

As Introduced

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H. B. No. 583

REPRESENTATIVES Lendrum, Young, Olman, Grendell, Manning, Trakas,
Latta, Kilbane, Womer Benjamin, Callender, Distel, Oakar, Flannery, Jerse,
S. Smith, Key, Redfern, Koziura, Perry

A B I L L

To amend sections 1506.01, 1506.02, 1506.06, 1506.08, 1
1506.10, 1506.11, 1506.12, 1521.21, 1521.22, 2
1521.23, 1521.24, and 1521.99 and to enact section 3
1521.31 of the Revised Code to revise the law 4
governing coastal management and the control of 5
shore erosion along Lake Erie. 6

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

Section 1. That sections 1506.01, 1506.02, 1506.06, 1506.08, 7
1506.10, 1506.11, 1506.12, 1521.21, 1521.22, 1521.23, 1521.24, and 8
1521.99 be amended and section 1521.31 of the Revised Code be 9
enacted to read as follows: 10

Sec. 1506.01. As used in this chapter: 11

(A) "Coastal area" means the waters of Lake Erie, the islands 12
in the lake, and the lands under and adjacent to the lake, 13
including transitional areas, wetlands, and beaches. The coastal 14
area extends in Lake Erie to the international boundary line 15
between the United States and Canada ~~and landward only to the~~ 16
~~extent necessary to include shorelands, the uses of which have a~~ 17
~~direct and significant impact on coastal waters as determined by~~ 18

~~the director of natural resources.~~ 19

(B) "Coastal management program" means the comprehensive 20
action of the state and its political subdivisions cooperatively 21
to preserve, protect, develop, restore, or enhance the resources 22
of the coastal area ~~and to ensure wise use of the land and water~~ 23
~~resources of the coastal area,~~ giving attention to natural, 24
cultural, historic, and aesthetic values; agricultural, 25
recreational, energy, and economic needs; the interests of 26
residential private property owners in the coastal area; and the 27
national interest. "Coastal management program" includes the 28
establishment of objectives, policies, standards, and criteria 29
concerning, without limitation, protection of air, water, 30
wildlife, rare and endangered species, wetlands and natural areas, 31
and other natural resources in the coastal area; ~~management of~~ 32
~~coastal development and redevelopment;~~ preservation and 33
restoration of historic, cultural, and aesthetic coastal features; 34
and public access to the public portion of the coastal area for 35
recreation purposes. 36

(C) "Coastal management program document" means a 37
comprehensive statement consisting of, without limitation, text, 38
maps, and illustrations that is adopted by the director in 39
accordance with this chapter, describes the objectives, policies, 40
standards, and criteria of the coastal management program for 41
guiding public ~~and private~~ uses of lands and waters in the coastal 42
area, lists the governmental agencies, including, without 43
limitation, state agencies, involved in implementing the coastal 44
management program, describes their applicable policies and 45
programs, and cites the statutes and rules under which they may 46
adopt and implement those policies and programs. 47

(D) "Person" means any agency of this state, any political 48
subdivision of this state or of the United States, and any legal 49
entity defined as a person under section 1.59 of the Revised Code. 50

(E) "Director" means the director of natural resources or the
director's designee. 51
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(F) "Permanent structure" means any residential, commercial,
industrial, institutional, or agricultural building, any mobile
home as defined in division (O) of section 4501.01 of the Revised
Code, any manufactured home as defined in division (C)(4) of
section 3781.06 of the Revised Code, and any septic system that
receives sewage from a single-family, two-family, or three-family
dwelling, but does not include any recreational vehicle as defined
in section 4501.01 of the Revised Code. 53
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(G) "State agency" or "agency of the state" has the same
meaning as "agency" as defined in section 111.15 of the Revised
Code. 61
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(H) "Coastal flood hazard area" means any territory within
the coastal area that has been identified as a flood hazard area
under the "Flood Disaster Protection Act of 1973," 87 Stat. 975,
42 U.S.C.A. 4002, as amended. 64
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(I) "Coastal erosion area" means any territory included in
Lake Erie coastal erosion areas identified by the director under
section 1506.06 of the Revised Code. 68
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(J) "Natural low water mark" means the lowest water level of
Lake Erie averaged over a one-month period from historical record. 71
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Sec. 1506.02. (A) The department of natural resources is
hereby designated the lead agency for the development and
implementation of a coastal management program. The director of
natural resources: 73
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(1) Shall develop and adopt the coastal management program
document. The director shall cooperate and coordinate with other
agencies of the state and its political subdivisions in the
development of the document. Before adopting the document, the 77
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director shall hold four public hearings on it in the coastal
area, and may hold additional public meetings, to give the public
the opportunity to make comments and recommendations concerning
its terms. The director shall consider the public comments and
recommendations before adopting the document. The director may
amend the coastal management program document, provided that,
prior to making changes in it, the director notifies by mail those
persons who ~~submitted comments and recommendations concerning the~~
~~original document~~ would be affected by the changes and appropriate
agencies of the state and its political subdivisions. The director
~~may~~ shall hold at least one public hearing on the proposed
changes.

(2) Shall administer the coastal management program in
accordance with the coastal management program document, this
chapter, and rules adopted under it;

(3) Shall adopt and may amend or rescind rules under Chapter
119. of the Revised Code for the implementation, administration,
and enforcement of the coastal management program and the other
provisions of this chapter. Before the adoption, amendment, or
rescission of rules under division (A)(3) of this section, the
director shall do all of the following:

(a) Maintain a list of interested public and private
organizations and mail notice to those organizations of any
proposed rule or amendment to or rescission of a rule at least
thirty days before any public hearing on the proposal;

(b) Mail a copy of each proposed rule, amendment, or
rescission to any person who requests a copy within five days
after receipt of the request and to any person who would be
directly affected by the proposed rule, amendment, or rescission;

(c) Consult with appropriate statewide organizations and
units of local government that would be affected by the proposed

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rule, amendment, or rescission. 112

~~Although the director is expected to discharge these duties 113
diligently, failure to mail any notice or copy or to so consult 114
with any person is not jurisdictional and shall not be construed 115
to invalidate any proceeding or action of the director. 116~~

(4) Shall provide for consultation and coordination between 117
and among state agencies, political subdivisions of the state, and 118
interstate, regional, areawide, and federal agencies in carrying 119
out the purposes of the coastal management program and the other 120
provisions of this chapter; 121

(5) Shall, to the extent practicable and consistent with the 122
protection of coastal area resources, coordinate the rules and 123
policies of the department of natural resources with the rules and 124
policies of other state and federal agencies to simplify and 125
consolidate the regulation of activities along the Lake Erie 126
shoreline; 127

(6) May, to accomplish the purposes of the coastal management 128
program and the other provisions of this chapter, contract with 129
any person and may accept and expend gifts, bequests, and grants 130
of money or property from any person. 131

(B) Every agency of the state, upon request of the director, 132
shall cooperate with the department of natural resources in the 133
implementation of the coastal management program. 134

(C) The director shall establish a coastal management 135
assistance grant program. Grants may be awarded from federal funds 136
received for that purpose and from such other funds as may be 137
provided by law to any municipal corporation, county, township, 138
park district created under section 511.18 or 1545.04 of the 139
Revised Code, conservancy district established under Chapter 6101. 140
of the Revised Code, port authority, other political subdivision, 141
state agency, educational institution, or nonprofit corporation to 142

help implement, administer, or enforce any aspect of the coastal management program. Grants may be used for any of the following purposes:

(1) Feasibility studies and engineering reports for projects that are consistent with the policies in the coastal management program document;

(2) The protection and preservation of wetlands, public beaches, fish and wildlife habitats, minerals, natural areas, prime agricultural land, endangered plant and animal species, or other significant natural coastal resources;

~~(3) The management of shoreline development to prevent loss of life and property in coastal flood hazard areas and coastal erosion areas, to set priorities~~ Setting priorities for water-dependent energy, commercial, industrial, agricultural, and recreational uses, or ~~to identify~~ identifying environmentally acceptable sites for dredge spoil disposal;

(4) Increasing public access to Lake Erie and other public places in the coastal area;

(5) The protection and preservation of historical, cultural, or aesthetic coastal resources;

(6) Improving the predictability and efficiency of governmental decision making related to coastal area management;

~~(7) Adopting, administering, and enforcing~~ Developing model zoning ordinances or resolutions relating to coastal flood hazard areas or coastal erosion areas and providing them to local governments;

(8) The redevelopment of deteriorating and underutilized waterfronts and ports;

~~(9) Other purposes approved by the director.~~

Sec. 1506.06. (A) The director of natural resources, using 172
the best available scientific records, data, and analyses of 173
shoreline recession, shall make a preliminary identification of 174
Lake Erie coastal erosion areas, which are the land areas 175
anticipated to be lost by Lake Erie-related erosion within a 176
thirty-year period if no additional approved erosion control 177
measures are completed within that time. The preliminary 178
identification shall state the bluff recession rates for the 179
coastal erosion areas and shall take into account areas where 180
substantial filling, protective measures, or naturally stable land 181
has significantly reduced recession. Prior to making the 182
preliminary identification, the director shall consult with the 183
appropriate authority of each municipal corporation, county, and 184
township having territory within an area that the director 185
proposes to identify as a Lake Erie coastal erosion area. Upon 186
making the preliminary identification, the director shall notify 187
by certified mail the appropriate authority of each municipal 188
corporation, county, and township having territory within a Lake 189
Erie coastal erosion area of the preliminary identification. The 190
notice shall delineate the portion of a Lake Erie coastal erosion 191
area within the jurisdiction of, and shall be made available for 192
public inspection by, the municipal corporation, county, or 193
township. The director also shall publish a notice in a newspaper 194
of general circulation in each affected locality stating that the 195
preliminary identification has been made and stating where 196
information delineating the Lake Erie coastal erosion areas may be 197
inspected by the public and shall notify each landowner of record 198
in a coastal erosion area of the preliminary identification. The 199
notification shall be sent by certified mail to the landowner at 200
the address indicated in the most recent tax duplicate. Within 201
sixty days after the notifications required by this division, the 202
director shall hold public hearings in each of the shoreline 203

counties on the preliminary identification of the Lake Erie 204
coastal erosion areas. Any affected municipal corporation, county, 205
township, or private landowner may file with the director a 206
written objection to the preliminary identification at any of 207
those hearings or at any other time within one hundred twenty days 208
from the date indicated in the certified mail notice, which date 209
shall be one week following the date of the notice. For any such 210
objection, verifiable evidence or documentation shall be submitted 211
indicating that some portion of a Lake Erie coastal erosion area 212
should not have been included in the areas defined by the 213
preliminary identification. A municipal corporation, county, or 214
township may object only with respect to territory within its 215
jurisdiction or other territory that it owns; a private landowner 216
may object only with respect to the landowner's land. 217

(B) The director shall review all objections filed under 218
division (A) of this section. The director may then modify the 219
preliminary identification of Lake Erie coastal erosion areas. 220
Within the next ninety days, the director shall notify each 221
objecting person of the director's decision regarding the 222
objection. The director also shall notify, within that ninety-day 223
period, any other owner for whom the director's decision results 224
in a modification on that other owner's property. 225

(C) Whenever the preliminary identification of a Lake Erie 226
coastal erosion area is modified as a result of an objection, the 227
director shall so notify the affected municipal corporation, 228
county, or township and shall publish a notice of the modification 229
in a newspaper of general circulation in the affected locality. 230
Objections to modifications may be filed within sixty days of the 231
newspaper notification required by this division or within sixty 232
days of the date of the property owner's notification required by 233
division (B) of this section, whichever is later, and shall be 234
filed in the same manner as objections to the original preliminary 235

identification. The director shall rule on each objection to a 236
modification within sixty days after receiving it. 237

(D) After the director has ruled on each objection filed 238
under division (B) or (C) of this section, the director shall make 239
a final identification of the Lake Erie coastal erosion areas and 240
shall notify by certified mail the appropriate authority of each 241
affected municipal corporation, county, and township of the final 242
identification. The final identification may be appealed under 243
section 1506.08 of the Revised Code. 244

(E)(1) Upon the construction and installation in a Lake Erie 245
coastal erosion area of an erosion control structure for which a 246
permit has been issued by the United States army corps of 247
engineers pursuant to the "Rivers and Harbors Appropriation Act of 248
1899," 30 Stat. 1121, 33 U.S.C. 403, the person responsible for 249
the construction and installation shall notify the director of it 250
in writing. Upon receipt of the notification, the director shall 251
remove the portion of the coastal area that the structure protects 252
from erosion from identification as a Lake Erie coastal erosion 253
area. 254

(2) At least once every ten years, the director shall review 255
and may revise the identification of Lake Erie coastal erosion 256
areas, taking into account any ~~recent~~ erosion control structures 257
or natural or artificially induced changes affecting anticipated 258
recession erosion. The review and revision shall be done in the 259
same manner as that provided for original preliminary and final 260
identification in this section. 261

(F) Any person who has received written notice under this 262
section or section 5302.30 of the Revised Code that a parcel or 263
any portion of a parcel of real property that the person owns has 264
been included in a Lake Erie coastal erosion area identified under 265
this section shall not sell or transfer any interest in that real 266
property unless the person first provides written notice to the 267

purchaser or grantee that the real property is included in a Lake
Erie coastal erosion area. The written notice shall be provided in
accordance with section 5302.30 of the Revised Code. This division
does not apply to property that has been or should have been
removed from identification as a Lake Erie coastal erosion area
pursuant to division (E) of this section.

(G) No state agency, county, township, or municipal
corporation, or any other political subdivision or special
district in this state established by law shall use the fact that
property has been identified as a Lake Erie coastal erosion area
as a basis for any of the following:

(1) Failing to enter into or renew a lease or to issue or
renew a permit under section 1506.11 of the Revised Code;

(2) Failing to issue or renew a permit required by law, other
than a permit issued under section 1506.07 of the Revised Code;

(3) Taking private property for public use in the exercise of
the power of eminent domain;

(4) Determining what constitutes just compensation for a
taking of the property in the exercise of the power of eminent
domain.

Sec. 1506.08. Any person who is ~~adversely~~ affected by the
final identification of a Lake Erie coastal erosion area under
division (D) of section 1506.06 of the Revised Code or any other
final administrative act of the director of natural resources
under this chapter or who receives denial of a permit application
under rules adopted under division (A) of section 1506.07 of the
Revised Code, within thirty days after the identification, act, or
denial, may appeal it in accordance with Chapter 119. of the
Revised Code, except that, notwithstanding any provisions in

section 119.12 of the Revised Code to the contrary, the appeal 298
shall be made to the court of common pleas of the county in which 299
the appellant resides. 300

Sec. 1506.10. It is hereby declared that the waters of Lake 301
Erie consisting of the territory within the boundaries of the 302
state, extending from the natural low water mark of the southerly 303
shore of Lake Erie to the international boundary line between the 304
United States and Canada, together with the soil beneath and their 305
contents, do now belong and have always, since the organization of 306
the state of Ohio, belonged to the state as proprietor in trust 307
for the people of the state, for the public uses to which they may 308
be adapted, subject to the powers of the United States government, 309
to the public rights of navigation, water commerce, and fishery, 310
and to the property rights of littoral owners, including the right 311
to ~~make~~ do all of the following: 312

(A) Make reasonable use of the waters in front of or flowing 313
past their lands; 314

(B) Access the waters of Lake Erie; 315

(C) Wharf out to navigable waters; 316

(D) Own additional lands created by natural accretion or 317
reliction; 318

(E) Restore lands lost by avulsion; 319

(F) Protect lands from erosion. 320

The state's proprietorship of the land portion of the 321
territory shall extend only to and below the natural low water 322
mark. All lands above the natural low water mark shall belong to 323
littoral owners. The loss of a littoral owner's lands by avulsion 324
or by artificially influenced erosion shall not alter the boundary 325
of the littoral owner's property that is established under this 326
section or by deed. Any artificial encroachments by public or 327

private littoral owners, which interfere with the free flow of 328
commerce in navigable channels, whether in the form of wharves, 329
piers, fills, or otherwise, beyond the natural ~~shoreline of those~~ 330
~~waters~~ low water mark, not expressly authorized by the general 331
assembly, acting within its powers, or pursuant to section 1506.11 332
of the Revised Code, shall not be considered as having prejudiced 333
the rights of the public in such domain. This section does not 334
limit the right of the state to control, improve, or place aids to 335
navigation in the other navigable waters of the state or the 336
territory ~~formerly~~ covered thereby. 337

The department of natural resources is hereby designated as 338
the state agency in all matters pertaining to the care, 339
protection, and enforcement of the state's rights designated in 340
this section. 341

Any order of the director of natural resources in any matter 342
pertaining to the care, protection, and enforcement of the state's 343
rights in that territory is a rule or adjudication within the 344
meaning of ~~sections 119.01 to 119.13~~ Chapter 119. of the Revised 345
Code. 346

Sec. 1506.11. (A) "Territory," as used in this section, means 347
the waters of Lake Erie and the lands ~~presently~~ underlying the 348
waters of Lake Erie ~~and the lands formerly underlying the waters~~ 349
~~of Lake Erie and now artificially filled,~~ at the natural low water 350
mark and ~~between the natural shoreline~~ that mark and the 351
international boundary line with Canada. 352

(B) ~~Whenever~~ (1) Subject to division (B)(2) of this section, 353
whenever the state, acting through the director of natural 354
resources, upon application of any person who wants to develop or 355
improve part of the territory for commercial or industrial 356
purposes, and after notice that the director, at the director's 357
discretion, may give as provided in this section, determines that 358

any part of the territory can be developed and improved or the 359
waters thereof used as specified in the application without 360
impairment of the public right of navigation, water commerce, and 361
fishery, a lease of all or any part of the state's interest 362
therein may be entered into with the applicant, or a permit may be 363
issued for that purpose, subject to the powers of the United 364
States government and in accordance with rules adopted by the 365
director in accordance with Chapter 119. of the Revised Code, and 366
without prejudice to the littoral rights of any owner of land 367
fronting on Lake Erie, provided that the legislative authority of 368
the municipal corporation within which any such part of the 369
territory is located, if the municipal corporation is not within 370
the jurisdiction of a port authority, or the county commissioners 371
of the county within which such part of the territory is located, 372
excluding any territory within a municipal corporation or under 373
the jurisdiction of a port authority, or the board of directors of 374
a port authority with respect to such part of the territory 375
included in the jurisdiction of the port authority, has enacted an 376
ordinance or resolution finding and determining that such part of 377
the territory, described by metes and bounds or by an alternate 378
description referenced to the applicant's upland property 379
description that is considered adequate by the director, is not 380
necessary or required for the construction, maintenance, or 381
operation by the municipal corporation, county, or port authority 382
of breakwaters, piers, docks, wharves, bulkheads, connecting ways, 383
water terminal facilities, and improvements and marginal highways 384
in aid of navigation and water commerce and that the land uses 385
specified in the application comply with regulation of permissible 386
land use under a waterfront plan of the local authority. 387

(2) No lease or permit is required under this section for the 388
location or construction of a noncommercial residential 389
improvement that is located or constructed on territory under 390
either of the following circumstances: 391

(a) The improvement is considered to be desirable by the littoral owner in order to protect, enhance, or exercise any of the property rights of littoral owners that are enumerated in section 1506.10 of the Revised Code. 392
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(b) A permit is issued for the improvement by the United States army corps of engineers pursuant to the "Rivers and Harbors Appropriation Act of 1899," 30 Stat. 1121, 33 U.S.C. 403. 396
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(C) Upon the filing of the application with the director, the director may hold a public hearing thereon and may cause written notice of the filing to be given to any municipal corporation, county, or port authority, as the case may be, in which such part of the territory is located and also shall cause public notice of the filing to be given by advertisement in a newspaper of general circulation within the locality where such part of the territory is located. If a hearing is to be held, public notice of the filing may be combined with public notice of the hearing and shall be given once a week for four consecutive weeks prior to the date of the initial hearing. All hearings shall be before the director and shall be open to the public, and a record shall be made of the proceeding. Parties thereto are entitled to be heard and to be represented by counsel. The findings and order of the director shall be in writing. All costs of the hearings, including publication costs, shall be paid by the applicant. The director also may hold public meetings on the filing of an application. 399
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If the director finds that a lease may properly be entered into with the applicant or a permit may properly be issued to the applicant, the director shall determine the consideration to be paid by the applicant, ~~which consideration shall exclude the value of the littoral rights of the owner of land fronting on Lake Erie and improvements made or paid for by the owner of land fronting on Lake Erie or that owner's predecessors in title.~~ The lease or 416
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permit may be for such periods of time as the director determines. 424
The rentals received under the terms of such a lease or permit 425
shall be paid into the state treasury to the credit of the Lake 426
Erie submerged lands fund, which is hereby created, and shall be 427
distributed from that fund as follows: 428

(1) Fifty per cent of each rental shall be paid to the 429
department of natural resources for the administration of this 430
section and section 1506.10 of the Revised Code and for the 431
coastal management assistance grant program required to be 432
established under division (C) of section 1506.02 of the Revised 433
Code; 434

(2) Fifty per cent of each rental shall be paid to the 435
municipal corporation, county, or port authority making the 436
finding provided for in this section. 437

All leases and permits shall be executed in the manner 438
provided by section 5501.01 of the Revised Code and shall contain, 439
in addition to the provisions required in this section, a 440
reservation to the state of all mineral rights and a provision 441
that the removal of any minerals shall be conducted in such manner 442
as not to damage any improvements placed by the littoral owner, 443
lessee, or permit holder on the lands. No lease or permit of the 444
lands defined in this section shall express or imply any control 445
of fisheries or aquatic wildlife now vested in the division of 446
wildlife of the department. 447

(D) Upland owners who, prior to October 13, 1955, have 448
erected, developed, or maintained structures, facilities, 449
buildings, or improvements or made use of waters in the part of 450
the territory in front of those uplands shall be granted a lease 451
or permit by the state upon the presentation of a certification by 452
the chief executive of a municipal corporation, resolution of the 453
board of county commissioners, or resolution of the board of 454
directors of the port authority establishing that the structures, 455

facilities, buildings, improvements, or uses do not constitute an
unlawful encroachment on navigation and water commerce. The lease
or permit shall specifically enumerate the structures, facilities,
buildings, improvements, or uses so included.

(E) Persons having secured a lease or permit under this
section are entitled to just compensation for the taking, whether
for navigation, water commerce, or otherwise, by any governmental
authority having the power of eminent domain, of structures,
facilities, buildings, improvements, or uses erected or placed
upon the territory pursuant to the lease or permit or the littoral
rights of the person and for the taking of the leasehold and the
littoral rights of the person pursuant to the procedure provided
in Chapter 163. of the Revised Code. The compensation shall not
include any compensation for the site in the territory except to
the extent of any interest in the site theretofore acquired by the
person under this section or by prior acts of the general assembly
or grants from the United States government. The failure of any
person to apply for or obtain a lease or permit under this section
does not prejudice any right the person may have to compensation
for a taking of littoral rights or of improvements made in
accordance with a lease, a permit, or littoral rights.

(F) If any taxes or assessments are levied or assessed upon
property that is the subject of a lease or permit under this
section, the taxes or assessments are the obligation of the lessee
or permit holder.

(G) If a lease or permit secured under this section requires
the lessee or permit holder to obtain the approval of the
department or any of its divisions for any changes in structures,
facilities, or buildings, for any improvements, or for any changes
or expansion in uses, no lessee or permit holder shall change any
structures, facilities, or buildings, make any improvements, or
expand or change any uses unless the director first determines

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that the proposed action will not adversely affect any current or
prospective exercise of the public right of recreation in the
territory and in the state's reversionary interest in any
territory leased or permitted under this section.

Proposed changes or improvements shall be deemed to
"adversely affect" the public right of recreation if the changes
or improvements cause or will cause any significant demonstrable
negative impact upon any present or prospective recreational use
of the territory by the public during the term of the lease or
permit or any renewals and of any public recreational use of the
leased or permitted premises in which the state has a reversionary
interest.

(H) Nothing in a lease entered into or a permit issued under
this section prior to the effective date of this amendment shall
be construed as determining the boundary between a littoral
owner's title to real property and the state's ownership of the
waters of Lake Erie and the soil beneath and their contents.

Sec. 1506.12. There is hereby created the coastal resources
advisory council, which shall consist of nineteen members,
appointed by the ~~director of natural resources~~ governor, who
represent a broad range of interests, experience, and knowledge
relating to the management, use, conservation, protection, and
development of coastal area resources. The ~~director~~ governor shall
solicit names of qualified persons to serve on the council from
the legislative authorities of counties, townships, municipal
corporations, and other political subdivisions and from interest
groups located in the coastal area. The ~~director~~ governor shall
appoint to the council at least one member from each shoreline
county, which members shall be selected from the names submitted
to the ~~director~~ governor as described above and at least one of
which shall be a public official of such a county; at least three

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individuals who own private shoreline property in a shoreline 519
county; at least one public official of a municipal corporation 520
that is located in a shoreline county; at least two individuals 521
who are members of the Ohio association of realtors and whose 522
places of business as specified in section 4735.16 of the Revised 523
Code are located in the shoreline area; and at least two 524
individuals with experience in residential and commercial land 525
development in the shoreline area. No more than ten members of the 526
council shall be from the same political party, and on and after 527
February 2, 2004, not fewer than seven members shall be permanent 528
residents of the coastal area. The director of natural resources 529
may participate in the deliberations of the council, but shall not 530
vote. 531

The initial members of the council ~~first appointed by the~~ 532
~~director~~ shall serve terms commencing no later than one hundred 533
eighty days after March 15, 1989, and expiring on February 1, 534
1990. On February 2, 1990, ~~the director shall appoint~~ six members 535
shall be appointed to serve for a term of one year and seven 536
members shall be appointed to serve for a term of two years. The 537
members first appointed ~~by the director~~ after the effective date 538
of this amendment shall serve terms commencing no later than one 539
hundred eighty days after that date. Three of those members shall 540
serve terms expiring on February 1, 1997, and three of those 541
members shall serve terms expiring on February 1, 1998. On 542
February 2, 1997, ~~the director shall appoint~~ nine members shall be 543
appointed to serve for a term of three years to replace all 544
members whose terms of office expired on February 1, 1997. On 545
February 2, 1998, ~~the director shall appoint~~ ten members shall be 546
appointed to serve for a term of four years to replace all members 547
whose terms of office expired on February 1, 1998. Thereafter, 548
terms of office for all members shall be for four years commencing 549
on the second day of February and ending on the first day of 550
February. Members may be reappointed to the council. 551

The ~~director~~ governor may remove any member at any time for inefficiency, neglect of duty, or malfeasance in office. In the event of the death, removal, resignation, or incapacity of any member, the ~~director~~ governor shall appoint a successor to hold office for the remainder of the term for which the member's predecessor was appointed. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

Membership on the council does not constitute holding a public office or position of employment under state law and is not grounds for removal of public officers or employees from their offices or positions of employment.

The council annually shall select from its members a chairperson and a vice-chairperson. The council shall hold at least one meeting every three months and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairperson and shall be called upon the written request of two or more members. A majority of the members constitutes a quorum. The department of natural resources shall furnish clerical, technical, legal, and other services required by the council in the performance of its duties.

Members shall receive no compensation, but shall be reimbursed from appropriations to the department for the actual and necessary expenses incurred by them in the performance of their official duties.

The council shall do all of the following:

(A) Advise the director on carrying out the director's duties under this chapter, including, without limitation, implementation of the coastal management program;

(B) Recommend to the director such policies and legislation 583
as are necessary to preserve, protect, develop, and restore or 584
enhance the coastal resources of the state; 585

(C) Review and make recommendations to the director on the 586
development of policies, plans, and programs for long-term, 587
comprehensive coastal resource management, including, without 588
limitation, the coastal management program document adopted under 589
division (A)(1) of section 1506.02 of the Revised Code; 590

(D) Recommend to the director ways to enhance cooperation 591
among governmental agencies, including, without limitation, state 592
agencies, having an interest in coastal management and to 593
encourage wise use and protection of the state's coastal 594
resources. The council may request information and other 595
assistance from those governmental agencies for this purpose. 596

Sections 101.82 to 101.87 of the Revised Code do not apply to 597
the council. 598

Sec. 1521.21. The chief of the division of water, in the 599
discharge of the chief's duties under sections ~~1507.20~~ 1521.20 to 600
~~1507.30~~ 1521.30 of the Revised Code, may call to the chief's 601
assistance, temporarily, any engineers or other employees in any 602
state department, or in the Ohio state university or other 603
educational institutions financed wholly or in part by the state, 604
for the purpose of devising the most effective and economical 605
methods of controlling shore erosion ~~and damage from it~~ and 606
~~controlling the inundation of improved property by the waters~~ 607
along the shorelines of Lake Erie ~~and~~, its bays, and associated 608
inlets. 609

Such engineers and employees shall not receive any additional 610
compensation over that which they receive from the departments or 611
institutions by which they are employed, but they shall be 612
reimbursed for their actual necessary expenses incurred while 613

working under the direction of the chief on erosion and inundation projects.

~~Sec. 1521.22. No Except as otherwise provided in this section, no person shall construct a beach, groin, or other structure at or below the ordinary high-water mark as determined by the United States army corps of engineers to arrest or control erosion, wave action, or inundation along or near the Ohio shoreline of Lake Erie, including related islands, bays, and inlets, without first obtaining submitting an application for a shore structure construction permit from, including detailed plans and specifications, to the chief of the division of water. The application for a shore structure permit shall include detailed plans and specifications prepared by a professional engineer registered under Chapter 4733. of the Revised Code. An~~

A construction permit is not required for such construction on littoral real property that is used for noncommercial, residential purposes, provided that a permit for the construction is issued by the United States army corps of engineers pursuant to the "Rivers and Harbors Appropriation Act of 1899," 30 Stat. 1121, 33 U.S.C. 403. In addition, this section shall not be construed to require a construction permit for the construction, on littoral real property that is used for noncommercial, residential purposes, of an improvement that is considered to be desirable by a littoral owner in order to protect, enhance, or exercise any property rights of littoral owners that are enumerated in section 1506.10 of the Revised Code.

An applicant for a permit issued under this section shall provide appropriate evidence of compliance with any applicable provisions of this chapter and Chapters 1505. and 1506. of the Revised Code, as determined by the chief. A temporary shore structure permit may be issued by the chief or an authorized

~~representative of the chief if it is determined necessary to~~ 645
~~safeguard life, health, or property. Each~~ 646

Each application or reapplication for a permit under this 647
section shall be accompanied by a non-refundable fee of not more 648
than five hundred dollars as the chief shall prescribe by rule. 649

Upon receipt of an application submitted under this section, 650
the chief shall notify owners of littoral real property that is 651
adjacent to the proposed area of construction. The notice shall be 652
in writing, state that an application has been filed, and 653
summarize the proposed construction that is the subject of the 654
application. 655

If the application is approved, the chief shall issue a 656
permit to the applicant authorizing construction of the project. 657
If requested in writing by the applicant within thirty days of 658
issuance of a notice of disapproval of the application, the chief 659
shall conduct an adjudication hearing under Chapter 119. of the 660
Revised Code, except sections 119.12 and 119.121 of the Revised 661
Code. After reviewing the record of the hearing, the chief shall 662
issue a final order approving the application, disapproving it, or 663
approving it conditioned on the making of specified revisions in 664
the plans and specifications. 665

The chief, by rule, shall limit the period during which a 666
construction permit issued under this section is valid and shall 667
establish reapplication requirements governing a construction 668
permit that expires before construction is completed. 669

In accordance with Chapter 119. of the Revised Code, the 670
chief shall adopt, and may amend or rescind, such rules as are 671
necessary for the administration, implementation, and enforcement 672
of this section. 673

Nothing in this section or in a permit issued under this 674
section shall be construed as determining the boundary between a 675

littoral owner's title to real property and the state's ownership 676
of the waters of Lake Erie and the soil beneath and their 677
contents. 678

Sec. 1521.23. All moneys derived from the granting of permits 679
and leases under section 1505.07 of the Revised Code for the 680
removal of sand, gravel, stone, gas, oil, and other minerals and 681
substances from and under the bed of Lake Erie and from 682
applications for ~~shore structure~~ construction permits submitted 683
under section 1521.22 of the Revised Code shall be paid into the 684
state treasury to the credit of the ~~permit and lease~~ general 685
revenue fund, ~~which is hereby created~~. Notwithstanding any section 686
of the Revised Code relating to the distribution or crediting of 687
fines for violations of the Revised Code, all fines imposed under 688
division (A) of section 1505.99 and division (C) of section 689
1521.99 of the Revised Code shall be paid into that fund. ~~The fund~~ 690
~~shall be administered by the department of natural resources for~~ 691
~~the protection of Lake Erie shores and waters; investigation and~~ 692
~~control of erosion; the planning, development, and construction of~~ 693
~~facilities for recreational use of Lake Erie; implementation of~~ 694
~~section 1521.22 of the Revised Code; preparation of the state~~ 695
~~shore erosion plan under section 1521.29 of the Revised Code; and~~ 696
~~state administration of Lake Erie coastal erosion areas under~~ 697
~~sections 1506.06 and 1506.07 of the Revised Code.~~ 698

Sec. 1521.24. The state, acting through the chief of the 700
division of water, subject to section 1521.28 of the Revised Code, 701
may enter into agreements with counties, townships, municipal 702
corporations, park boards, and conservancy districts, other 703
political subdivisions, or any state departments or divisions for 704
the purpose of constructing and maintaining projects to control 705
and correct erosion along the Ohio shoreline of Lake Erie and in 706

any rivers and bays that are connected with Lake Erie and any 707
other watercourses that flow into Lake Erie. Such projects also 708
may be constructed on any Lake Erie island that is situated within 709
the boundaries of the state. 710

The cost of such shore erosion projects that are for the 711
benefit of public littoral property shall be prorated on the basis 712
of two-thirds of the total cost to the state through 713
appropriations made to the division of water and one-third of the 714
cost to the counties, townships, municipal corporations, park 715
boards, conservancy districts, or other political subdivisions. 716

If a shore erosion emergency is declared by the governor, the 717
state, acting through the chief, may spend whatever state funds 718
are available to alleviate shore erosion, without participation by 719
any political subdivision, regardless of whether the project will 720
benefit public or private littoral property. 721

A board of county commissioners, acting for the county over 722
which it has jurisdiction, may enter into and carry out agreements 723
with the chief for the construction and maintenance of projects to 724
control and correct shore erosion. In providing the funds for the 725
county's proportionate share of the cost of constructing and 726
maintaining the projects referred to in this section, the board 727
shall be governed by and may issue and refund bonds in accordance 728
with Chapter 133. of the Revised Code. 729

A municipal corporation or a township, acting through the 730
legislative authority or the board of township trustees, may enter 731
into and carry out agreements with the chief for the purpose of 732
constructing and maintaining projects to control and correct shore 733
erosion. In providing the funds for the municipal corporation's or 734
township's proportionate share of the cost of constructing and 735
maintaining the projects referred to in this section, a municipal 736
corporation or township may issue and refund bonds in accordance 737
with Chapter 133. of the Revised Code. The contract shall be 738

executed on behalf of the municipal corporation or township by the 739
mayor, city manager, or other chief executive officer who has the 740
authority to act for the municipal corporation or township. 741

Conservancy districts may enter into and carry out agreements 742
with the chief, in accordance with the intent of this section, 743
under the powers conferred upon conservancy districts under 744
Chapter 6101. of the Revised Code. 745

Park boards may enter into and carry out agreements with the 746
chief, in accordance with the intent of this section, and issue 747
bonds for that purpose under the powers conferred upon park 748
districts under Chapter 1545. of the Revised Code. 749

The chief shall approve and supervise all projects that are 750
to be constructed in accordance with this section. The chief shall 751
not proceed with the construction of any project until all funds 752
that are to be paid by the county, township, municipal 753
corporation, park board, or conservancy district, in accordance 754
with the terms of the agreement entered into between the chief and 755
the county, township, municipal corporation, park board, or 756
conservancy district, are in the chief's possession and deposited 757
in the shore erosion fund, which is hereby created in the state 758
treasury. If the chief finds it to be in the best interests of the 759
state to construct projects as set forth in this section by the 760
state itself, without the financial contribution of counties, 761
townships, municipal corporations, park boards, or conservancy 762
districts, the chief may construct the projects. 763

In deciding whether to assist a county or municipal 764
corporation in constructing and maintaining a project under this 765
section, the state, acting through the chief, shall consider, 766
among other factors, whether the county or municipal corporation 767
has adopted or is in the process of adopting a Lake Erie coastal 768
erosion area resolution or ordinance under division (D) of section 769
1506.07 of the Revised Code. 770

All projects constructed by the state in conformity with 771
sections 1521.20 to 1521.28 of the Revised Code shall be 772
constructed subject to sections 153.01 to 153.20 of the Revised 773
Code, except that the state architect and engineer is not required 774
to prepare the plans and specifications for those projects. 775

Sec. 1521.31. Any person who is adversely affected by any 776
final administrative act of the chief of the division of water 777
under sections 1521.20 to 1521.30 of the Revised Code may appeal 778
it directly to a court of common pleas. Such an appeal shall be 779
made in accordance with Chapter 119. of the Revised Code, except 780
that, notwithstanding any provisions to the contrary in section 781
119.12 or in the definition of "adjudication" under section 119.01 782
of the Revised Code, both of the following apply: 783

(1) The appellant is not required to exhaust all 784
administrative remedies by appealing to the director of natural 785
resources before appealing to the court of common pleas. 786

(2) Such an appeal shall be made to the court of common pleas 787
of the county in which the appellant resides. 788

Sec. 1521.99. (A) Whoever violates division (C)(1) of section 789
1521.05 or division (E)(1) of section 1521.16 of the Revised Code 790
is guilty of a misdemeanor of the fourth degree. 791

(B) Whoever violates section 1521.06 or 1521.062 of the 792
Revised Code shall be fined not less than one hundred dollars nor 793
more than ~~one thousand~~ five hundred dollars for each offense. ~~Each~~ 794
~~day of violation constitutes a separate offense.~~ 795

(C) Whoever violates sections 1521.20 to 1521.30 of the 796
Revised Code shall be fined not less than one hundred dollars nor 797
more than ~~one thousand~~ five hundred dollars for each offense. ~~Each~~ 798
~~day of violation constitutes a separate offense.~~ 799

Section 2. That existing sections 1506.01, 1506.02, 1506.06, 800
1506.08, 1506.10, 1506.11, 1506.12, 1521.21, 1521.22, 1521.23, 801
1521.24, and 1521.99 of the Revised Code are hereby repealed. 802

Section 3. (A) As used in this section, "natural low water 803
mark" means the lowest water level of Lake Erie averaged over a 804
one-month period from historical record. 805

(B) Section 1506.10 of the Revised Code, as amended by this 806
act, specifies that, on and after the effective date of this act, 807
all lands above the natural low water mark of Lake Erie belong to 808
littoral owners. Therefore, on and after the effective date of 809
this act, the state shall cease to collect rent or other charges 810
from a littoral owner or to enforce covenants or provisions 811
against a littoral owner pursuant to any lease that it has entered 812
into with the littoral owner under section 1506.11 of the Revised 813
Code as it existed prior to that date or pursuant to any permit 814
that it has issued under that section to the littoral owner, to 815
the extent that the rent, charges, covenants, or provisions relate 816
to lands above the natural low water mark. Accordingly, after the 817
effective date of this act, the Director of Natural Resources or 818
the Director's representative promptly shall review all such 819
leases and permits and do one of the following: 820

(1) In the case of a lease or permit that relates solely to 821
lands above the natural low water mark, abate all rents and 822
charges due from the littoral owner after the effective date of 823
this act and promptly notify the littoral owner in writing that 824
while the lease or permit remains in effect, no further rent or 825
charges are due under it and that the state will not seek to 826
enforce covenants or provisions contained in the lease or permits 827
against the littoral owner; 828

(2) In the case of a lease or permit that relates both to 829

lands above the natural low water mark and to lands below the
natural low water mark, abate on a pro rata basis the rents and
charges due from the littoral owner with respect to the lands
above the natural low water mark after the effective date of this
act and promptly notify the littoral owner in writing that while
the lease or permit remains in effect, a pro rata portion of rent
or charges due under it after the effective date of this act have
been abated and that the state will not seek to enforce covenants
or provisions contained in the lease or permit against the
littoral owner to the extent that such covenants or provisions
relate to lands above the natural low water mark. If, on or after
the effective date of this act, the state collects any rents or
charges in excess of the amounts authorized in this section, it
promptly shall refund the excess to the littoral owner.

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On and after the effective date of this act, a littoral owner
may request the state to terminate any such lease or permit if it
relates solely to lands above the natural low water mark or to
amend the lease or permit so that it relates only to lands below
the natural low water mark. After the effective date of this act,
the Director promptly shall notify affected littoral owners of the
right to make such a request. Upon receipt of such a request, the
state, acting through the Director, promptly shall comply with and
take all steps that are necessary to implement the request in a
timely manner.

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Leases or permits that relate solely to lands above the
natural low water mark shall not be renewed after their
expiration. Leases or permits that relate both to lands above the
natural low water mark and to lands below the natural low water
mark shall not be renewed with respect to lands above the natural
low water mark after their expiration.

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