

**BEFORE THE SENATE AGRICULTURE AND NATURAL RESOURCES  
COMMITTEE**

**SENATOR TIM SCHAFFER  
CHAIR**

**TESTIMONY  
OF  
Amy Mackey**

**NOVEMBER 14, 2023**

Chairman Schaffer, Vice Chair Landis, Ranking Member Hicks-Hudson, and members of the Ohio Senate Agriculture and Natural Resources Committee, my name is Amy Mackey. Thank you for the opportunity to provide proponent testimony on Senate Bill (SB) 156.

The Raccoon Creek watershed, a rural, 75% forested area covering 683 square miles in Hocking, Athens, Meigs, Vinton, Jackson and Gallia Counties, like many other watersheds in Appalachian Ohio, was severely impacted by historic, pre-law coal mining. The pre-regulation underground and surface mining of coal left 190 miles of Raccoon Creek nearly devoid of life; polluted with sediment, sulfuric acid, and metals such as iron and aluminum. Raccoon Creek was once considered unrecoverable, too far gone, a lost cause. Thankfully concerned citizens in the 1980s rallied to get agency support for the watershed, and major restoration efforts began in the 1990s. Over the past several decades, the non-profit group, the Raccoon Creek Partnership, has worked closely with local, state, and federal agencies to clean up and restore the watershed. In the Raccoon Creek drainage, more than 100 miles have been restored to meet or exceed biological criteria for Warmwater Habitat (which is the aquatic life use goal for most streams in Ohio). Nearly 40 miles of Raccoon Creek (from the low-head dam in Vinton downstream to the Ohio River backwaters) now fully meet Exceptional Warmwater Habitat; an aquatic life use reserved for the highest quality waters of the state, rich in biodiversity and home to rare and unusual species. Raccoon Creek is now home to over 80 species of fish, up from only 24 species before restoration efforts began. This amazing recovery has resulted from 22 watershed restoration projects at a cost of over 16 million dollars. Projects are funded primarily by Abandoned Mine Land Reclamation Funds, EPA 319 grants, and Office of Surface Mining Watershed Cooperative Agreement Program funds.

As a wildlife biologist, I have worked closely with the Raccoon Creek watershed group both professionally and as a volunteer for the past 17 years. The passing of Senate Bill 156 would be one step closer to designating the mainstem of Raccoon Creek as the very first Scenic River in southeast Ohio. The designation of Raccoon Creek as a state Scenic River would showcase the partnerships that have resulted in the successful recovery of Raccoon Creek over the past several decades.

Since the creation of the Ohio Scenic Rivers Program in 1968, Ohio has designated 15 wild, scenic and recreational rivers recognizing over 800 river miles across the state. The program has benefited Ohioans for over 55 years by protecting some of the state's highest quality rivers; ensuring healthy waters to fish, paddle, and recreate in.

The passage of Senate Bill 156 will provide several changes to the Ohio Scenic River Law that will enhance the program's ability to serve the citizens of Ohio.

One of the most important aspects of this bill, and the one that the Raccoon Creek Partnership is most interested in, is that it will clarify confusing language regarding the designation of wild, scenic and recreational rivers. Currently, the Ohio Revised Code provides that the Director can designate any watercourse with adjacent lands out to 1,000 feet from the normal waterlines of the watercourse as a wild, scenic or recreational river area. This creation of the 1,000-foot wide "wild, scenic or recreational river area" raised concerns among landowners within this corridor that the designation would lead to regulation of their private property. Subsequent paragraphs of the Scenic River Law ensure the protection of private property rights, however, some landowners still have concern. The proposed changes eliminate the creation of the 1,000-foot wild, scenic or recreational river area and just provide for the designation of the watercourse. This should provide clarity to landowners that their land and private property rights will not be impacted by the designation of a wild, scenic or

recreational river. Current language in the law providing for the protection of private property rights will remain with slight modifications to clarify these protections as well.

This bill provides additional clarification by creating the definition of “Scenic River Lands” that will apply to all property owned and managed by the Department of Natural Resources along designated wild, scenic and recreational rivers. Currently, the department owns and manages over 2,500 acres of land along designated wild, scenic and recreational rivers which are governed by rules set forth in the Ohio Administrative Code. Often landowners would mistakenly apply these Rules for Scenic River Lands to the 1,000-foot wide wild, scenic and recreational river area previously discussed. With the elimination of the wild, scenic and recreational river area and the creation of the definition “Scenic River Lands” within the ORC this should provide further clarity to riverfront property owners that their property is not impacted by the Rules for Scenic River Lands.

Finally, this bill increases the length of the public comment period for any proposed wild, scenic or recreational river designation from 30 to 60 days after the Director issues the Departments Intent to Designated. This will provide the public with additional time to comment on a proposed designation.

I appreciate the opportunity to come before the Senate Agriculture and Natural Resources Committee today and provide input regarding these important changes to the Ohio Scenic River Law.

Please provide your support for SB 156. Thank you again for the opportunity to submit testimony and your continued service to the state of Ohio and your constituents.