

**As Introduced**

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**H. B. No. 15**

**Representative Cera**

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

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**A BILL**

To 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, 19  
regulations adopted under it, and amendments to the act and 20  
regulations. Expenditures from the abandoned mine reclamation 21  
fund 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  
past coal mining; prevention of erosion and sedimentation; 29  
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

(2) Acquisition and filling of voids and sealing of 36  
tunnels, shafts, and entryways of noncoal lands; 37

(3) Acquisition of land as provided for in this section; 38

(4) Administrative expenses incurred in accomplishing the 39  
purposes of this section; 40

(5) All other necessary expenses to accomplish the 41  
purposes of this section. 42

The chief may transfer money from the abandoned mine 43  
reclamation fund to the acid mine drainage abatement and 44  
treatment fund. The total amount transferred in a fiscal year 45  
shall not exceed the amount credited in that year to the 46  
abandoned mine reclamation fund from kilowatt-hour excise tax 47

<u>revenue under section 5727.81 of the Revised Code.</u>	48
(B) Expenditures of moneys from the fund on land and water eligible pursuant to division (C) of this section shall reflect the following priorities in the order stated:	49 50 51
(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices;	52 53 54
(2) The protection of public health, safety, and general welfare from adverse effects of coal mining practices;	55 56
(3) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices, including measures for the conservation and development of soil and water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity;	57 58 59 60 61 62
(4) Research and demonstration projects relating to the development of coal mining reclamation and water quality control program methods and techniques;	63 64 65
(5) The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation facilities, and conservation facilities adversely affected by coal mining practices;	66 67 68 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.	70 71 72 73
(C) (1) Lands and water eligible for reclamation or drainage abatement expenditures under this section are those	74 75

that were mined for coal or were affected by such mining, 76  
wastebanks, coal processing, or other coal mining processes and 77  
that meet one of the following criteria: 78

(a) Are lands that were abandoned or left in an inadequate 79  
reclamation status prior to August 3, 1977, and for which there 80  
is no continuing reclamation responsibility under state or 81  
federal laws; 82

(b) Are lands for which the chief finds that surface coal 83  
mining operations occurred at any time between August 4, 1977, 84  
and August 16, 1982, and that any moneys for reclamation or 85  
abatement that are available pursuant to a bond, performance 86  
security, or other form of financial guarantee or from any other 87  
source are not sufficient to provide for adequate reclamation or 88  
abatement at the site; 89

(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 104

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  
guarantee 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 118  
a state reclamation plan and annual projects to carry out the 119  
purposes of this section. 120

(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 128  
secretary an application for support of the abandoned mine 129  
reclamation fund and implementation of specific reclamation 130  
projects. The annual requests shall include such information as 131  
may be requested by the secretary. 132

(3) The costs for each proposed project under this section 133  
shall include actual construction costs, actual operation and 134

maintenance costs of permanent facilities, planning and 135  
engineering costs, construction inspection costs, and other 136  
necessary administrative expenses. 137

(4) The chief may submit annual and other reports required 138  
by the secretary when funds are provided by the secretary under 139  
Title IV of the "Surface Mining Control and Reclamation Act of 140  
1977," 91 Stat. 445, 30 U.S.C.A. 1201, regulations adopted under 141  
it, and amendments to the act and regulations. 142

(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(g) (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 152  
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 162  
used in division (E) of this section, "qualified hydrologic 163  
unit" means a hydrologic unit that meets all of the following 164

criteria:	165
(i) The water quality in the unit has been significantly affected by acid mine drainage from coal mining practices in a manner that has an adverse impact on biological resources.	166 167 168
(ii) The unit contains lands and waters that meet the eligibility requirements established under division (C) of this section and any of the priorities established in divisions (B) (1) to (3) of this section.	169 170 171 172
(iii) The unit contains lands and waters that are proposed to be the subject of expenditures from the reclamation forfeiture fund created in section 1513.18 of the Revised Code or the unreclaimed lands fund created in section 1513.30 of the Revised Code.	173 174 175 176 177
(b) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit;	178 179 180
(c) An identification of the sources of acid mine drainage within the hydrologic unit;	181 182
(d) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit;	183 184 185
(e) The cost of undertaking the proposed abatement and treatment measures;	186 187
(f) An identification of existing and proposed sources of funding for those measures;	188 189
(g) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.	190 191

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

(a) Reasonable and necessary expenses for the collection and analysis of data sufficient to do either or both of the following:

(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 involved in the project, provided that the project is conducted in a qualified hydrologic unit and the chief considers the project to be a priority.

A watershed group that wishes to obtain a grant under division (E) (3) of this section shall submit an application to the chief on forms provided by the division of mineral resources management, together with detailed estimates and timetables for accomplishing the stated goals of the project and any other information that the chief requires. Before awarding a grant from the fund, the chief first shall submit to the council on unreclaimed strip mined lands the project proposal and any other pertinent information regarding the project requested by the council for review and approval of the specific project by the council.

For the purposes of establishing priorities for awarding grants under division (E) (3) of this section, the chief shall



consider each project's feasibility, cost-effectiveness, and 221  
environmental benefit, together with the availability of 222  
matching 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 mine 245  
drainage abatement and treatment fund to the abandoned mine 246  
reclamation fund. The total amount transferred in a fiscal year 247  
shall not exceed the amount credited in that year to the acid 248  
mine drainage abatement and treatment fund from kilowatt-hour 249  
excise tax revenue under section 5727.81 of the Revised Code. 250

(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  
political subdivisions, or their agents, employees, or 260  
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  
immunities. 282

(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,	287
or prevention of such adverse effects. The entry shall be	288
construed as an exercise of the police power for the protection	289
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,	293
or condemnation that is adversely affected by past coal mining	294
practices if the chief determines that acquisition of the land	295
is necessary to successful reclamation and that all of the	296
following apply:	297
(a) The acquired land, after restoration, reclamation,	298
abatement, control, or prevention of the adverse effects of past	299
coal mining practices, will serve recreation and historic	300
purposes, serve conservation and reclamation purposes, or	301
provide open space benefits.	302
(b) Permanent facilities such as a treatment plant or a	303
relocated stream channel will be constructed on the land for the	304
restoration, reclamation, abatement, control, or prevention of	305
the adverse effects of past coal mining practices.	306
(c) Acquisition of coal refuse disposal sites and all coal	307
refuse thereon will serve the purposes of this section or public	308
ownership is desirable to meet emergency situations and prevent	309
recurrences of the adverse effects of past coal mining	310
practices.	311

(4) (a) Title to all lands acquired pursuant to this 312  
section shall be in the name of the state. The price paid for 313  
land acquired under this section shall reflect the market value 314  
of the land as adversely affected by past coal mining practices. 315

(b) The chief may receive grants on a matching basis from 316  
the secretary of the interior for the purpose of carrying out 317  
this 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 336  
division (F) (3) of this section, the chief may use money in the 337  
fund to acquire land by purchase, donation, or condemnation, and 338  
to reclaim and transfer acquired land to a political 339  
subdivision, or to any person, if the chief determines that it 340  
is an integral and necessary element of an economically feasible 341

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  
amount determined by the appraisal to be the increase in the 379  
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, amount 404  
claimed, volume and page of the record where recorded, and exact 405  
time the memorial was entered. 406

(4) The lien shall continue in force so long as any 407  
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 416  
upon the substantial failure of a landowner to pay any portion 417  
of the amount of the lien. Before foreclosing any lien under 418  
this section, the chief shall make a written demand upon the 419  
landowner for payment. If the landowner does not pay the amount 420  
due within sixty days, the chief shall refer the matter to the 421  
attorney general, who shall institute a civil action to 422  
foreclose the lien. 423

(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 429  
reworked for conservation purposes, the incremental costs of 430  
disposing of the wastes from those operations by filling voids 431  
and sealing tunnels may be eligible for funding, provided that 432  
the disposal of these wastes meets the purposes of this section. 433

(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 461  
division (J) (4) of this section, in any way, shall be less than 462



that required by that act. The construction of a plant or plants 463  
may include major interceptors and other facilities appurtenant 464  
to the plant. 465

(5) The chief may transfer money from the abandoned mine 466  
reclamation fund and the acid mine drainage abatement and 467  
treatment fund to other appropriate state agencies or to state 468  
universities or colleges in order to carry out the reclamation 469  
activities authorized by this section. 470

(K) The chief may contract for any part of work to be 471  
performed under this section, with or without advertising for 472  
bids, if the chief determines that a condition exists that could 473  
reasonably be expected to cause substantial physical harm to 474  
persons, property, or the environment and to which persons or 475  
improvements on real property are currently exposed. 476

The chief shall require every contractor performing 477  
reclamation work under this section to pay its workers at the 478  
greater of their regular rate of pay, as established by 479  
contract, agreement, or prior custom or practice, or the average 480  
wage rate paid in this state for the same or similar work as 481  
determined by the chief under section 1513.02 of the Revised 482  
Code. 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) 493  
of this section is not subject to division (B) of section 127.16 494  
of 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  
welfare. Such an entry shall be construed as an exercise of the 502  
police power and shall not be construed as an act of 503  
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 that 511  
establish incentives for contractors to employ coal miners who 512  
qualify as dislocated workers for the purposes of projects 513  
conducted under division (D) or (E) of this section. 514

(2) For the purposes of this section, a "dislocated 515  
worker" has the same definition as in 29 U.S.C. 3102. 516

**Sec. 1561.24.** For purposes of this chapter, Chapters 517  
1563., 1565., and 1567., and sections 1514.40 to 1514.50 of the 518  
Revised Code, there is hereby created in the state treasury the 519  
mine safety fund. The fund shall consist of kilowatt-hour excise 520  
tax revenue credited to the fund under section 5727.81 of the 521  
Revised Code and money transferred to it by the administrator of 522

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 resources 526  
management shall use money in the fund for all of the following 527  
purposes: 528

(A) Mine safety and health inspections and audits; 529

(B) The purchase and maintenance of mine rescue and 530  
inspection equipment; 531

(C) The purchase or lease of facilities for use as mine 532  
rescue stations and for mine rescue and safety training; 533

(D) Mine rescue and safety and health training of miners; 534

(E) Certification and recertification of mine officials; 535

(F) Infrastructure, programming, and personnel costs 536  
relating to mine safety training. 537

**Sec. 5727.81.** (A) For the purpose of raising 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 imposed on an 541  
electric distribution company for all electricity distributed by 542  
such company at the following rates per kilowatt hour of 543  
electricity distributed in a thirty-day period by the 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

For 15,001 and above \$ .00363 550

If no meter is used to measure the kilowatt hours of 551  
electricity distributed by the company, the rates shall apply to 552  
the estimated kilowatt hours of electricity distributed to an 553  
unmetered location in this state. 554

The electric distribution company shall base the monthly 555  
tax on the kilowatt hours of electricity distributed to an end 556  
user through the meter of the end user that is not measured for 557  
a thirty-day period by dividing the days in the measurement 558  
period into the total kilowatt hours measured during the 559  
measurement period to obtain a daily average usage. The tax 560  
shall be determined by obtaining the sum of divisions (A) (1), 561  
(2), and (3) of this section and multiplying that amount by the 562  
number of days in the measurement period: 563

(1) Multiplying \$0.00465 per kilowatt hour for the first 564  
sixty-seven kilowatt hours distributed using a daily average; 565

(2) Multiplying \$0.00419 for the next sixty-eight to five 566  
hundred kilowatt hours distributed using a daily average; 567

(3) Multiplying \$0.00363 for the remaining kilowatt hours 568  
distributed using a daily average. 569

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

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, 583  
each electric distribution company shall pay the tax imposed by 584  
this section in all of the following circumstances: 585

(1) The electricity is distributed by the company through 586  
a meter of an end user in this state; 587

(2) The company is distributing electricity through a 588  
meter located in another state, but the electricity is consumed 589  
in this state in the manner prescribed by the tax commissioner; 590

(3) The company is distributing electricity in this state 591  
without the use of a meter, but the electricity is consumed in 592  
this state as estimated and in the manner prescribed by the tax 593  
commissioner. 594

(C) (1) As used in division (C) of this section: 595

(a) "Total price of electricity" means the aggregate value 596  
in money of anything paid or transferred, or promised to be paid 597  
or transferred, to obtain electricity or electric service, 598  
including but not limited to the value paid or promised to be 599  
paid for the transmission or distribution of electricity and for 600  
transition costs as described in Chapter 4928. of the Revised 601  
Code. 602

(b) "Package" means the provision or the acquisition, at a 603  
combined price, of electricity with other services or products, 604  
or any combination thereof, such as natural gas or other fuels; 605  
energy management products, software, and services; machinery 606  
and equipment acquisition; and financing agreements. 607

(c) "Single location" means a facility located on 608  
contiguous property separated only by a roadway, railway, or 609  
waterway. 610

(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  
year. 637

A qualified end user that receives electricity through a 638

meter of an end user in this state or through more than one 639  
meter at a single location in this state and that consumes, over 640  
the course of the previous calendar year, more than forty-five 641  
million kilowatt hours in other than its qualifying 642  
manufacturing process, may elect to self-assess the tax as 643  
allowed by this division with respect to the electricity used in 644  
other 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 665  
the elements of the package are separately stated isolating the 666  
total price of electricity from the price of the remaining 667  
elements of the package, the tax imposed under this section 668  
applies to the entire price of the package. If the elements of 669

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 672  
of a package shall separately state to the purchaser the total 673  
price of the electricity and, upon request by the tax 674  
commissioner, the total price of each of the other elements of 675  
the package. 676

(5) The tax commissioner may adopt rules relating to the 677  
computation of the total price of electricity with respect to 678  
self-assessing purchasers, which may include rules to establish 679  
the total price of electricity purchased as part of a package. 680

(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



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  
a self-assessing purchaser for two years after the registration 731

is canceled. 732

(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  
and (b) the amount of tax paid by the purchaser on such 742  
electricity pursuant to division (C) (2) of this section. The 743  
assessment shall be paid within sixty days after the tax 744  
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. 763

~~(E) All revenue arising from the tax imposed by this~~ 764  
~~section shall be credited to the general revenue fund except (1)~~ 765  
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

<u>General revenue fund</u>	<u>96.25%</u>	770
<u>Abandoned mine reclamation fund</u>	<u>1.50%</u>	771
<u>Acid mine drainage abatement and treatment fund</u>	<u>1.50%</u>	772
<u>Mine safety fund</u>	<u>0.75%</u>	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. 777

(b) "Acid mine drainage abatement fund" means the fund 778  
bearing that name created by section 1513.37 of the Revised 779  
Code. 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