand. The OECAF fully supports the Governor's state parks infrastructure funding proposal.

- **Supporting Public Service Forestry**

Finally, the OECAF fully supports Sub HB 166 proposal to buttress public service forestry. The Division of Forestry holds and manages some of the state's most important lands, and offers much-needed support and information to private landowners who want to manage their family forests sustainably and responsibly, too. Investing in the Division of Forestry means investing in the public and in family forests throughout the state.

Public access to the outdoors is vitally important for the health and wellbeing of families, the quality of life of Ohioans, and the economic vitality of many of our rural communities. And, ODNR's landholding divisions are our most important stewards of these opportunities. These divisions need and deserve our support and Ohio's landholding divisions need every dollar proposed in HB 166.

### **Support the Governor's Flagship Water Quality Initiative - H<sub>2</sub>Ohio**

The OECAF supports Governor DeWine's commitment to curb Lake Erie's toxic algae epidemic through actions that significantly cut phosphorus entering the western basin and clean up the state's streams and inland lakes for residential, industrial, and recreational use. The Governor's proposed in his biennial budget H<sub>2</sub>Ohio, a forward thinking, multi-agency effort to address and mitigate pollution to waters of the state of Ohio.

The H<sub>2</sub>Ohio program proposes to allocate millions of dollars toward:

- Land based strategies such as nutrient management planning, subsurface placement of nutrients and riparian buffer zones between farm fields and waterways;
- Natural remedies to improving water quality like restoring wetlands; and
- Continued research and data collection to guide future nutrient management decisions and funding.

While the Sub-Bill did not maintain the Governor's proposal to apply all of the surplus to H<sub>2</sub>Ohio, maintenance of \$85 million over the next biennium will make an important investment in the future of our waters. Nevertheless, we urge the Committee to continue efforts to find other

methods to secure necessary, long-term resources to support the clean up and preservation of the waters that support Ohioans and Ohio businesses.

With all of the health and economic benefits that Ohio's waters provide each of us, we urge this Committee to support H<sub>2</sub>Ohio and the EPA, Department of Agriculture, and DNR activities supported in this biennial proposal.

As part of that effort, we further wish to express our support for the Sub Bill's addition of language under proposed ORC sections 126.60 - 126.62 (lines 4810-4977) that create the H<sub>2</sub>Ohio advisory council. A broad stakeholder group, with authority to review and approve how these funds are spent, provides the transparency and accountability needed to ensure that our waters get the resources they deserve.

### **Stronger protections for Ohio communities from oil and gas operations**

Lastly, we urge support for the efforts made in Sub HB166 to address impacts from oil and gas drilling. This includes:

- **Supporting the full \$24.9 M (FY20) and \$28 M (FY21) for ODNR to plug orphan wells, protecting the health and safety of Ohioans who live and work near these pathways to pollution and risks to safety**

To adequately protect Ohioans, the state must ensure preventable disasters cannot even occur. One of best investments in this regard is identifying and plugging the estimated 20,000 abandoned legacy oil and gas wells that pock Ohio's landscape. These "Orphan Wells" pose a hazard to the environment and to human health and safety. Until they are located and properly plugged, they are pathways to pollution, risking fires, overflows of oil or brine into ecologically sensitive areas like streams, and groundwater contamination. Orphan wells have been found under buildings, houses and streets, and even in lawns and recreation areas in both rural and urban areas. HB 225, last General Assembly, gave ODNR's Division of Oil and Gas clear guidance and funding allocation to speed up the efficient plugging of abandoned and orphaned wells. The Governor's proposed budget makes a significant down payment on HB225's promise. Therefore, we urge the Committee to support the full \$24.9 M (FY20) and \$28 M (FY21) for ODNR to plug orphan wells, protecting the health and safety of Ohioans who live and work near these wells.

- **Addition of a provision directing EPA and DNR to monitor impacts to some of Eastern Ohio's most sensitive watersheds from withdrawal of water for fracking purposes.**

In its Substitute version of the Budget, the House added an important provision requiring the directors of EPA and DNR to jointly adopt rules establish a program to study the impact of oil and gas production operations on stream flow using continuous stream flow monitoring

technology. The program focuses on nine streams in three eastern Ohio (Belmont, Jefferson, and Monroe). The streams: Yellow Creek, Short Creek, and Cross Creek in Jefferson County; Wheeling Creek, McMahan Creek, Wegee creek, and Pipe Creek in Belmont County; and Sunfish Creek and Opossum Creek in Monroe County, are some of the most sensitive in eastern Ohio and are thus at risk if water withdrawals occur in an unsustainable manner. This provision will help preserve those streams.

Together, these two provisions will help ensure that impacts from current and legacy oil and gas operations are mitigated. However, this state must also prioritize more than legacy responses to oil and gas related emergencies. Recent major oil and gas incidents such as the June 28, 2014 fire that broke out on a fracking well pad in Monroe County, a March 2016 incident where a truck hauling drilling wastewater overturned in Belmont County (sending thousands of gallons of brine water laced with chemicals into a nearby creek and contaminating a reservoir used for drinking water in Barnesville), and the February 2018 XTO Well Pad explosion also in Belmont County, have exposed significant problems with Ohio's chemical disclosure laws. In Ohio, the Ohio DNR Division of Oil and Gas Chief may receive trade secret chemical information but may not share it with anyone, even in an emergency.

To adequately protect Ohioans, we urge this Committee to amend the oil and gas and water related emergency chemical reporting law to ensure first responders and drinking water utilities have immediate access to complete chemical information, including trade secret chemicals, whenever emergency environmental releases and spills occur. This law change will minimize negative effects and ensure the public, our drinking water, and first responders are as protected as possible.

### **Funding a Complete Census Count**

As an organization, we strive to be leaders in not only ensuring our air, land and water are safe and healthy, but also in ensuring that the rights of Ohio's communities are safe and healthy. We do not advocate to develop a clean energy future, or clean water, or healthy and vibrant forests just for the sake of good policy. We advocate for environmental protection and improvement to protect and improve the lives of Ohioans. Thus it only makes sense that we equally advocate for the protection and improvement of our democracy and the rights of Ohioans. in order to help protect and improve their environment. More than \$800 billion in federal funding, as well as fair, proportional voting representation are at stake. An inaccurate census denies money for schools, roads, and transit; resources conservation, children's' health, and low-income protections. This budget leverages the money we receive from the federal government to support all of the policies Ohioans need and enjoy - but only when the count is right.

Therefore, Ohio Environmental Council Action Fund joins a number of our colleague groups in the Ohio Census Advocacy Coalition, to urge the Ohio Senate to adopt a Hard-to-Count Communities Grant program.

The proposed grant program would appropriate \$1,100,000 to the Development Services Agency for grants available to nonprofit organizations and local governments doing Census outreach and communications in hard-to-count census tracts (those with a self-response rate of less than 73% in the 2010 Census) or participating in a U.S. Census Bureau recognized Local Complete Count Committees. The proposal would permit organizations to use the funding for public education, outreach, communications, and other activities that will expand and enhance 2020 Census response rates.

***What are Hard-to-Count Communities?***<sup>1</sup> In many parts of the country, the Census response rate is relatively high. However, the Census Bureau finds that among some population groups, the self-response rate is historically relatively low. Households may not have submitted their census questionnaire for various reasons, such as having language difficulties, concerns about trust in government, or otherwise. These areas and population groups are considered "hard to count", because the Census Bureau sends enumerators into the field to talk with each non-responding household one-by-one. This "non-response follow-up" component of the census can be difficult, time-consuming, & costly (to the Bureau, and to taxpayers). And if these groups and their communities are not counted fairly & accurately, they will be deprived of equal political representation and vital public and private resources. The U.S. Census Bureau estimates that 12% of Ohio's population, or 1,439,142 people, live in hard-to-count neighborhoods. Therefore, **we urge this Committee to consider the addition of a Hard-to-Count Communities Grant program** to ensure that all Ohioans are counted.

In conclusion, Chairman Dolan and Members of the Committee, thank you for considering our perspective and our recommendations. We look forward to working with the Committee during the upcoming weeks to craft a bill that protects Ohio's communities and preserves Ohio's natural treasures for future generations.

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<sup>1</sup> See the count statistics from each Census Tract via the 2020 Hard-to-Count Maps: <https://www.censushardtocomtmaps2020.us/>