As Introduced

132nd General Assembly Regular Session 2017-2018

H. B. No. 15

Representative Cera

Cosponsors: Representatives Rogers, O'Brien, Antonio, Fedor, Sheehy

A BILL

То	amend sections 1513.37, 1561.24, and 5727.81 of	1
	the Revised Code to credit a portion of the	2
	revenue derived from the kilowatt-hour tax to	3
	the Abandoned Mine Reclamation Fund, the Acid	4
	Mine Drainage Abatement and Treatment Fund, and	5
	the Mine Safety Fund and to make other changes	6
	to the use of money in those funds.	7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1513.37, 1561.24, and 5727.81 of	8
the Revised Code be amended to read as follows:	9
Sec. 1513.37. (A) There is hereby created in the state	10
treasury the abandoned mine reclamation fund, which shall be	11
administered by the chief of the division of mineral resources	12
management. The fund shall consist of kilowatt-hour excise tax	13
revenue credited to the fund under section 5727.81 of the	14
Revised Code, money transferred from the acid mine drainage	15
abatement and treatment fund, and grants from the secretary of	16
the interior from the federal abandoned mine reclamation fund	17
established by Title IV of the "Surface Mining Control and	18

Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201,19regulations adopted under it, and amendments to the act and20regulations. Expenditures from the abandoned mine reclamation21fund shall be made by the chief for the following purposes:22

(1) Reclamation and restoration of land and water 23 resources adversely affected by past coal mining, including, but 24 not limited to, reclamation and restoration of abandoned strip 25 mine areas, abandoned coal processing areas, and abandoned coal 26 refuse disposal areas; sealing and filling of abandoned deep 27 mine entries and voids; planting of land adversely affected by 28 29 past coal mining; prevention of erosion and sedimentation; prevention, abatement, treatment, and control of water pollution 30 created by coal mine drainage, including restoration of 31 streambeds and construction and operation of water treatment 32 plants; prevention, abatement, and control of burning coal 33 refuse disposal areas and burning coal in situ; and prevention, 34 abatement, and control of coal mine subsidence; 35

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(2) Acquisition and filling of voids and sealing of36tunnels, shafts, and entryways of noncoal lands;37
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(3) Acquisition of land as provided for in this section; 38

(4) Administrative expenses incurred in accomplishing the purposes of this section;

(5) All other necessary expenses to accomplish the41purposes of this section.42

The chief may transfer money from the abandoned mine43reclamation fund to the acid mine drainage abatement and44treatment fund. The total amount transferred in a fiscal year45shall not exceed the amount credited in that year to the46abandoned mine reclamation fund from kilowatt-hour excise tax47

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(B) Expenditures of moneys from the fund on land and water	49
eligible pursuant to division (C) of this section shall reflect	50
the following priorities in the order stated:	51
(1) The protection of public health, safety, general	52
welfare, and property from extreme danger of adverse effects of	53
coal mining practices;	54
(2) The protection of public health, safety, and general	55
welfare from adverse effects of coal mining practices;	56
(3) The restoration of land and water resources and the	57
environment previously degraded by adverse effects of coal	58
mining practices, including measures for the conservation and	59
development of soil and water (excluding channelization),	60
woodland, fish and wildlife, recreation resources, and	61
agricultural productivity;	62
(4) Research and demonstration projects relating to the	63
development of coal mining reclamation and water quality control	64
program methods and techniques;	65
(5) The protection, repair, replacement, construction, or	66
enhancement of public facilities such as utilities, roads,	67

revenue under section 5727.81 of the Revised Code.

enhancement of public facilities such as utilities, roads, 67
recreation facilities, and conservation facilities adversely 68
affected by coal mining practices; 69

(6) The development of publicly owned land adversely
affected by coal mining practices, including land acquired as
provided in this section for recreation and historic purposes,
conservation and reclamation purposes, and open space benefits.
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(C) (1) Lands and water eligible for reclamation ordrainage abatement expenditures under this section are those75

that were mined for coal or were affected by such mining, wastebanks, coal processing, or other coal mining processes and 77 that meet one of the following criteria:

(a) Are lands that were abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or federal laws;

(b) Are lands for which the chief finds that surface coal mining operations occurred at any time between August 4, 1977, and August 16, 1982, and that any moneys for reclamation or abatement that are available pursuant to a bond, performance security, or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site;

(c) Are lands for which the chief finds that surface coal 90 mining operations occurred at any time between August 4, 1977, 91 and November 5, 1990, that the surety of the mining operator 92 became insolvent during that time, and that, as of November 5, 93 1990, any moneys immediately available from proceedings relating 94 to that insolvency or from any financial guarantee or other 95 source are not sufficient to provide for adequate reclamation or 96 abatement at the site. 97

(2) In determining which sites to reclaim pursuant to 98 divisions (C)(1)(b) and (c) of this section, the chief shall 99 follow the priorities stated in divisions (B)(1) and (2) of this 100 section and shall ensure that priority is given to those sites 101 that are in the immediate vicinity of a residential area or that 102 have an adverse economic impact on a local community. 103

(3) Surface coal mining operations on lands eligible for

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remining shall not affect the eligibility of those lands for 105 reclamation and restoration under this section after the release 106 of the bond, performance security, or other form of financial 107 quarantee for any such operation as provided under division (F) 108 of section 1513.16 of the Revised Code. If the bond, performance 109 security, or other form of financial guarantee for a surface 110 coal mining operation on lands eligible for remining is 111 forfeited, moneys available under this section may be used if 112 the amount of the bond, performance security, or other form of 113 financial guarantee is not sufficient to provide for adequate 114 reclamation or abatement, except that if conditions warrant, the 115 chief immediately shall exercise the authority granted under 116 division (L) of this section. 117

(D) The chief may submit to the secretary of the interior a state reclamation plan and annual projects to carry out the purposes of this section.

(1) The reclamation plan generally shall identify the 121 areas to be reclaimed, the purposes for which the reclamation is 122 proposed, the relationship of the lands to be reclaimed and the 123 proposed reclamation to surrounding areas, the specific criteria 124 for ranking and identifying projects to be funded, and the legal 125 authority and programmatic capability to perform the work in 126 accordance with this section. 127

(2) On an annual basis, the chief may submit to the
secretary an application for support of the abandoned mine
reclamation fund and implementation of specific reclamation
projects. The annual requests shall include such information as
may be requested by the secretary.

(3) The costs for each proposed project under this sectionshall include actual construction costs, actual operation and134

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maintenance costs of permanent facilities, planning and135engineering costs, construction inspection costs, and other136necessary administrative expenses.137

(4) The chief may submit annual and other reports required
by the secretary when funds are provided by the secretary under
Title IV of the "Surface Mining Control and Reclamation Act of
1977," 91 Stat. 445, 30 U.S.C.A. 1201, regulations adopted under
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it, and amendments to the act and regulations.

(E) (1) There is hereby created in the state treasury the 143 acid mine drainage abatement and treatment fund, which shall be 144 administered by the chief. The fund shall consist of kilowatt-145 hour excise tax revenue credited to the fund under section 146 5727.81 of the Revised Code, money transferred from the 147 abandoned mine reclamation fund, and grants from the secretary 148 of the interior from the federal abandoned mine reclamation fund 149 pursuant to section 402(q)(6) of Title IV of the "Surface Mining 150 Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 151 1201. All investment earnings of the acid mine drainage 1.52 abatement and treatment fund shall be credited to the fund. 153

(2) The chief shall make expenditures from the fund, in 154 consultation with the United States department of agriculture, 155 soil conservation service, to implement acid mine drainage 156 abatement and treatment plans approved by the secretary. The 157 plans shall provide for the comprehensive abatement of the 158 causes and treatment of the effects of acid mine drainage within 159 qualified hydrologic units affected by coal mining practices and 160 shall include at least all of the following: 161

(a) An identification of the qualified hydrologic unit. As
used in division (E) of this section, "qualified hydrologic
unit" means a hydrologic unit that meets all of the following
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criteria: 165 (i) The water quality in the unit has been significantly 166 affected by acid mine drainage from coal mining practices in a 167 manner that has an adverse impact on biological resources. 168 (ii) The unit contains lands and waters that meet the 169 eligibility requirements established under division (C) of this 170 section and any of the priorities established in divisions (B) 171 (1) to (3) of this section. 172 (iii) The unit contains lands and waters that are proposed 173 to be the subject of expenditures from the reclamation 174 forfeiture fund created in section 1513.18 of the Revised Code 175 or the unreclaimed lands fund created in section 1513.30 of the 176 Revised Code. 177 (b) The extent to which acid mine drainage is affecting 178 the water quality and biological resources within the hydrologic 179 unit; 180 (c) An identification of the sources of acid mine drainage 181 within the hydrologic unit; 182 (d) An identification of individual projects and the 183 measures proposed to be undertaken to abate and treat the causes 184 or effects of acid mine drainage within the hydrologic unit; 185 186 (e) The cost of undertaking the proposed abatement and treatment measures; 187 (f) An identification of existing and proposed sources of 188 funding for those measures; 189 (g) An analysis of the cost-effectiveness and 190

environmental benefits of abatement and treatment measures.

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(3) The chief may make grants of moneys from the acid mine
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drainage abatement and treatment fund to watershed groups for
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conducting projects to accomplish the purposes of this section.
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A grant may be made in an amount equal to not more than fifty
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per cent of each of the following:

(a) Reasonable and necessary expenses for the collection
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 and analysis of data sufficient to do either or both of the
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 following:
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(i) Identify a watershed as a qualified hydrologic unit;

(ii) Monitor the quality of water in a qualified hydrologic unit before, during, and at any time after completion of the project by the watershed group.

(b) Engineering design costs and construction costs
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involved in the project, provided that the project is conducted
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in a qualified hydrologic unit and the chief considers the
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project to be a priority.
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208 A watershed group that wishes to obtain a grant under division (E)(3) of this section shall submit an application to 209 the chief on forms provided by the division of mineral resources 210 management, together with detailed estimates and timetables for 211 accomplishing the stated goals of the project and any other 212 information that the chief requires. Before awarding a grant 213 from the fund, the chief first shall submit to the council on 214 unreclaimed strip mined lands the project proposal and any other 215 pertinent information regarding the project requested by the 216 council for review and approval of the specific project by the 217 council. 218

For the purposes of establishing priorities for awarding219grants under division (E) (3) of this section, the chief shall220

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consider each project's feasibility, cost-effectiveness, and221environmental benefit, together with the availability of222matching funding, including in-kind services, for the project.223

The After the project is reviewed and approved by the 224 council, the chief shall enter into a contract for funding with 225 each applicant awarded a grant to ensure that the moneys granted 226 are used for the purposes of this section and that the work that 227 the project involves is done properly. The contract is not 228 subject to division (B) of section 127.16 of the Revised Code. 229 The final payment of grant moneys shall not be made until the 230 chief inspects and approves the completed project. 231

The chief shall require each applicant awarded a grant 232 under this section who conducts a project involving construction 233 work to pay workers at the greater of their regular rate of pay, 234 as established by contract, agreement, or prior custom or 235 practice, or the average wage rate paid in this state for the 236 same or similar work performed in the same or a similar locality 237 by private companies doing similar work on similar projects. 238

As used in division (E)(3) of this section, "watershed 239 group" means a charitable organization as defined in section 240 1716.01 of the Revised Code that has been established for the 241 purpose of conducting reclamation of land and waters adversely 242 affected by coal mining practices and specifically for 243 conducting acid mine drainage abatement. 244

(4) The chief may transfer money from the acid mine245drainage abatement and treatment fund to the abandoned mine246reclamation fund. The total amount transferred in a fiscal year247shall not exceed the amount credited in that year to the acid248mine drainage abatement and treatment fund from kilowatt-hour249excise tax revenue under section 5727.81 of the Revised Code.250

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(F) (1) If the chief makes a finding of fact that land or 251 water resources have been adversely affected by past coal mining 252 practices; the adverse effects are at a stage where, in the 253 public interest, action to restore, reclaim, abate, control, or 254 prevent the adverse effects should be taken; the owners of the 255 land or water resources where entry must be made to restore, 256 reclaim, abate, control, or prevent the adverse effects of past 257 coal mining practices are not known or are not readily 258 available; or the owners will not give permission for the state, 259 260 political subdivisions, or their agents, employees, or contractors to enter upon the property to restore, reclaim, 261 abate, control, or prevent the adverse effects of past coal 262 mining practices; then, upon giving notice by mail to the 263 owners, if known, or, if not known, by posting notice upon the 264 premises and advertising once in a newspaper of general 265 circulation in the municipal corporation or county in which the 266 land lies, the chief or the chief's agents, employees, or 267 contractors may enter upon the property adversely affected by 268 past coal mining practices and any other property to have access 269 to the property to do all things necessary or expedient to 270 restore, reclaim, abate, control, or prevent the adverse 271 effects. The entry shall be construed as an exercise of the 272 police power for the protection of the public health, safety, 273 and general welfare and shall not be construed as an act of 274 condemnation of property nor of trespass on it. The moneys 275 expended for the work and the benefits accruing to any such 276 premises so entered upon shall be chargeable against the land 277 and shall mitigate or offset any claim in or any action brought 278 by any owner of any interest in the premises for any alleged 279 damages by virtue of the entry, but this provision is not 280 intended to create new rights of action or eliminate existing 281 282 immunities.

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(2) The chief or the chief's authorized representatives 283 may enter upon any property for the purpose of conducting 284 studies or exploratory work to determine the existence of 285 adverse effects of past coal mining practices and to determine 286 the feasibility of restoration, reclamation, abatement, control, 2.87 or prevention of such adverse effects. The entry shall be 288 289 construed as an exercise of the police power for the protection of the public health, safety, and general welfare and shall not 290 be construed as an act of condemnation of property nor trespass 291 on it. 292

(3) The chief may acquire any land by purchase, donation,
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or condemnation that is adversely affected by past coal mining
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practices if the chief determines that acquisition of the land
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is necessary to successful reclamation and that all of the
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following apply:

(a) The acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, serve conservation and reclamation purposes, or provide open space benefits.

(b) Permanent facilities such as a treatment plant or a
relocated stream channel will be constructed on the land for the
restoration, reclamation, abatement, control, or prevention of
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the adverse effects of past coal mining practices.

(c) Acquisition of coal refuse disposal sites and all coal
 refuse thereon will serve the purposes of this section or public
 ownership is desirable to meet emergency situations and prevent
 recurrences of the adverse effects of past coal mining
 practices.

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(4) (a) Title to all lands acquired pursuant to this
section shall be in the name of the state. The price paid for
land acquired under this section shall reflect the market value
of the land as adversely affected by past coal mining practices.

(b) The chief may receive grants on a matching basis from 316the secretary of the interior for the purpose of carrying out 317this section. 318

(5) (a) Where land acquired pursuant to this section is 319 considered to be suitable for industrial, commercial, 320 residential, or recreational development, the chief may sell the 321 land by public sale under a system of competitive bidding at not 322 less than fair market value and under other requirements imposed 323 by rule to ensure that the lands are put to proper use 324 consistent with local and state land use plans, if any, as 325 determined by the chief. 326

(b) The chief, when requested, and after appropriate 327 public notice, shall hold a public meeting in the county, 328 counties, or other appropriate political subdivisions of the 329 state in which lands acquired pursuant to this section are 330 located. The meetings shall be held at a time that shall afford 331 local citizens and governments the maximum opportunity to 332 participate in the decision concerning the use or disposition of 333 the lands after restoration, reclamation, abatement, control, or 334 prevention of the adverse effects of past coal mining practices. 335

(6) In addition to the authority to acquire land under
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division (F) (3) of this section, the chief may use money in the
fund to acquire land by purchase, donation, or condemnation, and
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to reclaim and transfer acquired land to a political
subdivision, or to any person, if the chief determines that it
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is an integral and necessary element of an economically feasible
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plan for the construction or rehabilitation of housing for 342 persons disabled as the result of employment in the mines or 343 work incidental to that employment, persons displaced by 344 acquisition of land pursuant to this section, persons dislocated 345 as the result of adverse effects of coal mining practices that 346 constitute an emergency as provided in the "Surface Mining 347 Control and Reclamation Act of 1977," 91 Stat. 466, 30 U.S.C.A. 348 1240, or amendments to it, or persons dislocated as the result 349 of natural disasters or catastrophic failures from any cause. 350 Such activities shall be accomplished under such terms and 351 conditions as the chief requires, which may include transfers of 352 land with or without monetary consideration, except that to the 353 extent that the consideration is below the fair market value of 354 the land transferred, no portion of the difference between the 355 fair market value and the consideration shall accrue as a profit 356 to those persons. No part of the funds provided under this 357 section may be used to pay the actual construction costs of 358 housing. The chief may carry out the purposes of division (F)(6) 359 of this section directly or by making grants and commitments for 360 grants and may advance money under such terms and conditions as 361 the chief may require to any agency or instrumentality of the 362 state or any public body or nonprofit organization designated by 363 the chief. 364

(G) (1) Within six months after the completion of projects 365 to restore, reclaim, abate, control, or prevent adverse effects 366 of past coal mining practices on privately owned land, the chief 367 shall itemize the moneys so expended and may file a statement of 368 the expenditures in the office of the county recorder of the 369 county in which the land lies, together with a notarized 370 appraisal by an independent appraiser of the value of the land 371 before the restoration, reclamation, abatement, control, or 372 prevention of adverse effects of past coal mining practices if 373 the moneys so expended result in a significant increase in 374 property value. The statement shall constitute a lien upon the 375 land as of the date of the expenditures of the moneys and shall 376 have priority as a lien second only to the lien of real property 377 taxes imposed upon the land. The lien shall not exceed the 378 379 amount determined by the appraisal to be the increase in the fair market value of the land as a result of the restoration, 380 reclamation, abatement, control, or prevention of the adverse 381 effects of past coal mining practices. No lien shall be filed 382 under division (G) of this section against the property of any 383 person who owned the surface prior to May 2, 1977, and did not 384 consent to, participate in, or exercise control over the mining 385 operation that necessitated the reclamation performed. 386

(2) The landowner may petition, within sixty days after 387 the filing of the lien, to determine the increase in the fair 388 market value of the land as a result of the restoration, 389 reclamation, abatement, control, or prevention of the adverse 390 effects of past coal mining practices. The amount reported to be 391 the increase in value of the premises shall constitute the 392 amount of the lien and shall be recorded with the statement 393 provided in this section. Any party aggrieved by the decision 394 may appeal as provided by state law. 395

(3) The lien provided in division (G) of this section 396 shall be recorded and indexed, under the name of the state and 397 the landowner, in the official records in the office of the 398 county recorder of the county in which the land lies. The county 399 recorder shall impose no charge for the recording or indexing of 400 the lien. If the land is registered, the county recorder shall 401 make a notation and enter a memorial of the lien upon the page 402 of the register in which the last certificate of title to the 403 land is registered, stating the name of the claimant, amount404claimed, volume and page of the record where recorded, and exact405time the memorial was entered.406

407 (4) The lien shall continue in force so long as any portion of the amount of the lien remains unpaid. If the lien 408 remains unpaid at the time of conveyance of the land on which 409 the lien was placed, the conveyance may be set aside. Upon 410 repayment in full of the moneys expended under this section, the 411 chief promptly shall issue a certificate of release of the lien. 412 Upon presentation of the certificate of release, the county 413 recorder of the county in which the lien is recorded shall 414 record the lien as having been discharged. 415

(5) A lien imposed under this section shall be foreclosed upon the substantial failure of a landowner to pay any portion of the amount of the lien. Before foreclosing any lien under this section, the chief shall make a written demand upon the landowner for payment. If the landowner does not pay the amount due within sixty days, the chief shall refer the matter to the attorney general, who shall institute a civil action to foreclose the lien.

(H) (1) The chief may fill voids, seal abandoned tunnels, 424
shafts, and entryways, and reclaim surface impacts of 425
underground or strip mines that the chief determines could 426
endanger life and property, constitute a hazard to the public 427
health and safety, or degrade the environment. 428

(2) In those instances where mine waste piles are being
reworked for conservation purposes, the incremental costs of
disposing of the wastes from those operations by filling voids
and sealing tunnels may be eligible for funding, provided that
the disposal of these wastes meets the purposes of this section.

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(3) The chief may acquire by purchase, donation, easement,	434
or otherwise such interest in land as the chief determines	435
necessary to carry out division (H) of this section.	436
(I) The chief shall report annually to the secretary of	437
the interior on operations under the fund and include	438
recommendations as to its future uses.	439
(J)(1) The chief may engage in any work and do all things	440
necessary or expedient, including the adoption of rules, to	441
implement and administer this section.	442
(2) The chief may engage in cooperative projects under	443
this section with any agency of the United States, any other	444
state, or their governmental agencies or with any state	445
university or college as defined in section 3345.27 of the	446
Revised Code. The cooperative projects are not subject to	447
division (B) of section 127.16 of the Revised Code.	448
(3) The chief may request the attorney general to initiate	449
in any court of competent jurisdiction an action in equity for	450
an injunction to restrain any interference with the exercise of	451
the right to enter or to conduct any work provided in this	452
section, which remedy is in addition to any other remedy	453
available under this section.	454
(4) The chief may construct or operate a plant or plants	455
for the control and treatment of water pollution resulting from	456
mine drainage. The extent of this control and treatment may be	457
dependent upon the ultimate use of the water. Division (J)(4) of	458
this section does not repeal or supersede any portion of the	459
"Federal Water Pollution Control Act," 70 Stat. 498 (1965), 33	460

U.S.C.A. 1151, as amended, and no control or treatment under

division (J)(4) of this section, in any way, shall be less than

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that required by that act. The construction of a plant or plants463may include major interceptors and other facilities appurtenant464to the plant.465

(5) The chief may transfer money from the abandoned mine
reclamation fund and the acid mine drainage abatement and
treatment fund to other appropriate state agencies or to state
universities or colleges in order to carry out the reclamation
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activities authorized by this section.

(K) The chief may contract for any part of work to be
performed under this section, with or without advertising for
bids, if the chief determines that a condition exists that could
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reasonably be expected to cause substantial physical harm to
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persons, property, or the environment and to which persons or
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improvements on real property are currently exposed.

The chief shall require every contractor performing477reclamation work under this section to pay its workers at the478greater of their regular rate of pay, as established by479contract, agreement, or prior custom or practice, or the average480wage rate paid in this state for the same or similar work as481determined by the chief under section 1513.02 of the Revised482Code.483

(L)(1) The chief may contract for the emergency 484 restoration, reclamation, abatement, control, or prevention of 485 adverse effects of mining practices on eligible lands if the 486 chief determines that an emergency exists constituting a danger 487 to the public health, safety, or welfare and that no other 488 person or agency will act expeditiously to restore, reclaim, 489 abate, control, or prevent those adverse effects. The chief may 490 enter into a contract for emergency work under division (L) of 491 this section without advertising for bids. Any such contract or 492 any purchase of materials for emergency work under division (L)493of this section is not subject to division (B) of section 127.16494of the Revised Code.495

(2) The chief or the chief's agents, employees, or 496 contractors may enter on any land where such an emergency 497 exists, and on other land in order to have access to that land, 498 in order to restore, reclaim, abate, control, or prevent the 499 adverse effects of mining practices and to do all things 500 necessary or expedient to protect the public health, safety, or 501 502 welfare. Such an entry shall be construed as an exercise of the 503 police power and shall not be construed as an act of condemnation of property or of trespass. The moneys expended for 504 the work and the benefits accruing to any premises so entered 505 upon shall be chargeable against the land and shall mitigate or 506 offset any claim in or any action brought by any owner of any 507 interest in the premises for any alleged damages by virtue of 508 the entry. This provision is not intended to create new rights 509 of action or eliminate existing immunities. 510

(M) (1) The chief shall adopt policies and procedures that511establish incentives for contractors to employ coal miners who512qualify as dislocated workers for the purposes of projects513conducted under division (D) or (E) of this section.514

(2) For the purposes of this section, a "dislocated515worker" has the same definition as in 29 U.S.C. 3102.516

Sec. 1561.24. For purposes of this chapter, Chapters5171563., 1565., and 1567., and sections 1514.40 to 1514.50 of the518Revised Code, there is hereby created in the state treasury the519mine safety fund. The fund shall consist of kilowatt-hour excise520tax revenue credited to the fund under section 5727.81 of the521Revised Code and money transferred to it by the administrator of522

workers' compensation from the coal-workers pneumoconiosis fund		523
established in section 4131.03 of the Revised Code. All		524
investment earnings of the mine safety fund shall be credited to		525
the fund. The chief of the division of mineral reso	ources	526
management shall use money in the fund for all of t	the following	527
purposes:		528
(A) Mine safety and health inspections and auc	lits;	529
(B) The purchase and maintenance of mine rescu	le and	530
inspection equipment;		531
(C) The purchase or lease of facilities for us	se as mine	532
rescue stations and for mine rescue and safety trai	ning;	533
(D) Mine rescue and safety and health training	g of miners;	534
(E) Certification and recertification of mine	officials <u>;</u>	535
(F) Infrastructure, programming, and personnel	l costs	536
relating to mine safety training.		537
Sec. 5727.81. (A) For the purpose of raising r	revenue to	538
fund the needs of this state and its local governments and for		539
the purposes of mine reclamation, mine drainage abatement, and		540
mine safety, an excise tax is hereby levied and imp	posed on an	541
electric distribution company for all electricity of	distributed by	542
such company at the following rates per kilowatt ho	our of	543
electricity distributed in a thirty-day period by t	che company	544
through a meter of an end user in this state:		545
KILOWATT HOURS DISTRIBUTED	RATE PER	546
TO AN END USER	KILOWATT HOUR	547
For the first 2,000	\$.00465	548
For the next 2,001 to 15,000	\$.00419	549

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For 15,001 and above	\$.00363	550
If no meter is used to measure the k	ilowatt hours of	551
electricity distributed by the company, t	he rates shall apply to	552
the estimated kilowatt hours of electrici	ty distributed to an	553
unmetered location in this state.		554
The electric distribution company sh	all base the monthly	555
tax on the kilowatt hours of electricity	distributed to an end	556
user through the meter of the end user th	at is not measured for	557
a thirty-day period by dividing the days	in the measurement	558
period into the total kilowatt hours meas	ured during the	559
measurement period to obtain a daily aver	age usage. The tax	560
shall be determined by obtaining the sum	of divisions (A)(1),	561
(2), and (3) of this section and multiply	ing that amount by the	562
number of days in the measurement period:		563
(1) Multiplying \$0.00465 per kilowat	t hour for the first	564
sixty-seven kilowatt hours distributed us	ing a daily average;	565
(2) Multiplying \$0.00419 for the nex	t sixty-eight to five	566
hundred kilowatt hours distributed using	a daily average;	567

(3) Multiplying \$0.00363 for the remaining kilowatt hours distributed using a daily average.

Except as provided in division (C) of this section, the 570 electric distribution company shall pay the tax to the tax 571 commissioner in accordance with section 5727.82 of the Revised 572 Code, unless required to remit each tax payment by electronic 573 funds transfer to the treasurer of state in accordance with 574 section 5727.83 of the Revised Code. 575

Only the distribution of electricity through a meter of an 576 end user in this state shall be used by the electric 577 distribution company to compute the amount or estimated amount 578

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of tax due. In the event a meter is not actually read for a 579 measurement period, the estimated kilowatt hours distributed by 580 an electric distribution company to bill for its distribution 581 charges shall be used. 582

(B) Except as provided in division (C) of this section,
each electric distribution company shall pay the tax imposed by
this section in all of the following circumstances:
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(1) The electricity is distributed by the company through 586a meter of an end user in this state; 587

(2) The company is distributing electricity through a
meter located in another state, but the electricity is consumed
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in this state in the manner prescribed by the tax commissioner;
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(3) The company is distributing electricity in this state
without the use of a meter, but the electricity is consumed in
this state as estimated and in the manner prescribed by the tax
commissioner.

(C)(1) As used in division (C) of this section:

(a) "Total price of electricity" means the aggregate value
in money of anything paid or transferred, or promised to be paid
or transferred, to obtain electricity or electric service,
including but not limited to the value paid or promised to be
paid for the transmission or distribution of electricity and for
transition costs as described in Chapter 4928. of the Revised
601
Code.

(b) "Package" means the provision or the acquisition, at a
combined price, of electricity with other services or products,
or any combination thereof, such as natural gas or other fuels;
energy management products, software, and services; machinery
and equipment acquisition; and financing agreements.

(c) "Single location" means a facility located on
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contiguous property separated only by a roadway, railway, or
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waterway.

(2) Division (C) of this section applies to any commercial 611 or industrial purchaser's receipt of electricity through a meter 612 of an end user in this state or through more than one meter at a 613 single location in this state in a quantity that exceeds forty-614 five million kilowatt hours of electricity over the course of 615 the preceding calendar year, or any commercial or industrial 616 purchaser that will consume more than forty-five million 617 kilowatt hours of electricity over the course of the succeeding 618 twelve months as estimated by the tax commissioner. The tax 619 commissioner shall make such an estimate upon the written 620 request by an applicant for registration as a self-assessing 621 purchaser under this division. For the meter reading period 622 including July 1, 2008, through the meter reading period 623 including December 31, 2010, such a purchaser may elect to self-624 assess the excise tax imposed by this section at the rate of 625 \$.00075 per kilowatt hour on the first five hundred four million 626 kilowatt hours distributed to that meter or location during the 627 registration year, and a percentage of the total price of all 628 electricity distributed to that meter or location equal to three 629 and one-half per cent. For the meter reading period including 630 January 1, 2011, and thereafter, such a purchaser may elect to 631 self-assess the excise tax imposed by this section at the rate 632 of \$.00257 per kilowatt hour for the first five hundred million 633 kilowatt hours, and \$.001832 per kilowatt hour for each kilowatt 634 hour in excess of five hundred million kilowatt hours, 635 distributed to that meter or location during the registration 636 637 year.

A qualified end user that receives electricity through a

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meter of an end user in this state or through more than one639meter at a single location in this state and that consumes, over640the course of the previous calendar year, more than forty-five641million kilowatt hours in other than its qualifying642manufacturing process, may elect to self-assess the tax as643allowed by this division with respect to the electricity used in644other than its qualifying manufacturing process.645

Payment of the tax shall be made directly to the tax 646 commissioner in accordance with divisions (A)(4) and (5) of 647 section 5727.82 of the Revised Code, or the treasurer of state 648 in accordance with section 5727.83 of the Revised Code. If the 649 electric distribution company serving the self-assessing 650 purchaser is a municipal electric utility and the purchaser is 651 within the municipal corporation's corporate limits, payment 652 shall be made to such municipal corporation's general fund and 653 reports shall be filed in accordance with divisions (A)(4) and 654 (5) of section 5727.82 of the Revised Code, except that 655 "municipal corporation" shall be substituted for "treasurer of 656 state" and "tax commissioner." A self-assessing purchaser that 657 pays the excise tax as provided in this division shall not be 658 required to pay the tax to the electric distribution company 659 from which its electricity is distributed. If a self-assessing 660 purchaser's receipt of electricity is not subject to the tax as 661 measured under this division, the tax on the receipt of such 662 electricity shall be measured and paid as provided in division 663 (A) of this section. 664

(3) In the case of the acquisition of a package, unless
(3) In the case of the acquisition of a package, unless
(65) the elements of the package are separately stated isolating the
(66) total price of electricity from the price of the remaining
(67) elements of the package, the tax imposed under this section
(68) applies to the entire price of the package. If the elements of

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the package are separately stated, the tax imposed under this 670 section applies to the total price of the electricity. 671

(4) Any electric supplier that sells electricity as part
of a package shall separately state to the purchaser the total
price of the electricity and, upon request by the tax
commissioner, the total price of each of the other elements of
the package.

(5) The tax commissioner may adopt rules relating to the
(5) The tax commissioner may adopt rules relating to the
(5) The total price of electricity with respect to
(5) The total price of electricity purchased as part of a package.
(5) The total price of electricity purchased as part of a package.

(6) An annual application for registration as a self-681 assessing purchaser shall be made for each qualifying meter or 682 location on a form prescribed by the tax commissioner. The 683 registration year begins on the first day of May and ends on the 684 following thirtieth day of April. Persons may apply after the 685 first day of May for the remainder of the registration year. In 686 the case of an applicant applying on the basis of an estimated 687 consumption of forty-five million kilowatt hours over the course 688 of the succeeding twelve months, the applicant shall provide 689 such information as the tax commissioner considers to be 690 necessary to estimate such consumption. At the time of making 691 the application and by the first day of May of each year, a 692 self-assessing purchaser shall pay a fee of five hundred dollars 693 to the tax commissioner, or to the treasurer of state as 694 provided in section 5727.83 of the Revised Code, for each 695 qualifying meter or location. The tax commissioner shall 696 immediately pay to the treasurer of state all amounts that the 697 tax commissioner receives under this section. The treasurer of 698 state shall deposit such amounts into the kilowatt hour excise 699

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tax administration fund, which is hereby created in the state 700 treasury. Money in the fund shall be used to defray the tax 701 commissioner's cost in administering the tax owed under section 702 5727.81 of the Revised Code by self-assessing purchasers. After 703 the application is approved by the tax commissioner, the 704 registration shall remain in effect for the current registration 705 year, or until canceled by the registrant upon written 706 notification to the commissioner of the election to pay the tax 707 in accordance with division (A) of this section, or until 708 canceled by the tax commissioner for not paying the tax or fee 709 under division (C) of this section or for not meeting the 710 qualifications in division (C)(2) of this section. The tax 711 commissioner shall give written notice to the electric 712 distribution company from which electricity is delivered to a 713 self-assessing purchaser of the purchaser's self-assessing 714 status, and the electric distribution company is relieved of the 715 obligation to pay the tax imposed by division (A) of this 716 section for electricity distributed to that self-assessing 717 purchaser until it is notified by the tax commissioner that the 718 self-assessing purchaser's registration is canceled. Within 719 fifteen days of notification of the canceled registration, the 720 electric distribution company shall be responsible for payment 721 of the tax imposed by division (A) of this section on 722 electricity distributed to a purchaser that is no longer 723 registered as a self-assessing purchaser. A self-assessing 724 purchaser with a canceled registration must file a report and 725 remit the tax imposed by division (A) of this section on all 726 electricity it receives for any measurement period prior to the 727 tax being reported and paid by the electric distribution 728 company. A self-assessing purchaser whose registration is 729 canceled by the tax commissioner is not eligible to register as 730 731 a self-assessing purchaser for two years after the registration

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Page 26

is canceled.

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(7) If the tax commissioner cancels the self-assessing 733 registration of a purchaser registered on the basis of its 734 estimated consumption because the purchaser does not consume at 735 least forty-five million kilowatt hours of electricity over the 736 course of the twelve-month period for which the estimate was 737 made, the tax commissioner shall assess and collect from the 738 purchaser the difference between (a) the amount of tax that 739 would have been payable under division (A) of this section on 740 the electricity distributed to the purchaser during that period 741 742 and (b) the amount of tax paid by the purchaser on such electricity pursuant to division (C)(2) of this section. The 743 744 assessment shall be paid within sixty days after the tax commissioner issues it, regardless of whether the purchaser 745 files a petition for reassessment under section 5727.89 of the 746 Revised Code covering that period. If the purchaser does not pay 747 the assessment within the time prescribed, the amount assessed 748 is subject to the additional charge and the interest prescribed 749 by divisions (B) and (C) of section 5727.82 of the Revised Code, 750 and is subject to assessment under section 5727.89 of the 751 Revised Code. If the purchaser is a qualified end user, division 752 (C) (7) of this section applies only to electricity it consumes 753 in other than its qualifying manufacturing process. 754

(D) The tax imposed by this section does not apply to the 755 distribution of any kilowatt hours of electricity to the federal 756 government, to an end user located at a federal facility that 757 uses electricity for the enrichment of uranium, to a qualified 758 regeneration meter, or to an end user for any day the end user 759 is a qualified end user. The exemption under this division for a 760 qualified end user only applies to the manufacturing location 761 where the qualified end user uses more than three million 762

kilowatt hours per day in a qualifying manufacturing process.	
(E)-All revenue arising from the tax imposed by this	764
section shall be credited to the general revenue fund except (1)	
Except as provided by division (C) of this section and section	766
5727.82 of the Revised Code, revenue arising from the tax	767
imposed by this section shall be credited to the following funds	768
in the prescribed percentages:	769
General revenue fund 96.25%	770
Abandoned mine reclamation fund 1.50%	771
Acid mine drainage abatement and treatment fund 1.50%	772
Mine safety fund 0.75%	773
(2) As used in this division:	774
(a) "Abandoned mine reclamation fund" means the fund	775
bearing that name created by section 1513.37 of the Revised	776
Code.	
(b) "Acid mine drainage abatement fund" means the fund	778
bearing that name created by section 1513.37 of the Revised	779
<u>Code.</u>	780
(c) "Mine safety fund" means the fund bearing that name	781
created by section 1561.24 of the Revised Code.	782
Section 2. That existing sections 1513.37, 1561.24, and	783
5727.81 of the Revised Code are hereby repealed.	784