

**As Reported by the House Energy and Environment Committee**

**124th General Assembly**

**Regular Session**

**2001-2002**

**H. B. No. 338**

**REPRESENTATIVES Core, Calvert, Sullivan, Allen, Webster, Husted,  
Lendrum, Kearns, Hollister, Kilbane, Fedor**

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**A B I L L**

To amend sections 1515.02, 1515.15, and 1515.24 and to 1  
repeal sections 1515.25, 1515.26, and 1515.27 of 2  
the Revised Code to eliminate the authority for 3  
referendums on assessments levied for improvements 4  
under the soil and water conservation statutes, and 5  
to require that property owners be notified of 6  
uniform assessments under those statutes by first 7  
class mail in lieu of notification by publication. 8

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

**Section 1.** That sections 1515.02, 1515.15, and 1515.24 of the 9  
Revised Code be amended to read as follows: 10

**Sec. 1515.02.** There is hereby established in the department 11  
of natural resources the Ohio soil and water conservation 12  
commission. The commission shall consist of seven members of equal 13  
status and authority, four of whom shall be appointed by the 14  
governor with the advice and consent of the senate, and one of 15  
whom shall be designated by resolution of the board of directors 16  
of the Ohio federation of soil and water conservation districts. 17  
The other two members shall be the director of agriculture and the 18  
vice-president for agricultural administration of the Ohio state 19

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university. The director of natural resources may participate in 20  
the deliberations of the commission, but without the power to 21  
vote. A vacancy in the office of an appointed member shall be 22  
filled by the governor, with the advice and consent of the senate. 23  
Any member appointed to fill a vacancy occurring prior to the 24  
expiration of the term for which ~~his~~ the member's predecessor was 25  
appointed shall hold office for the remainder of ~~such~~ that term. 26  
Of the appointed members, two shall be farmers and all shall be 27  
persons who have a knowledge of or interest in the natural 28  
resources of the state. Not more than two of the appointed members 29  
shall be members of the same political party. 30

Terms of office of the member designated by the board of 31  
directors of the federation and the members appointed by the 32  
governor shall be for four years, commencing on the first day of 33  
July and ending on the thirtieth day of June. 34

Each appointed member shall hold office from the date of ~~his~~ 35  
appointment until the end of the term for which ~~he~~ the member was 36  
appointed. Any appointed member shall continue in office 37  
subsequent to the expiration date of ~~his~~ the member's term until 38  
~~his~~ the member's successor takes office, or until a period of 39  
sixty days has elapsed, whichever occurs first. 40

The commission shall organize by selecting from its members a 41  
~~chairman~~ chairperson and a ~~vice-chairman~~ vice-chairperson. The 42  
commission shall hold at least one regular meeting in each quarter 43  
of each calendar year and shall keep a record of its proceedings, 44  
which shall be open to the public for inspection. Special meetings 45  
may be called by the ~~chairman~~ chairperson and shall be called by 46  
~~him~~ the chairperson upon receipt of a written request signed by 47  
two or more members of the commission. Written notice of the time 48  
and place of each meeting shall be sent to each member of the 49  
commission. A majority of the commission shall constitute a 50  
quorum. 51

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The commission may adopt rules as necessary to carry out the 52  
purposes of ~~Chapter 1515. of the Revised Code~~ this chapter, 53  
subject to Chapter 119. of the Revised Code. 54

The governor may remove any appointed member of the 55  
commission at any time for inefficiency, neglect of duty, or 56  
malfeasance in office, after giving to the member a copy of the 57  
charges against ~~him~~ the member and an opportunity to be heard 58  
publicly in person or by counsel in ~~his~~ the member's defense. Any 59  
such act of removal by the governor is final. A statement of the 60  
findings of the governor, the reason for ~~his~~ the governor's 61  
action, and the answer, if any, of the member shall be filed by 62  
the governor with the secretary of state and shall be open to 63  
public inspection. 64

All members of the commission shall be reimbursed for the 65  
necessary expenses incurred by them in the performance of their 66  
duties as members. 67

Upon recommendation by the commission, the director of 68  
natural resources shall designate an executive secretary and 69  
provide staff necessary to carry out the powers and duties of the 70  
commission. The commission may utilize the services of such staff 71  
members in the college of agriculture of the Ohio state university 72  
as may be agreed upon by the commission and the college. 73

The commission shall ~~have the following duties and powers~~ do 74  
all of the following: 75

(A) ~~To determine~~ Determine distribution of funds under 76  
section 1515.14 of the Revised Code, ~~to~~ recommend to the director 77  
of natural resources and other agencies the levels of 78  
appropriations to special funds established to assist soil and 79  
water conservation districts, and ~~to~~ recommend the amount of 80  
federal funds to be requested and policies for the use of such 81  
funds in support of soil and water conservation district programs; 82

(B) ~~To assist~~ Assist in keeping the supervisors of soil and water conservation districts informed of their powers and duties, program opportunities, and the activities and experience of all other districts, and ~~to~~ facilitate the interchange of advice, experience, and cooperation between ~~such~~ the districts;

(C) ~~To seek~~ Seek the cooperation and assistance of the federal government or any of its agencies, and of agencies of this state, in the work of ~~such~~ the districts;

(D) ~~To adopt~~ Adopt appropriate rules governing the conduct of ~~referendums or~~ elections provided for in ~~Chapter 1515. of the Revised Code~~ this chapter, subject to Chapter 119. of the Revised Code, provided that only owners and occupiers of lands situated within the boundaries of the districts or proposed districts to which the ~~referendums or~~ elections apply shall be eligible to vote in ~~such referendums or~~ the elections;

(E) ~~To recommend~~ Recommend to the director of ~~natural resources~~ priorities for planning and construction of small watershed projects, and ~~to~~ make recommendations to the director of ~~natural resources~~ concerning coordination of programs as proposed and implemented in agreements with soil and water conservation districts;

(F) ~~To recommend~~ Recommend to the director of ~~natural resources~~, the governor, and the general assembly programs and legislation with respect to the operations of soil and water conservation districts ~~which~~ that will encourage proper soil, water, and other natural resource management and promote the economic and social development of the state.

**Sec. 1515.15.** A board of county commissioners may apply to the Ohio soil and water conservation commission for an advance of moneys from the soil and water conservation fund, which is hereby created in the state treasury, to enable ~~such~~ a soil and water

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conservation district to pay all or part of the cost of surveys 114  
and plans, appraisals, estimates of cost, land options, and other 115  
incidental expenses of constructing works of improvement for a 116  
~~soil and water conservation~~ the district. The commission shall 117  
consider ~~such~~ the application and shall recommend an amount of 118  
moneys reasonably needed for ~~such~~ that purpose. 119

The order of the commission recommending the amount of ~~such~~ 120  
the moneys needed shall be certified to the controlling board. The 121  
controlling board shall then determine the amount to be advanced 122  
to the county and shall certify its action to the director of 123  
budget and management for payment. 124

All such amounts received by any such district shall be 125  
repaid by the board of county commissioners to the state 126  
immediately upon the receipt by the board of funds from the sale 127  
of bonds or from other sources ~~which~~ that may be used for that 128  
purpose, or in such number of equal annual installments, not 129  
exceeding five, and commencing at such time, as shall be specified 130  
in the order of the commission. 131

~~Upon receipt of sufficient and satisfactory evidence that the~~ 132  
~~board and district have proceeded in good faith and~~ If an 133  
unfavorable ~~referendum~~ or court decision has denied the work of 134  
improvement, the controlling board, upon receipt of sufficient and 135  
satisfactory evidence that the board and district have proceeded 136  
in good faith and the recommendation of the commission, shall 137  
relieve the board or district of its repayment obligation. 138

**Sec. 1515.24. (A)** Upon receipt of a certification made by the 139  
supervisors of a soil and water conservation district pursuant to 140  
section 1515.20 of the Revised Code, the board of county 141  
commissioners may levy upon the property within the project area 142  
an assessment at a uniform or varied rate based upon the benefit 143  
to the area certified by the supervisors, as necessary to pay the 144

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cost of construction of the improvement not otherwise funded and 145  
to repay advances made for purposes of the improvement from the 146  
fund created by section 1515.15 of the Revised Code. The board of 147  
county commissioners shall direct the person or authority 148  
preparing assessments to give primary consideration, in 149  
determining a parcel's estimated assessments relating to the 150  
disposal of water, to the potential increase in productivity that 151  
the parcel may experience as a result of the improvement and also 152  
to give consideration to the amount of water disposed of, the 153  
location of the property relative to the project, the value of the 154  
project to the watershed, and benefits as defined in section 155  
6131.01 of the Revised Code. The part of the assessment that is 156  
found to benefit state, county, or township roads or highways or 157  
municipal streets shall be assessed against the state, county, 158  
township, or municipal corporation, respectively, payable from 159  
motor vehicle revenues. The part of the assessment that is found 160  
to benefit property owned by any public corporation, any political 161  
subdivision of the state, or the state shall be assessed against 162  
the public corporation, the political subdivision, or the state 163  
and shall be paid out of the general funds or motor vehicle 164  
revenues of the public corporation, the political subdivision of 165  
the state, or the state, except as otherwise provided by law. 166

(B) The assessment shall be certified to the county auditor 167  
and by the county auditor to the county treasurer. The collection 168  
of the assessment shall conform in all matters to Chapter 323. of 169  
the Revised Code. ~~Any~~ 170

(C) ~~Any~~ land owned and managed by the department of natural 171  
resources for wildlife, recreation, nature preserve, or forestry 172  
purposes is exempt from assessments if the director of natural 173  
resources determines that the land derives no benefit from the 174  
improvement. In making such a determination, the director shall 175  
consider the purposes for which the land is owned and managed and 176

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any relevant articles of dedication or existing management plans 177  
for the land. If the director determines that the land derives no 178  
benefit from the improvement, the director shall notify the board 179  
of county commissioners, within thirty days after receiving the 180  
assessment notification required by this section, indicating that 181  
the director has determined that the land is to be exempt and 182  
explaining the specific reason for making this determination. The 183  
board of county commissioners, within thirty days after receiving 184  
the director's exemption notification, may appeal the 185  
determination to the court of common pleas. If the court of common 186  
pleas finds in favor of the board of county commissioners, the 187  
department of natural resources shall pay all court costs and 188  
legal fees. 189

~~If the assessment is to be made at a varied rate, the (D)(1)~~ 190  
The board shall give notice by first class mail to every public 191  
and private property owner whose property is subject to 192  
assessment, at the tax mailing or other known address of the 193  
owner. The notice shall contain a statement of the amount to be 194  
assessed against the property of the addressee, a description of 195  
the method used to determine the necessity for and the amount of 196  
the proposed assessment, and a statement that the addressee may 197  
file an objection in writing at the office of the board of county 198  
commissioners within thirty days after the mailing of notice. If 199  
the residence of any owner cannot be ascertained, or if any mailed 200  
notice is returned undelivered, the board shall publish the notice 201  
to all such owners in a newspaper of general circulation within 202  
the project area, at least once each week for three weeks, which 203  
notice shall include the information contained in the mailed 204  
notice, but shall state that the owner may file an objection in 205  
writing at the office of the board of county commissioners within 206  
thirty days after the last publication of the notice. 207

(2) Upon receipt of objections as provided in this section, 208

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the board shall proceed within thirty days to hold a final hearing 209  
on the objections by fixing a date and giving notice by first 210  
class mail to the objectors at the address provided in filing the 211  
objection. If any mailed notice is returned undelivered, the board 212  
shall give due notice to the objectors in a newspaper of general 213  
circulation in the project area, stating the time, place, and 214  
purpose of the hearing. Upon hearing the objectors, the board may 215  
amend and shall approve the final schedule of assessments by 216  
journal entry. 217

(3) Any owner whose objection is not allowed may appeal 218  
within thirty days to the court of common pleas of the county in 219  
which the property is located. 220

(4) After final notice is provided by mail or publication, or 221  
after the final disposition of an appeal in which the imposition 222  
of assessments is upheld, the board of county commissioners shall 223  
make an order approving the levying of the assessment and proceed 224  
under section 6131.23 of the Revised Code. 225

(5) The county treasurer shall deposit the proceeds of the 226  
assessment in the fund designated by the board and shall report to 227  
the county auditor the amount of money from the assessment that is 228  
collected by the treasurer. Moneys shall be expended from the fund 229  
for purposes of the improvement. 230

(E) Any moneys collected in excess of the amount needed for 231  
construction of the improvement and the subsequent first year's 232  
maintenance may be maintained in a fund to be used for maintenance 233  
of the improvement. In any year subsequent to a year in which an 234  
assessment for construction of an improvement levied under this 235  
section has been collected, and upon determination by the board of 236  
county commissioners that funds are not otherwise available for 237  
maintenance or repair of the improvement, the board shall levy on 238  
the property within the project area an assessment for maintenance 239  
at a uniform percentage of all construction costs based upon the 240



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assessment schedule used in determining the construction 241  
assessment. The assessment is not subject to the provisions 242  
concerning notice and petition contained in this section ~~1515.25~~ 243  
~~of the Revised Code~~. An assessment for maintenance shall not be 244  
levied in any year in which the unencumbered balance of funds 245  
available for maintenance of the improvement exceeds twenty per 246  
cent of the cost of construction of the improvement, except that 247  
the board may adjust the level of assessment within the twenty per 248  
cent limitation, or suspend temporarily the levying of an 249  
assessment, for maintenance purposes as maintenance funds are 250  
needed. 251

For the purpose of levying an assessment for maintenance of 252  
an improvement, a board may use the procedures established in 253  
Chapter 6137. of the Revised Code regarding maintenance of 254  
improvements as defined in section 6131.01 of the Revised Code in 255  
lieu of using the procedures established under this section. 256

(F) The board of county commissioners may issue bonds and 257  
notes as authorized by section 131.23 or 133.17 of the Revised 258  
Code. 259

**Section 2.** That existing sections 1515.02, 1515.15, and 260  
1515.24 and sections 1515.25, 1515.26, and 1515.27 of the Revised 261  
Code are hereby repealed. 262