



Ohio Department of Natural Resources

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**House Energy and Natural Resources Committee
Proponent Testimony on Senate Bill 156 (Scenic Rivers Designation)
Provided by Jeff Johnson
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Good afternoon, Chair Kick, Vice-Chair Lear, Ranking Member Rogers, and members of the House Energy and Natural Resources Committee. I want to thank you for allowing me to present testimony in support of Senate Bill 156 (S.B. 156), which aims to amend several sections of the Scenic River Law governing the designation of wild, scenic, and recreational rivers. My name is Jeff Johnson, and I am the Chief of the Division of Natural Areas and Preserves (DNAP), which is the division within the Ohio Department of Natural Resources (ODNR) that is responsible for administering the scenic rivers program.

To add some perspective on the need for these changes, the Ohio Scenic Rivers Program dates back to the passage of the Ohio Scenic River Law in 1968 which incidentally is the same year that the National Wild and Scenic Rivers Act was enacted by Congress. The state law has remained relatively unchanged since the program's inception, which currently includes 15 wild, scenic and recreational rivers spanning over 830 miles of watercourse in the state. The mission of the Ohio Scenic Rivers Program is to work cooperatively with local governments, businesses, landowners, non-profit organizations and other state and federal agencies to protect the aquatic resources and terrestrial communities dependent on healthy riparian habitats.

The cornerstone of this program is the designation process, which first and foremost provides recognition for the stewardship of these high-quality water resources, while also providing for oversight of publicly funded projects in, over or along the river that could negatively impact water quality, stream habitat and the unique plants and animals that live there.

New designations of Wild, Scenic or Recreational rivers are initiated by local groups who support the designation of a river in their area. Public notification, input and support lay the foundation for new stream designations. The last river to be designated in Ohio was Pymatuning Creek in Ashtabula and Trumbull Counties in 2018, where designation was widely supported. However, our most recent attempt at designating a river, while garnering considerable local support, was met with concerns about ODNR's regulatory capacity based upon the way the current statute is written. Those concerns required a pause on the designation of new waterways while we worked toward better ways of communicating the intent of the program.

Senate Bill 156 addresses many of the issues which have been at the root of concerns with the existing Scenic River law. Perhaps the most critical purpose of the bill is to correct and clarify confusing and ambiguous statutory language. Recent efforts to designate a new scenic river in Southeast Ohio brought to light several sections of law causing considerable confusion. Much of the confusion stemmed from language in the existing law which delineates an area extending up to 1,000 feet from each bank of a designated river as a "Scenic River Area." It is within this 1,000-foot corridor that the Scenic River Program has oversight of publicly funded projects, but not privately funded projects. Many residents who owned property within this 1,000-foot corridor were concerned that a designation could lead to an infringement of their private property rights by granting management or regulatory authority of these lands to the State of Ohio.

The existing language does not confer any management or regulatory authority over privately owned lands along a designated scenic river to the Scenic Rivers Program or the Ohio Department of Natural Resources nor has it ever been the intent of the Scenic Rivers Program to infringe on private property rights.

But upon review, we understand how the existing statutory language can be confusing. As such, we have worked with the bill sponsors to clarify the intent of our program by

removing the term “Scenic River Area” from statute and more explicitly stating that the Department has no authority to oversee private activities on private property. ODNR would, however, still maintain its oversight of publicly funded projects within 1,000 feet of a designated river’s watercourse. Meaning, if a project funded with public dollars is undertaken within 1,000 feet of a designated river’s watercourse, ODNR would have oversight. Private activities and privately funded projects are not and will not be in the Department’s jurisdiction under this law.

This bill also provides clarification by adding a definition of “Scenic River Lands” which applies to property that is owned and managed by the Ohio Department of Natural Resources with the direct intent of protecting the watershed of designated wild, scenic or recreational rivers. This definition helps to clarify that management and oversight of lands along these designated rivers applies only to those lands that the state owns and manages and does not pertain to lands that are privately owned.

Another purpose of this bill is to realign the Ohio Revised Code pertaining to the Scenic Rivers Program. The Scenic Rivers Program was originally administered through the Division of Natural Areas and Preserves in Section 1517. More than a decade ago, the program was moved into the Division of Watercraft, which has since become the Division of Parks and Watercraft under Section 1547. Under the current administration’s leadership, the oversight of the Scenic Rivers Program was again moved back into the Division of Natural Areas and Preserves, with authority being delegated to the Chief of the Division of Natural Areas and Preserves. This realignment, while having no change on the program’s legal authority or day-to-day operations, will place the program statutorily back within the Division of Natural Areas and Preserves where it was originally located and remains most closely aligned.

A final and important change in this bill is the extension of the public comment period following the ODNR Director’s announcement of intent to designate a new river from 30 days to 60 days. This change was made in direct response to concerns from several

constituent groups who requested additional time for individuals most concerned with the designation process to provide their input.

At this point, the Scenic Rivers Program has not made any public announcement of our intent to designate a new wild, scenic or recreational river. Although we are working with several local groups to measure support for designation, we are concerned that new efforts will be met with similar opposition as we encountered in our last attempt. These local partners have expressed the same concerns about local landowner confusion and have asked that we not proceed until the changes in Senate Bill 156 are adopted.

Before I close, I would like to thank Senator Reineke and Senator Hackett for their leadership on this issue and for introducing such an important bill. We believe the changes in S.B. 156 will help resolve public concerns and allow the Department to continue adding more high-quality stream systems across the state to the Scenic Rivers Program.

Chair Kick, Vice-Chair Lear, Ranking Member Rogers, and members of the House Energy and Natural Resources Committee, thank you again for allowing me to be here today. I am more than happy to answer any questions you may have.