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## PUBLIC WORKS COMMISSION

### Clean Ohio Conservation Fund grant agreements

- Requires the Ohio Public Works Commission (OPWC) to amend certain Clean Ohio Conservation Fund grant agreements (and related deeds) made with a municipal corporation or nonprofit to acquire land or rights in land in Guernsey and Belmont counties.
- Stipulates that any amendment to a grant agreement must specify all of the following:
  - That any use restriction on the land concerning the grant agreement applies only to the surface of the land;
  - That the use restriction on the land does not apply to the mineral rights under the land surface;
  - That the grantee may sell, assign, transfer, lease, exchange, convey, or otherwise encumber the property's mineral rights; and
  - That the holder of those mineral rights may extract the resources subject to those mineral rights in accordance with applicable law.
- Allows OPWC to pursue remedies specified in deed restrictions or to exercise its legal right to pursue liquidated damages as authorized under Ohio law.

### OPWC appointments and vacancies

- Establishes a schedule for appointments to fill vacancies on OPWC, and changes the length of terms for Commission members from three years to four years.

### Clean Ohio Conservation Fund grant agreements

(Section 701.60)

#### Background

Under continuing law, the Ohio Public Works Commission (OPWC) may issue grants from the Clean Ohio Conservation Fund to local political subdivisions and nonprofit organizations for open space acquisition and riparian corridor and watershed enhancement. Natural resources assistance councils, which have geographical jurisdiction over proposed project areas and are appointed by each district public works integrating committee, initially approve grant applications for subsequent submission to OPWC. The types of eligible projects are:<sup>132</sup>

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<sup>132</sup> R.C. 164.22, not in the act.

Clean Ohio Conservation Fund eligible projects	
Type of project	Project emphasis
Open space acquisition of land	The support of comprehensive open space planning and incorporation of aesthetically pleasing and ecologically informed design.
	The enhancement of economic improvement that relies on recreation and ecotourism in areas with relatively high unemployment and lower incomes.
	The protection of habitat for rare, threatened, and endangered species or the preservation of high quality, viable habitat for plant and animal species.
	The preservation of existing high quality wetlands or other scarce natural resources within the geographical jurisdiction of the council.
	The enhancement of educational opportunities and provision of physical links to schools and after-school centers.
	The preservation or restoration of water quality, natural stream channels, functioning floodplains, wetlands, streamside forests, and other natural features that contribute to the quality of life in Ohio and to Ohio's natural heritage.
	The reduction or elimination of nonnative, invasive species of plants or animals.
	The proper management of areas where safe fishing, hunting, and trapping may take place in a manner that will preserve a balanced natural ecosystem.
	The protection and enhancement of riparian corridors or watersheds
Inclusion as part of a stream corridor-wide or watershed-wide plan.	
The provision of multiple recreational, economic, and aesthetic preservation benefits.	
The preservation or restoration of floodplain and streamside forest functions.	
The preservation of headwater streams.	
The restoration and preservation of aquatic biological communities.	

## **Agreement and deed to allow the transfer of mineral rights**

Under the act, OPWC must amend agreements (and related deeds) with a grantee under which it issued a grant to acquire land or rights in land in Guernsey and Belmont counties, if the grantee so agrees. The amendment to the agreement must specify all of the following:

1. That any use restriction on the land concerning the grant agreement applies only to the surface of the land;
2. That the use restriction on the land does not apply to the mineral rights under the land surface;
3. That the grantee may sell, assign, transfer, lease, exchange, convey, or otherwise encumber the property's mineral rights; and
4. That the holder of those mineral rights may extract the resources subject to those mineral rights in accordance with applicable law.

## **Remedies and liquidated damages**

The act allows OPWC to pursue remedies specified in deed restrictions or to exercise its legal right to pursue liquidated damages as authorized under Ohio law.<sup>133</sup> It also specifies that a grantee is liable for payment of liquidated damages resulting from a violation of a deed restriction that occurred prior to the amendment of the deed restriction (i.e., if a grantee has already sold mineral rights in violation of the current deed restriction terms). OPWC must deposit the liquidated damages in the Clean Ohio Conservation Fund and allocate it as follows:

- First, to the natural resources assistance council that approved the original grant in an amount equal to the total grant received by the grantee (if the liquidated damages cover the total amount).
- Then, any excess amount must remain in the Clean Ohio Conservation Fund to be used for new grants for eligible projects and allocated on an annual basis to natural resources assistance councils in accordance with continuing law.

## **OPWC appointments and vacancies**

(R.C. 164.02; Section 701.80)

The act establishes a schedule for appointments to fill vacancies on OPWC, and changes the length of terms for OPWC members from three years to four years. It specifies that a person who is a member of OPWC before October 3, 2023, may complete the term to which the person was appointed.

The act requires that, by November 2, 2023, the Senate President must appoint one member to a term of four years, and the House Speaker, the House Minority Leader, and the Senate Minority Leader each must appoint one member to an initial term of two years. All subsequent appointments to OPWC, including those for the three positions whose terms expire

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<sup>133</sup> See R.C. 164.26, not in the act.

on December 31, 2023, must be for terms of four years. All terms commence from the date of appointment.

The act clarifies that a member who is appointed to fill a vacancy must complete the remainder of that term, and may be reappointed for up to two subsequent four-year terms.