

As Introduced

125th General Assembly
Regular Session
2003-2004

H. B. No. 218

Representatives Grendell, Martin, Young, Callender, Kilbane, Redfern, Jerse

A BILL

To amend sections 307.37, 1504.02, 1506.01, 1506.02,
1506.08, 1506.09, 1506.10, 1506.11, 1506.12,
1521.21, 1521.22, 1521.23, 1521.24, 1521.26,
1521.99, and 6121.01, to enact section 1521.31,
and to repeal sections 1506.03, 1506.06, and
1506.07 of the Revised Code to eliminate the law
governing Lake Erie coastal erosion areas and to
make other changes to the law governing coastal
management and the control of shore erosion along
Lake Erie.

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

Section 1. That sections 307.37, 1504.02, 1506.01, 1506.02,
1506.08, 1506.09, 1506.10, 1506.11, 1506.12, 1521.21, 1521.22,
1521.23, 1521.24, 1521.26, 1521.99, and 6121.01 be amended and
section 1521.31 of the Revised Code be enacted to read as follows:

Sec. 307.37. (A)(1) The board of county commissioners, in
addition to its other powers, may adopt, amend, rescind,
administer, and enforce regulations pertaining to the erection,
construction, repair, alteration, redevelopment, and maintenance
of single-family, two-family, and three-family dwellings within
the unincorporated territory of the county, or the board may

abish districts in any part of the unincorporated territory and 21
may adopt, amend, rescind, administer, and enforce such 22
regulations in the districts. When adopted, all regulations, 23
including service charges, shall be uniform within all districts 24
in which building codes are established; however, more stringent 25
regulations may be imposed in flood hazard areas ~~and in Lake Erie~~ 26
~~coastal erosion areas identified under section 1506.06 of the~~ 27
~~Revised Code~~ in order to prevent or reduce the hazard resulting 28
from flooding ~~and from erosion~~ along Lake Erie. In no case shall 29
the regulations go beyond the scope of regulating the safety, 30
health, and sanitary conditions of such buildings. Any person 31
adversely affected by an order of the board adopting, amending, or 32
rescinding a regulation may appeal to the court of common pleas of 33
the county on the ground that the board failed to comply with the 34
law in adopting, amending, rescinding, publishing, or distributing 35
the regulations, or that the regulation, as adopted or amended by 36
the board, is unreasonable or unlawful, or that the revision of 37
the regulation was unreasonable or unlawful. 38

(2) A county building code may include regulations for 39
participation in the national flood insurance program established 40
in the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 41
U.S.C.A. 4002, as amended, and regulations adopted for the 42
purposes of section 1506.04 ~~or 1506.07~~ of the Revised Code 43
governing the prohibition, location, erection, construction, 44
redevelopment, or floodproofing of new buildings or structures, 45
substantial improvements to existing buildings or structures, or 46
other development in unincorporated territory within flood hazard 47
areas identified under the "Flood Disaster Protection Act of 48
1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended, ~~or within Lake~~ 49
~~Erie coastal erosion areas identified under section 1506.06 of the~~ 50
~~Revised Code~~, including, but not limited to, residential, 51
commercial, institutional, or industrial buildings or structures 52
or other permanent structures, as that term is defined in section 53

1506.01 of the Revised Code. Rules adopted under division (A)(2) 54
of this section shall not conflict with the Ohio building code. 55

(B) Regulations or amendments may be adopted under this 56
section only after public hearing at not fewer than two regular 57
sessions of the board. The board shall cause to be published in a 58
newspaper of general circulation in the county notice of the 59
public hearings, including time, date, and place, once a week for 60
two weeks immediately preceding the hearings. The proposed 61
regulations or amendments shall be made available by the board to 62
the public at the board office. The regulations or amendments 63
shall take effect on the thirty-first day following the date of 64
their adoption. 65

(C) No person shall violate any regulation of the board under 66
sections 307.37 to 307.40 of the Revised Code. 67

Each day during which an illegal location, erection, 68
construction, floodproofing, repair, alteration, development, 69
redevelopment, or maintenance continues may be considered a 70
separate offense. 71

(D) Regulations adopted by resolution of the board do not 72
affect buildings or structures that exist or on which construction 73
has begun on or before the date the regulation or amendment is 74
adopted by the board. 75

(E) The board may provide for a building regulation 76
department and may employ such personnel as it determines to be 77
necessary for the purpose of enforcing its regulations. Upon 78
certification of the building department under section 3781.10 of 79
the Revised Code, the board may direct the county building 80
department to exercise enforcement authority and to accept and 81
approve plans pursuant to sections 3781.03 and 3791.04 of the 82
Revised Code for any other kind or class of building in the 83
unincorporated territory of the county. 84

Sec. 1504.02. (A) The division of real estate and land 85
management shall do all of the following: 86

(1) Except as otherwise provided in the Revised Code, 87
coordinate and conduct all real estate functions for the 88
department of natural resources, including at least acquisitions 89
by purchase, lease, gift, devise, bequest, appropriation, or 90
otherwise; grants through sales, leases, exchanges, easements, and 91
licenses; inventories of land; and other related general 92
management duties; 93

(2) Assist the department and its divisions by providing 94
department-wide planning, including at least master planning, 95
comprehensive planning, capital improvements planning, and special 96
purpose planning such as trails coordination and planning under 97
section 1519.03 of the Revised Code; 98

(3) On behalf of the director of natural resources, 99
administer the coastal management program established under 100
sections 1506.01 ~~to 1506.03 and~~, 1506.02, 1506.021, 1506.05 to, 101
and 1506.09 of the Revised Code and consult with and provide 102
coordination among state agencies, political subdivisions, the 103
United States and agencies of it, and interstate, regional, and 104
areawide agencies to assist the director in executing the 105
director's duties and responsibilities under that program and to 106
assist the department as the lead agency for the development and 107
implementation of the program; 108

(4) On behalf of the director, administer sections 1506.10 109
and 1506.11 and sections 1506.31 to 1506.36 of the Revised Code; 110

(5) Cooperate with the United States and agencies of it and 111
with political subdivisions in administering federal recreation 112
moneys under the "Land and Water Conservation Fund Act of 1965," 113
78 Stat. 897, 16 U.S.C.A. 4601-8, as amended; prepare and 114

distribute the statewide comprehensive outdoor recreation plan; 115
and administer the state recreational vehicle fund created in 116
section 4519.11 of the Revised Code; 117

(6)(a) Support the geographic information system needs for 118
the department as requested by the director, which shall include, 119
but not be limited to, all of the following: 120

(i) Assisting in the training and education of department 121
resource managers, administrators, and other staff in the 122
application and use of geographic information system technology; 123

(ii) Providing technical support to the department in the 124
design, preparation of data, and use of appropriate geographic 125
information system applications in order to help solve resource 126
related problems and to improve the effectiveness and efficiency 127
of department delivered services; 128

(iii) Creating, maintaining, and documenting spatial digital 129
data bases for the division and for other divisions as assigned by 130
the director. 131

(b) Provide information to and otherwise assist government 132
officials, planners, and resource managers in understanding land 133
use planning and resource management; 134

(c) Provide continuing assistance to local government 135
officials and others in natural resource digital data base 136
development and in applying and utilizing the geographic 137
information system for land use planning, current agricultural use 138
value assessment, development reviews, coastal management, and 139
other resource management activities; 140

(d) Coordinate and administer the remote sensing needs of the 141
department including the collection and analysis of aerial 142
photography, satellite data, and other data pertaining to land, 143
water, and other resources of the state; 144

(e) Prepare and publish maps and digital data relating to the 145
state's land use and land cover over time on a local, regional, 146
and statewide basis; 147

(f) Locate and distribute hard copy maps, digital data, 148
aerial photography, and other resource data and information to 149
government agencies and the public. 150

(7) Prepare special studies and execute any other duties, 151
functions, and responsibilities requested by the director. 152

(B) The division may do any of the following: 153

(1) Coordinate such environmental matters concerning the 154
department and the state as are necessary to comply with the 155
"National Environmental Policy Act of 1969," 83 Stat. 852, 42 156
U.S.C.A. 4321, as amended, the "Intergovernmental Cooperation Act 157
of 1968," 82 Stat. 1098, 31 U.S.C.A. 6506, and the "Federal Water 158
Pollution Control Act," 91 Stat. 1566 (1977), 33 U.S.C.A. 1251, as 159
amended, and regulations adopted under those acts; 160

(2) On behalf of the director, administer Chapter 1520. of 161
the Revised Code, except divisions (B) to (F) of section 1520.03 162
of the Revised Code, division (A) of section 1520.04 of the 163
Revised Code as it pertains to those divisions, and section 164
1520.05 of the Revised Code; 165

(3) Administer any state or federally funded grant program 166
that is related to natural resources and recreation as considered 167
necessary by the director. 168

Sec. 1506.01. As used in this chapter: 169

(A) "Coastal area" means the waters of Lake Erie, the islands 170
in the lake, and the lands under and adjacent to the lake, 171
including transitional areas, wetlands, and beaches. The coastal 172
area extends in Lake Erie to the international boundary line 173
between the United States and Canada ~~and landward only to the~~ 174

~~extent necessary to include shorelands, the uses of which have a~~ 175
~~direct and significant impact on coastal waters as determined by~~ 176
~~the director of natural resources.~~ 177

(B) "Coastal management program" means the comprehensive 178
action of the state and its political subdivisions cooperatively 179
to preserve, protect, develop, restore, or enhance the resources 180
of the coastal area ~~and to ensure wise use of the land and water~~ 181
~~resources of the coastal area,~~ giving attention to natural, 182
cultural, historic, and aesthetic values; agricultural, 183
recreational, energy, and economic needs; the interests of 184
residential private property owners in the coastal area; and the 185
national interest. "Coastal management program" includes the 186
establishment of objectives, policies, standards, and criteria 187
concerning, without limitation, protection of air, water, 188
wildlife, rare and endangered species, wetlands and natural areas, 189
and other natural resources in the coastal area; ~~management of~~ 190
~~coastal development and redevelopment;~~ preservation and 191
restoration of historic, cultural, and aesthetic coastal features; 192
and public access to the public portion of the coastal area for 193
recreation purposes. 194

(C) "Coastal management program document" means a 195
comprehensive statement consisting of, without limitation, text, 196
maps, and illustrations that is adopted by the director in 197
accordance with this chapter, describes the objectives, policies, 198
standards, and criteria of the coastal management program for 199
guiding public ~~and private~~ uses of lands and waters in the coastal 200
area, lists the governmental agencies, including, without 201
limitation, state agencies, involved in implementing the coastal 202
management program, describes their applicable policies and 203
programs, and cites the statutes and rules under which they may 204
adopt and implement those policies and programs. 205

(D) "Person" means any agency of this state, any political 206

subdivision of this state or of the United States, and any legal 207
entity defined as a person under section 1.59 of the Revised Code. 208

(E) "Director" means the director of natural resources or the 209
director's designee. 210

(F) "Permanent structure" means any residential, commercial, 211
industrial, institutional, or agricultural building, any mobile 212
home as defined in division (O) of section 4501.01 of the Revised 213
Code, any manufactured home as defined in division (C)(4) of 214
section 3781.06 of the Revised Code, and any septic system that 215
receives sewage from a single-family, two-family, or three-family 216
dwelling, but does not include any recreational vehicle as defined 217
in section 4501.01 of the Revised Code. 218

(G) "State agency" or "agency of the state" has the same 219
meaning as "agency" as defined in section 111.15 of the Revised 220
Code. 221

(H) "Coastal flood hazard area" means any territory within 222
the coastal area that has been identified as a flood hazard area 223
under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 224
42 U.S.C.A. 4002, as amended. 225

(I) ~~"Coastal erosion area" means any territory included in~~ 226
~~Lake Erie coastal erosion areas identified by the director under~~ 227
~~section 1506.06 of the Revised Code~~ "Natural low water mark" means 228
the lowest water level of Lake Erie averaged over a one-month 229
period from historical record. 230

Sec. 1506.02. (A) The department of natural resources is 231
hereby designated the lead agency for the development and 232
implementation of a coastal management program. The director of 233
natural resources: 234

(1) Shall develop and adopt the coastal management program 235
document. The director shall cooperate and coordinate with other 236

agencies of the state and its political subdivisions in the 237
development of the document. Before adopting the document, the 238
director shall hold four public hearings on it in the coastal 239
area, and may hold additional public meetings, to give the public 240
the opportunity to make comments and recommendations concerning 241
its terms. The director shall consider the public comments and 242
recommendations before adopting the document. The director may 243
amend the coastal management program document, provided that, 244
prior to making changes in it, the director notifies by mail those 245
persons who ~~submitted comments and recommendations concerning the~~ 246
~~original document~~ would be affected by the changes and appropriate 247
agencies of the state and its political subdivisions. The director 248
~~may~~ shall hold at least one public hearing on the proposed 249
changes. 250

(2) Shall administer the coastal management program in 251
accordance with the coastal management program document, this 252
chapter, and rules adopted under it; 253

(3) Shall adopt and may amend or rescind rules under Chapter 254
119. of the Revised Code for the implementation, administration, 255
and enforcement of the coastal management program and the other 256
provisions of this chapter. Before the adoption, amendment, or 257
rescission of rules under division (A)(3) of this section, the 258
director shall do all of the following: 259

(a) Maintain a list of interested public and private 260
organizations and mail notice to those organizations of any 261
proposed rule or amendment to or rescission of a rule at least 262
thirty days before any public hearing on the proposal; 263

(b) Mail a copy of each proposed rule, amendment, or 264
rescission to any person who requests a copy within five days 265
after receipt of the request and to any person who would be 266
directly affected by the proposed rule, amendment, or rescission; 267

(c) Consult with appropriate statewide organizations and 268
units of local government that would be affected by the proposed 269
rule, amendment, or rescission. 270

~~Although the director is expected to discharge these duties 271~~
~~diligently, failure to mail any notice or copy or to so consult 272~~
~~with any person is not jurisdictional and shall not be construed 273~~
~~to invalidate any proceeding or action of the director. 274~~

(4) Shall provide for consultation and coordination between 275
and among state agencies, political subdivisions of the state, and 276
interstate, regional, areawide, and federal agencies in carrying 277
out the purposes of the coastal management program and the other 278
provisions of this chapter; 279

(5) Shall, to the extent practicable and consistent with the 280
protection of coastal area resources, coordinate the rules and 281
policies of the department of natural resources with the rules and 282
policies of other state and federal agencies to simplify and 283
consolidate the regulation of activities along the Lake Erie 284
shoreline; 285

(6) May, to accomplish the purposes of the coastal management 286
program and the other provisions of this chapter, contract with 287
any person and may accept and expend gifts, bequests, and grants 288
of money or property from any person. 289

(B) Every agency of the state, upon request of the director, 290
shall cooperate with the department of natural resources in the 291
implementation of the coastal management program. 292

(C) The director shall establish a coastal management 293
assistance grant program. Grants may be awarded from federal funds 294
received for that purpose and from such other funds as may be 295
provided by law to any municipal corporation, county, township, 296
park district created under section 511.18 or 1545.04 of the 297
Revised Code, conservancy district established under Chapter 6101. 298

of the Revised Code, port authority, other political subdivision, 299
state agency, educational institution, or nonprofit corporation to 300
help implement, administer, or enforce any aspect of the coastal 301
management program. Grants may be used for any of the following 302
purposes: 303

(1) Feasibility studies and engineering reports for projects 304
that are consistent with the policies in the coastal management 305
program document; 306

(2) The protection and preservation of wetlands, public 307
beaches, fish and wildlife habitats, minerals, natural areas, 308
prime agricultural land, endangered plant and animal species, or 309
other significant natural coastal resources; 310

(3) ~~The management of shoreline development to prevent loss~~ 311
~~of life and property in coastal flood hazard areas and coastal~~ 312
~~erosion areas, to set priorities~~ Setting priorities for 313
water-dependent energy, commercial, industrial, agricultural, and 314
recreational uses, or ~~to identify~~ identifying environmentally 315
acceptable sites for dredge spoil disposal; 316

(4) Increasing public access to Lake Erie and other public 317
places in the coastal area; 318

(5) The protection and preservation of historical, cultural, 319
or aesthetic coastal resources; 320

(6) Improving the predictability and efficiency of 321
governmental decision making related to coastal area management; 322

(7) ~~Adopting, administering, and enforcing~~ Developing model 323
zoning ordinances or resolutions relating to coastal flood hazard 324
areas ~~or coastal erosion areas~~ and providing them to local 325
governments; 326

(8) The redevelopment of deteriorating and underutilized 327
waterfronts and ports; 328

~~(9) Other purposes approved by the director.~~ 329

Sec. 1506.08. Any person who is adversely affected by the 330
~~final identification of a Lake Erie coastal erosion area under~~ 331
~~division (D) of section 1506.06 of the Revised Code or any other~~ 332
final administrative act of the director of natural resources 333
under this chapter ~~or who receives denial of a permit application~~ 334
~~under rules adopted under division (A) of section 1506.07 of the~~ 335
Revised Code, within thirty days after the ~~identification, act, or~~ 336
~~denial,~~ may appeal it in accordance with Chapter 119. of the 337
Revised Code, except that, notwithstanding any provisions in 338
section 119.12 of the Revised Code to the contrary, the appeal 339
shall be made to the court of common pleas of the county in which 340
the appellant resides. 341

Sec. 1506.09. (A)~~(1)~~ No person shall violate or fail to 342
comply with any provision of this chapter, any rule or order 343
adopted or issued under it, or any condition of a permit issued in 344
accordance with ~~rules,~~ resolutions, or ordinances adopted under 345
it. 346

~~(2)~~(B) The attorney general, upon written request of the 347
director of natural resources, shall bring an action for an 348
injunction against any person who has violated, is violating, or 349
is threatening to violate division (A)~~(1)~~ of this section. 350

~~(3)~~(C) Any person who violates any provision of this chapter, 351
or any rule or order adopted or issued under it, ~~or any condition~~ 352
~~of a permit issued in accordance with rules adopted under division~~ 353
~~(A) of section 1506.07 of the Revised Code~~ shall, in addition to 354
any fine that may be assessed under section 1506.99 of the Revised 355
Code, be assessed a civil penalty of not more than five thousand 356
dollars for each offense to be paid into the state treasury to the 357
credit of the general revenue fund. Upon written request of the 358

director, the attorney general shall commence an action against 359
any such violator. Any action under this division is a civil 360
action, governed by the Rules of Civil Procedure and other rules 361
of practice and procedure applicable to civil actions. 362

~~(B) The prosecuting attorney of a county or the city director 363
of law of a municipal corporation that has adopted a resolution or 364
ordinance in accordance with division (D) of section 1506.07 of 365
the Revised Code may, on behalf of that county or municipal 366
corporation, respectively, bring a civil action against any person 367
who violates that resolution or ordinance within the territory of 368
that county or municipal corporation in the court of common pleas 369
in the county in which the violation occurred. Any such violator 370
may, in addition to any fine that may be assessed under section 371
1506.99 of the Revised Code, be assessed a civil penalty of not 372
more than five thousand dollars for each offense together with 373
court costs. Any moneys recovered under this division shall be 374
paid into the treasury of the appropriate county or municipal 375
corporation. Any action under this division shall be governed by 376
the Rules of Civil Procedure and other rules of practice and 377
procedure applicable to civil actions. 378~~

Sec. 1506.10. ~~It~~ (A) As used in this section and section 379
1506.11 of the Revised Code, "littoral rights" means the rights of 380
littoral owners to make reasonable use of the submerged lands and 381
waters fronting their lands, including the construction of such 382
things as piers, fills, backwalls, or wharves, below the natural 383
low water mark, for the purpose of accessing and using the waters 384
of Lake Erie for navigation, fishing, recreation, or other 385
purposes, including, but not limited to, launching and storing 386
watercraft, wharfing out to navigable waters, and consumptive use 387
of the water. "Littoral rights" includes the right to own 388
additional lands created by natural accretion or reliction, the 389
right to restore lands lost to avulsion or artificially induced 390

erosion, and the right to protect lands from erosion. 391

(B) It is hereby declared that the waters of Lake Erie 392
consisting of the territory within the boundaries of the state, 393
extending from the natural low water mark of the southerly shore 394
of Lake Erie to the international boundary line between the United 395
States and Canada, together with the soil beneath and their 396
contents, do now belong and have always, since the organization of 397
the state of Ohio, belonged to the state as proprietor in trust 398
for the people of the state, for the public uses to which they may 399
be adapted, subject to the powers of the United States government, 400
to the public rights of navigation, water commerce, and fishery, 401
and to the ~~property~~ littoral rights of littoral owners, ~~including~~ 402
~~the right to make reasonable use of the waters in front of or~~ 403
~~flowing pass their lands.~~ 404

The state's proprietorship of the land portion of the 405
territory shall extend only to and below the natural low water 406
mark. All lands above the natural low water mark shall belong to 407
littoral owners. The loss of a littoral owner's lands by avulsion 408
or by artificially influenced erosion shall not alter the boundary 409
of the littoral owner's property that is established under this 410
section or by deed. Any artificial encroachments by public or 411
private littoral owners, which interfere with the free flow of 412
commerce in navigable channels, whether in the form of wharves, 413
piers, fills, or otherwise, beyond the natural ~~shoreline of those~~ 414
~~waters~~ low water mark, not expressly authorized by the general 415
assembly, acting within its powers, or pursuant to section 1506.11 416
of the Revised Code, shall not be considered as having prejudiced 417
the rights of the public in such domain. This section does not 418
limit the right of the state to control, improve, or place aids to 419
navigation in the other navigable waters of the state or the 420
territory ~~formerly~~ covered thereby. 421

The department of natural resources is hereby designated as 422

the state agency in all matters pertaining to the care, 423
protection, and enforcement of the state's rights designated in 424
this section. 425

Any order of the director of natural resources in any matter 426
pertaining to the care, protection, and enforcement of the state's 427
rights in that territory is a rule or adjudication within the 428
meaning of ~~sections 119.01 to 119.13~~ Chapter 119. of the Revised 429
Code. 430

Sec. 1506.11. (A) "Territory," as used in this section, means 431
the waters and the lands presently underlying the waters of Lake 432
Erie and the lands formerly underlying the waters of Lake Erie and 433
now artificially filled, between the natural low water mark 434
shoreline or legally deeded lakeward property boundary of a 435
littoral owner and the ~~international boundary line with Canada~~ 436
harbor line or the line of commercial navigation where no harbor 437
line has been established. 438

(B) ~~Whenever~~ (1) Subject to division (B)(2) of this section, 439
whenever the state, acting through the director of natural 440
resources, upon application of any person who wants to develop or 441
improve part of the territory, and after notice that the director, 442
at the director's discretion, may give as provided in this 443
section, determines that any part of the territory can be 444
developed and improved or the waters thereof used as specified in 445
the application without impairment of the public right of 446
navigation, water commerce, and fishery, a lease of all or any 447
part of the state's interest therein may be entered into with the 448
applicant, or a permit may be issued for that purpose, subject to 449
the powers of the United States government and in accordance with 450
rules adopted by the director in accordance with Chapter 119. of 451
the Revised Code, and without prejudice to the littoral rights of 452
any owner of land fronting on Lake Erie, provided that the 453

legislative authority of the municipal corporation within which 454
any such part of the territory is located, if the municipal 455
corporation is not within the jurisdiction of a port authority, or 456
the county commissioners of the county within which such part of 457
the territory is located, excluding any territory within a 458
municipal corporation or under the jurisdiction of a port 459
authority, or the board of directors of a port authority with 460
respect to such part of the territory included in the jurisdiction 461
of the port authority, has enacted an ordinance or resolution 462
finding and determining that such part of the territory, described 463
by metes and bounds or by an alternate description referenced to 464
the applicant's upland property description that is considered 465
adequate by the director, is not necessary or required for the 466
construction, maintenance, or operation by the municipal 467
corporation, county, or port authority of breakwaters, piers, 468
docks, wharves, bulkheads, connecting ways, water terminal 469
facilities, and improvements and marginal highways in aid of 470
navigation and water commerce and that the land uses specified in 471
the application comply with regulation of permissible land use 472
under a waterfront plan of the local authority. 473

(2) No lease or permit is required under this section for the 474
use of territory for purposes of exercising a person's littoral 475
rights. Division (B)(2) of this section does not interfere with 476
the powers and duties conferred upon and delegated to municipal 477
corporations under sections 721.04 to 721.11 of the Revised Code 478
or to the powers and duties conferred upon and delegated to the 479
United States army corps of engineers pursuant to the "Rivers and 480
Harbors Appropriation Act of 1899," 30 Stat. 1121, 33 U.S.C. 403. 481

(C) Upon the filing of the application with the director, the 482
director may hold a public hearing thereon and may cause written 483
notice of the filing to be given to any municipal corporation, 484
county, or port authority, as the case may be, in which such part 485

of the territory is located and also shall cause public notice of 486
the filing to be given by advertisement in a newspaper of general 487
circulation within the locality where such part of the territory 488
is located. If a hearing is to be held, public notice of the 489
filing may be combined with public notice of the hearing and shall 490
be given once a week for four consecutive weeks prior to the date 491
of the initial hearing. All hearings shall be before the director 492
and shall be open to the public, and a record shall be made of the 493
proceeding. Parties thereto are entitled to be heard and to be 494
represented by counsel. The findings and order of the director 495
shall be in writing. All costs of the hearings, including 496
publication costs, shall be paid by the applicant. The director 497
also may hold public meetings on the filing of an application. 498

If the director finds that a lease may properly be entered 499
into with the applicant or a permit may properly be issued to the 500
applicant, the director shall determine the consideration to be 501
paid by the applicant, ~~which consideration shall exclude the value~~ 502
~~of the littoral rights of the owner of land fronting on Lake Erie~~ 503
~~and improvements made or paid for by the owner of land fronting on~~ 504
~~Lake Erie or that owner's predecessors in title.~~ The lease or 505
permit may be for such periods of time as the director determines. 506
The rentals received under the terms of such a lease or permit 507
shall be paid into the state treasury to the credit of the Lake 508
Erie submerged lands fund, which is hereby created, and shall be 509
~~distributed from that fund as follows:~~ 510

~~(1) Fifty per cent of each rental shall be paid to the~~ 511
~~department of natural resources for the administration of this~~ 512
~~section and section 1506.10 of the Revised Code and for the~~ 513
~~coastal management assistance grant program required to be~~ 514
~~established under division (C) of section 1506.02 of the Revised~~ 515
~~Code;~~ 516

~~(2) Fifty per cent of each rental shall be paid to the~~ 517

municipal corporation, county, or port authority making the 518
finding provided for in this section. The rentals received under 519
the terms of a lease or permit shall be used only to maintain, 520
improve, or add to improvements in aid of navigation, water 521
commerce, or public access to the waters of Lake Erie. 522

All leases and permits shall be executed in the manner 523
provided by section ~~5501.01~~ 5301.01 of the Revised Code and shall 524
contain, in addition to the provisions required in this section, a 525
reservation to the state of all mineral rights and a provision 526
that the removal of any minerals shall be conducted in such manner 527
as not to damage any improvements placed by the littoral owner, 528
lessee, or permit holder on the lands. No lease or permit of the 529
lands defined in this section shall express or imply any control 530
of fisheries or aquatic wildlife now vested in the division of 531
wildlife of the department. 532

(D) ~~Upland~~ Except as provided in division (B)(2) of this 533
section, upland owners who, prior to October 13, 1955, have 534
erected, developed, or maintained structures, facilities, 535
buildings, or improvements or made use of waters in the part of 536
the territory in front of those uplands shall be granted a lease 537
or permit by the state upon the presentation of a certification by 538
the chief executive of a municipal corporation, resolution of the 539
board of county commissioners, or resolution of the board of 540
directors of the port authority establishing that the structures, 541
facilities, buildings, improvements, or uses do not constitute an 542
unlawful encroachment on navigation and water commerce. The lease 543
or permit shall specifically enumerate the structures, facilities, 544
buildings, improvements, or uses so included. 545

(E) Persons having secured a lease or permit under this 546
section or persons having littoral rights are entitled to just 547
compensation for the taking, whether for navigation, water 548
commerce, or otherwise, by any governmental authority having the 549

power of eminent domain, of structures, facilities, buildings, 550
improvements, or uses erected or placed upon the territory 551
pursuant to the lease or permit or the littoral rights of the 552
person and for the taking of the leasehold and the littoral rights 553
of the person pursuant to the procedure provided in Chapter 163. 554
of the Revised Code. The compensation shall not include any 555
compensation for the site in the territory except to the extent of 556
any interest in the site theretofore acquired by the person under 557
this section or by prior acts of the general assembly or grants 558
from the United States government. The failure of any person to 559
apply for or obtain a lease or permit under this section does not 560
prejudice any right the person may have to compensation for a 561
taking of littoral rights or of improvements made in accordance 562
with a lease, a permit, or littoral rights. 563

(F) If any taxes or assessments are levied or assessed upon 564
property that is the subject of a lease or permit under this 565
section, the taxes or assessments are the obligation of the lessee 566
or permit holder. 567

(G) If a lease or permit secured under this section requires 568
the lessee or permit holder to obtain the approval of the 569
department or any of its divisions for any changes in structures, 570
facilities, or buildings, for any improvements, or for any changes 571
or expansion in uses, no lessee or permit holder shall change any 572
structures, facilities, or buildings, make any improvements, or 573
expand or change any uses unless the director first determines 574
that the proposed action will not adversely affect any current or 575
prospective exercise of the public right of recreation in the 576
territory and in the state's reversionary interest in any 577
territory leased or permitted under this section. 578

Proposed changes or improvements shall be deemed to 579
"adversely affect" the public right of recreation if the changes 580
or improvements cause or will cause any significant demonstrable 581

negative impact upon any present or prospective recreational use 582
of the territory by the public during the term of the lease or 583
permit or any renewals and of any public recreational use of the 584
leased or permitted premises in which the state has a reversionary 585
interest. 586

(H) Nothing in a lease entered into or a permit issued under 587
this section prior to the effective date of this amendment shall 588
be construed as determining the boundary between a littoral 589
owner's title to real property and the state's ownership of the 590
waters of Lake Erie and the soil beneath and their contents. 591

Sec. 1506.12. There is hereby created the coastal resources 592
advisory council, which shall consist of nineteen members, 593
appointed by the ~~director of natural resources~~ governor, who 594
represent a broad range of interests, experience, and knowledge 595
relating to the management, use, conservation, protection, and 596
development of coastal area resources. The ~~director~~ governor shall 597
solicit names of qualified persons to serve on the council from 598
the legislative authorities of counties, townships, municipal 599
corporations, and other political subdivisions and from interest 600
groups located in the coastal area. The ~~director~~ governor shall 601
appoint to the council at least one member from each shoreline 602
county, which members shall be selected from the names submitted 603
to the ~~director~~ governor as described above and at least one of 604
which shall be a public official of such a county; at least three 605
individuals who own private shoreline property in a shoreline 606
county; at least one public official of a municipal corporation 607
that is located in a shoreline county; at least two individuals 608
who are members of the Ohio association of realtors and whose 609
places of business as specified in section 4735.16 of the Revised 610
Code are located in the shoreline area; and at least two 611
individuals with experience in residential and commercial land 612
development in the shoreline area. No more than ten members of the 613

council shall be from the same political party, and on and after 614
February 2, 2004, not fewer than seven members shall be permanent 615
residents of the coastal area. The director of natural resources 616
may participate in the deliberations of the council, but shall not 617
vote. 618

The initial members of the council ~~first appointed by the~~ 619
~~director~~ shall serve terms commencing no later than one hundred 620
eighty days after March 15, 1989, and expiring on February 1, 621
1990. On February 2, 1990, ~~the director shall appoint~~ six members 622
shall be appointed to serve for a term of one year and seven 623
members shall be appointed to serve for a term of two years. The 624
members first appointed ~~by the director~~ after the effective date 625
of this amendment shall serve terms commencing no later than one 626
hundred eighty days after that date. Three of those members shall 627
serve terms expiring on February 1, 1997, and three of those 628
members shall serve terms expiring on February 1, 1998. On 629
February 2, 1997, ~~the director shall appoint~~ nine members shall be 630
appointed to serve for a term of three years to replace all 631
members whose terms of office expired on February 1, 1997. On 632
February 2, 1998, ~~the director shall appoint~~ ten members shall be 633
appointed to serve for a term of four years to replace all members 634
whose terms of office expired on February 1, 1998. Thereafter, 635
terms of office for all members shall be for four years commencing 636
on the second day of February and ending on the first day of 637
February. Members may be reappointed to the council. 638

The ~~director~~ governor may remove any member at any time for 639
inefficiency, neglect of duty, or malfeasance in office. In the 640
event of the death, removal, resignation, or incapacity of any 641
member, the ~~director~~ governor shall appoint a successor to hold 642
office for the remainder of the term for which the member's 643
predecessor was appointed. Any member shall continue in office 644
subsequent to the expiration date of the member's term until the 645

member's successor takes office, or until a period of sixty days 646
has elapsed, whichever occurs first. 647

Membership on the council does not constitute holding a 648
public office or position of employment under state law and is not 649
grounds for removal of public officers or employees from their 650
offices or positions of employment. 651

The council annually shall select from its members a 652
chairperson and a vice-chairperson. The council shall hold at 653
least one meeting every three months and shall keep a record of 654
its proceedings, which shall be open to the public for inspection. 655
Special meetings may be called by the chairperson and shall be 656
called upon the written request of two or more members. A majority 657
of the members constitutes a quorum. The department of natural 658
resources shall furnish clerical, technical, legal, and other 659
services required by the council in the performance of its duties. 660

Members shall receive no compensation, but shall be 661
reimbursed from appropriations to the department for the actual 662
and necessary expenses incurred by them in the performance of 663
their official duties. 664

The council shall do all of the following: 665

(A) Advise the director on carrying out the director's duties 666
under this chapter, including, without limitation, implementation 667
of the coastal management program; 668

(B) Recommend to the director such policies and legislation 669
as are necessary to preserve, protect, develop, and restore or 670
enhance the coastal resources of the state; 671

(C) Review and make recommendations to the director on the 672
development of policies, plans, and programs for long-term, 673
comprehensive coastal resource management, including, without 674
limitation, the coastal management program document adopted under 675
division (A)(1) of section 1506.02 of the Revised Code; 676

(D) Recommend to the director ways to enhance cooperation 677
among governmental agencies, including, without limitation, state 678
agencies, having an interest in coastal management and to 679
encourage wise use and protection of the state's coastal 680
resources. The council may request information and other 681
assistance from those governmental agencies for this purpose. 682

Sections 101.82 to 101.87 of the Revised Code do not apply to 683
the council. 684

Sec. 1521.21. The chief of the division of water, in the 685
discharge of the chief's duties under sections ~~1507.20~~ 1521.20 to 686
~~1507.30~~ 1521.30 of the Revised Code, may call to the chief's 687
assistance, temporarily, any engineers or other employees in any 688
state department, or in the Ohio state university or other 689
educational institutions financed wholly or in part by the state, 690
for the purpose of devising the most effective and economical 691
methods of controlling shore erosion ~~and damage from it~~ and 692
~~controlling the inundation of improved property by the waters~~ 693
along the shorelines of Lake Erie ~~and~~, its bays, and associated 694
inlets. 695

Such engineers and employees shall not receive any additional 696
compensation over that which they receive from the departments or 697
institutions by which they are employed, but they shall be 698
reimbursed for their actual necessary expenses incurred while 699
working under the direction of the chief on erosion and inundation 700
projects. 701

Sec. 1521.22. ~~No~~ Except as otherwise provided in this 702
section, no person shall construct a beach, groin, or other 703
structure to control erosion, wave action, or inundation along or 704
near the Ohio shoreline of Lake Erie, including related islands, 705
bays, and inlets, without first ~~obtaining a shore~~ submitting an 706

application for an erosion control structure permit from, 707
including detailed plans and specifications, to the chief of the 708
division of water. The application for a shore structure permit 709
shall include detailed plans and specifications prepared by a 710
professional engineer registered under Chapter 4733. of the 711
Revised Code. An applicant shall provide appropriate evidence of 712
compliance with any applicable provisions of this chapter and 713
Chapters 1505. and 1506. of the Revised Code, as determined by the 714
chief. A 715

An erosion control structure permit is not required for such 716
construction if a permit for the construction is issued by the 717
United States army corps of engineers pursuant to the "Rivers and 718
Harbors Appropriation Act of 1899," 30 Stat. 1121, 33 U.S.C. 403, 719
and a copy of the permit is submitted to the chief. In addition, 720
this section shall not be construed to require an erosion control 721
structure permit for the construction of a structure by a person 722
who is exercising the person's littoral rights. As used in this 723
section "littoral rights" has the same meaning as in section 724
1506.10 of the Revised Code. 725

A temporary shore erosion control structure permit may be 726
issued by the chief or an authorized representative of the chief 727
if it is determined necessary to safeguard life, health, or 728
property. 729

Each application or reapplication for a permit under this 730
section shall be accompanied by a non-refundable fee as the chief 731
shall prescribe by rule. 732

Upon receipt of an application submitted under this section, 733
the chief shall notify owners of littoral real property that is 734
adjacent to the proposed area of construction. The notice shall be 735
in writing, state that an application has been filed, and 736
summarize the proposed construction that is the subject of the 737
application. 738

If the application is approved, the chief shall issue a 739
permit to the applicant authorizing construction of the project. 740
If requested in writing by the applicant within thirty days of 741
issuance of a notice of disapproval of the application, the chief 742
shall conduct an adjudication hearing under Chapter 119. of the 743
Revised Code, except sections 119.12 and 119.121 of the Revised 744
Code. After reviewing the record of the hearing, the chief shall 745
issue a final order approving the application, disapproving it, or 746
approving it conditioned on the making of specified revisions in 747
the plans and specifications. 748

~~The chief, by rule, shall limit the period during which a 749
construction permit issued under this section is valid and shall 750
establish reapplication requirements governing a construction 751
permit that expires before construction is completed. 752~~

~~In accordance with Chapter 119. of the Revised Code, the 753
chief shall adopt, and may amend or rescind, such rules as are 754
necessary for the administration, implementation, and enforcement 755
of this section. 756~~

Sec. 1521.23. All moneys derived from the granting of permits 757
and leases under section 1505.07 of the Revised Code for the 758
removal of sand, gravel, stone, gas, oil, and other minerals and 759
substances from and under the bed of Lake Erie ~~and from 760~~
~~applications for shore structure permits submitted under section 761~~
~~1521.22 of the Revised Code shall be paid into the state treasury 762~~
to the credit of the ~~permit and lease~~ general revenue fund, ~~which 763~~
~~is hereby created.~~ Notwithstanding any section of the Revised Code 764
relating to the distribution or crediting of fines for violations 765
of the Revised Code, all fines imposed under division (A) of 766
section 1505.99 and division (C) of section 1521.99 of the Revised 767
Code shall be paid into that fund. ~~The fund shall be administered 768~~
~~by the department of natural resources for the protection of Lake 769~~

~~Erie shores and waters; investigation and control of erosion; the 770
planning, development, and construction of facilities for 771
recreational use of Lake Erie; implementation of section 1521.22 772
of the Revised Code; preparation of the state shore erosion plan 773
under section 1521.29 of the Revised Code; and state 774
administration of Lake Erie coastal erosion areas under sections 775
1506.06 and 1506.07 of the Revised Code. 776~~

Sec. 1521.24. The state, acting through the chief of the 777
division of water, subject to section 1521.28 of the Revised Code, 778
may enter into agreements with counties, townships, municipal 779
corporations, park boards, and conservancy districts, other 780
political subdivisions, or any state departments or divisions for 781
the purpose of constructing and maintaining projects to control 782
and correct erosion along the Ohio shoreline of Lake Erie and in 783
any rivers and bays that are connected with Lake Erie and any 784
other watercourses that flow into Lake Erie. Such projects also 785
may be constructed on any Lake Erie island that is situated within 786
the boundaries of the state. 787

The cost of such shore erosion projects that are for the 788
benefit of public littoral property shall be prorated on the basis 789
of two-thirds of the total cost to the state through 790
appropriations made to the division of water and one-third of the 791
cost to the counties, townships, municipal corporations, park 792
boards, conservancy districts, or other political subdivisions. 793

If a shore erosion emergency is declared by the governor, the 794
state, acting through the chief, may spend whatever state funds 795
are available to alleviate shore erosion, without participation by 796
any political subdivision, regardless of whether the project will 797
benefit public or private littoral property. 798

A board of county commissioners, acting for the county over 799
which it has jurisdiction, may enter into and carry out agreements 800

with the chief for the construction and maintenance of projects to 801
control and correct shore erosion. In providing the funds for the 802
county's proportionate share of the cost of constructing and 803
maintaining the projects referred to in this section, the board 804
shall be governed by and may issue and refund bonds in accordance 805
with Chapter 133. of the Revised Code. 806

A municipal corporation or a township, acting through the 807
legislative authority or the board of township trustees, may enter 808
into and carry out agreements with the chief for the purpose of 809
constructing and maintaining projects to control and correct shore 810
erosion. In providing the funds for the municipal corporation's or 811
township's proportionate share of the cost of constructing and 812
maintaining the projects referred to in this section, a municipal 813
corporation or township may issue and refund bonds in accordance 814
with Chapter 133. of the Revised Code. The contract shall be 815
executed on behalf of the municipal corporation or township by the 816
mayor, city manager, or other chief executive officer who has the 817
authority to act for the municipal corporation or township. 818

Conservancy districts may enter into and carry out agreements 819
with the chief, in accordance with the intent of this section, 820
under the powers conferred upon conservancy districts under 821
Chapter 6101. of the Revised Code. 822

Park boards may enter into and carry out agreements with the 823
chief, in accordance with the intent of this section, and issue 824
bonds for that purpose under the powers conferred upon park 825
districts under Chapter 1545. of the Revised Code. 826

The chief shall approve and supervise all projects that are 827
to be constructed in accordance with this section. The chief shall 828
not proceed with the construction of any project until all funds 829
that are to be paid by the county, township, municipal 830
corporation, park board, or conservancy district, in accordance 831
with the terms of the agreement entered into between the chief and 832

the county, township, municipal corporation, park board, or 833
conservancy district, are in the chief's possession and deposited 834
in the shore erosion fund, which is hereby created in the state 835
treasury. If the chief finds it to be in the best interests of the 836
state to construct projects as set forth in this section by the 837
state itself, without the financial contribution of counties, 838
townships, municipal corporations, park boards, or conservancy 839
districts, the chief may construct the projects. 840

~~In deciding whether to assist a county or municipal 841
corporation in constructing and maintaining a project under this 842
section, the state, acting through the chief, shall consider, 843
among other factors, whether the county or municipal corporation 844
has adopted or is in the process of adopting a Lake Erie coastal 845
erosion area resolution or ordinance under division (D) of section 846
1506.07 of the Revised Code. 847~~

All projects constructed by the state in conformity with 848
sections 1521.20 to 1521.28 of the Revised Code shall be 849
constructed subject to sections 153.01 to 153.20 of the Revised 850
Code, except that the state architect and engineer is not required 851
to prepare the plans and specifications for those projects. 852

Sec. 1521.26. (A) A board of county commissioners may use a 853
loan obtained under division (C) of this section to provide 854
financial assistance to any person who ~~owns real property in a 855
coastal erosion area, as defined in section 1506.01 of the Revised 856
Code, and who~~ has received a permit under section 1521.22 of the 857
Revised Code to construct an erosion control structure ~~in that 858
coastal erosion area.~~ The board shall enter into an agreement with 859
the person that complies with all of the following requirements: 860

(1) The agreement shall identify the person's real property 861
for which the erosion control structure is being constructed and 862
shall include a legal description of that property and a reference 863

to the volume and page of the deed record in which the title of 864
that person to that property is recorded. 865

(2) In accordance with rules adopted by the Ohio water 866
development authority under division (V) of section 6121.04 of the 867
Revised Code for the purposes of division (C) of this section and 868
pursuant to an agreement between the board and the authority under 869
that division, the board shall agree to cause payments to be made 870
by the authority to the contractor hired by the person to 871
construct an erosion control structure in amounts not to exceed 872
the total amount specified in the agreement between the board and 873
the person. 874

(3) The person shall agree to pay to the board, or to the 875
authority as the assignee pursuant to division (C) of this 876
section, the total amount of the payments plus administrative or 877
other costs of the board or the authority at times, in 878
installments, and bearing interest as specified in the agreement. 879

The agreement may contain additional provisions that the 880
board determines necessary to safeguard the interests of the 881
county or to comply with an agreement entered into under division 882
(C) of this section. 883

(B) Upon entering into an agreement under division (A) of 884
this section, the board shall do all of the following: 885

(1) Cause the agreement to be recorded in the county deed 886
records in the office of the county recorder of the county in 887
which the real property is situated. Failure to record the 888
agreement does not affect the validity of the agreement or the 889
collection of any amounts due under the agreement. 890

(2) Establish by resolution an erosion control repayment fund 891
into which shall be deposited all amounts collected under division 892
(B)(3) of this section. Moneys in that fund shall be used by the 893
board for the repayment of the loan and for administrative or 894

r costs of the board or the authority as specified in an agreement 895
entered into under division (C) of this section. If the amount of 896
money in the fund is inadequate to repay the loan when due, the 897
board of county commissioners, by resolution, may advance money 898
from any other fund in order to repay the loan if that use of the 899
money from the other fund is not in conflict with law. If the 900
board so advances money in order to repay the loan, the board 901
subsequently shall reimburse each fund from which the board 902
advances money with moneys from the erosion control repayment 903
fund. 904

(3) Bill and collect all amounts when due under the agreement 905
entered into under division (A) of this section. The board shall 906
certify amounts not paid when due to the county auditor, who shall 907
enter the amounts on the real property tax list and duplicate 908
against the property identified under division (A)(1) of this 909
section. The amounts not paid when due shall be a lien on that 910
property from the date on which the amounts are placed on the tax 911
list and duplicate and shall be collected in the same manner as 912
other taxes. 913

(C) A board may apply to the authority for a loan for the 914
purpose of entering into agreements under division (A) of this 915
section. The loan shall be for an amount and on the terms 916
established in an agreement between the board and the authority. 917
The board may assign any agreements entered into under division 918
(A) of this section to the authority in order to provide for the 919
repayment of the loan and may pledge any lawfully available 920
revenues to the repayment of the loan, provided that no moneys 921
raised by taxation shall be obligated or pledged by the board for 922
the repayment of the loan. Any agreement with the authority 923
pursuant to this division is not subject to Chapter 133. of the 924
Revised Code or any requirements or limitations established in 925
that chapter. 926

(D) The authority, as assignee of any agreement pursuant to 927
division (C) of this section, may enforce and compel the board and 928
the county auditor by mandamus pursuant to Chapter 2731. of the 929
Revised Code to comply with division (B) of this section in a 930
timely manner. 931

(E) The construction of an erosion control structure by a 932
contractor hired by an individual homeowner, group of individual 933
homeowners, or homeowners association that enters into an 934
agreement with a board under division (A) of this section is not a 935
public improvement, as defined in section 4115.03 of the Revised 936
Code, and is not subject to competitive bidding or public bond 937
laws. 938

Sec. 1521.31. Any person who is adversely affected by any 939
final administrative act of the chief of the division of water 940
under sections 1521.20 to 1521.30 of the Revised Code may appeal 941
it directly to a court of common pleas. Such an appeal shall be 942
made in accordance with Chapter 119. of the Revised Code, except 943
that, notwithstanding any provisions to the contrary in section 944
119.12 or in the definition of "adjudication" under section 119.01 945
of the Revised Code, both of the following apply: 946

(A) The appellant is not required to exhaust all 947
administrative remedies by appealing to the director of natural 948
resources before appealing to the court of common pleas. 949

(B) Such an appeal shall be made to the court of common pleas 950
of the county in which the appellant resides. 951

Sec. 1521.99. (A) Whoever violates division (C)(1) of section 952
1521.05 or division (E)(1) of section 1521.16 of the Revised Code 953
is guilty of a misdemeanor of the fourth degree. 954

(B) Whoever violates section 1521.06 or 1521.062 of the 955
Revised Code shall be fined not less than one hundred dollars nor 956

more than ~~one thousand~~ five hundred dollars for each offense. ~~Each~~ 957
~~day of violation constitutes a separate offense.~~ 958

(C) Whoever violates sections 1521.20 to 1521.30 of the 959
Revised Code shall be fined not less than one hundred dollars nor 960
more than ~~one thousand~~ five hundred dollars for each offense. ~~Each~~ 961
~~day of violation constitutes a separate offense.~~ 962

Sec. 6121.01. As used in this chapter: 963

(A) "Beneficial use" means a use of water, including the 964
method of diversion, storage, transportation, treatment, and 965
application, that is reasonable and consistent with the public 966
interest in the proper utilization of water resources, including, 967
without limitation, domestic, agricultural, industrial, power, 968
municipal, navigational, fish and wildlife, and recreational uses. 969

(B) "Governmental agencies" means departments, divisions, or 970
other units of state government, watershed districts, soil and 971
water conservation districts, municipal corporations, counties, 972
townships, and other political subdivisions, special water 973
districts, including county and regional sewer and water 974
districts, conservancy districts, sanitary districts, sewer 975
districts, or any other public corporation or agency having the 976
authority to acquire, construct, or operate waste water or water 977
management facilities, the United States or any agency thereof, 978
and any agency, commission, or authority established pursuant to 979
an interstate compact or agreement. 980

(C) "Person" means any individual, firm, partnership, 981
association, or corporation, or two or more or any combination 982
thereof. 983

(D) "Waters of the state" means all streams, lakes, ponds, 984
marshes, watercourses, waterways, wells, springs, irrigation 985
systems, drainage systems, and other bodies or accumulations of 986

water, surface and underground, natural or artificial, that are 987
situated wholly or partly within, or border upon, this state or 988
are within its jurisdiction, except those private waters that do 989
not combine or effect a junction with natural surface or 990
underground waters. 991

(E) "Water resources" means all waters of the state occurring 992
on the surface in natural or artificial channels, lakes, 993
reservoirs, or impoundments, and underground in subsurface 994
aquifers, that are available or may be made available to 995
agricultural, industrial, commercial, recreational, public, and 996
domestic users. 997

(F) "Project" or "water development project" means either of 998
the following: 999

(1) Any waste water facility or water management facility, 1000
including undivided or other interests therein, acquired or 1001
constructed or to be acquired or constructed by the Ohio water 1002
development authority under this chapter, or acquired or 1003
constructed or to be acquired or constructed by a governmental 1004
agency or person with all or a portion of the cost thereof being 1005
paid from a loan or grant from the authority under this chapter, 1006
including all buildings and facilities that the authority 1007
considers necessary for the operation of the project, together 1008
with all property, rights, easements, and interest that may be 1009
required for the operation of the project; 1010

(2) Any project or activity qualifying for financial 1011
assistance under section 6109.22, 6111.036, or 6111.037 of the 1012
Revised Code. 1013

(G) "Pollution" means the placing of any noxious or 1014
deleterious substances in any waters of the state or otherwise 1015
affecting the waters or properties of any waters of the state, 1016
including the temperature or radioactivity thereof, in a manner 1017

that is or renders the waters harmful or inimical to the public 1018
health, to animal or aquatic life, or to the use of the waters for 1019
domestic water supply, industrial, or agricultural purposes or 1020
recreation. 1021

(H) "Sewage" means any substance that contains any of the 1022
waste products or excrementitious or other discharge from the 1023
bodies of human beings or animals and that pollutes the waters of 1024
the state or that in the absence of a waste water facility would 1025
pollute or cause greater pollution of the waters of the state. 1026

(I) "Industrial waste" means any liquid, gaseous, or solid 1027
waste substance, heat, radioactivity, or radiation, resulting from 1028
any process of industry, manufacture, trade, or business, or from 1029
the development, processing, or recovery of any natural resource, 1030
together with such sewage as is present, that pollutes the waters 1031
of the state or that in the absence of a waste water facility 1032
would pollute or cause greater pollution of the waters of the 1033
state. 1034

(J) "Waste water" means any water containing sewage or 1035
industrial waste or other pollutants or contaminants derived from 1036
the prior use of the water. 1037

(K) "Waste water facilities" means facilities, property, or 1038
the modification or replacement of property for the purpose of 1039
treating, neutralizing, disposing of, stabilizing, dispersing, 1040
cooling, segregating, or holding waste water, or for the removal, 1041
reduction, containment, alteration, storage, or disposal of sewage 1042
or industrial waste or substances containing sewage or industrial 1043
waste, or for the prevention or reduction, or reduction of the 1044
concentration, of pollution of the waters of the state, including, 1045
without limitation, facilities for the withdrawal of waters of the 1046
state, facilities for the treatment and disposal of sewage or 1047
industrial waste and the residue thereof, facilities for the 1048
temporary or permanent impoundment of waste water, both surface 1049

and underground, and sanitary sewers and other systems, whether on 1050
the surface or underground, designed to transport waste water 1051
together with the equipment and furnishings thereof and their 1052
appurtenances and systems, whether on the surface or underground, 1053
including force mains and pumping facilities therefor when 1054
necessary, and facilities or expenditures that qualify as water 1055
pollution control facilities under Section 103(C)(4)(F) of the 1056
Internal Revenue Code of 1954, as amended, and regulations adopted 1057
thereunder, and also includes any property or system to be used in 1058
whole or in part for any of the foregoing purposes, whether or not 1059
another purpose also is served, and any property or system 1060
incidental to or that has to do with or the end purpose of which 1061
is any of the foregoing. Waste water facilities as defined in this 1062
division for industry, commerce, distribution, or research, 1063
including public utility companies, are hereby determined to be 1064
those that qualify as facilities for the control of water 1065
pollution and thermal pollution related to water under Section 13 1066
of Article VIII, Ohio Constitution. 1067

(L) "Water management facilities" means facilities for the 1068
development, use, and protection of water resources, including, 1069
without limitation, facilities for water supply, facilities for 1070
stream flow improvement, dams, reservoirs, and other impoundments, 1071
water transmission lines, water wells and well fields, pumping 1072
stations and works for underground water recharge, facilities for 1073
the management and treatment of storm water, stream monitoring 1074
systems, facilities for the stabilization of stream and river 1075
banks ~~and coastal erosion areas, as defined in section 1506.01 of~~ 1076
~~the Revised Code~~, and facilities for the treatment of streams and 1077
rivers, including, without limitation, facilities for the removal 1078
of oil, debris, and other solid waste from the waters of the state 1079
and stream and river aeration facilities. 1080

(M) "Cost" as applied to a water development project means 1081

the cost of acquisition and construction, the cost of acquisition 1082
of all land, rights-of-way, property rights, easements, franchise 1083
rights, and interests required for that acquisition and 1084
construction, the cost of demolishing or removing any buildings or 1085
structures on land so acquired, including the cost of acquiring 1086
any lands to which the buildings or structures may be moved, the 1087
cost of acquiring or constructing and equipping a principal office 1088
and sub-offices of the authority, the cost of diverting highways, 1089
interchange of highways, or access roads to private property, 1090
including the cost of land or easements therefor, the cost of all 1091
machinery, furnishings, and equipment, financing charges, interest 1092
prior to and during construction and for no more than eighteen 1093
months after completion of construction, engineering costs, 1094
expenses of research and development with respect to waste water 1095
or water management facilities, legal expenses, the cost of plans, 1096
specifications, and surveys, estimates of cost and revenues, 1097
working capital, other expenses necessary or incident to 1098
determining the feasibility or practicability of acquiring or 1099
constructing any such project, administrative expense, and other 1100
expense that may be necessary or incident to the acquisition or 1101
construction of the project, the financing of the acquisition or 1102
construction including the amount authorized in the resolution of 1103
the authority providing for the issuance of water development 1104
revenue bonds to be paid into any special funds from the proceeds 1105
of the bonds, and the financing of the placing of any such project 1106
in operation. Any obligation, cost, or expense incurred by any 1107
governmental agency or person for surveys, borings, preparation of 1108
plans and specifications, and other engineering services, or any 1109
other costs described above, in connection with the acquisition or 1110
construction of a project may be regarded as a part of the cost of 1111
the project and may be reimbursed out of the proceeds of water 1112
development revenue bonds as authorized by this chapter. 1113

(N) "Owner" includes all individuals, copartnerships, 1114

ssociations, corporations, or governmental agencies having any 1115
title or interest in any property rights, easements, and interests 1116
authorized to be acquired by this chapter. 1117

(O) "Revenues" means all rentals and other charges for the 1118
use or services of any water development project, any gift or 1119
grant received with respect thereto, including, without 1120
limitation, any moneys received by the authority pursuant to an 1121
agreement entered into under section 6109.22, 6111.036, or 1122
6111.037 of the Revised Code, any moneys received with respect to 1123
the lease, sublease, sale, including installment sale or 1124
conditional sale, or other disposition of a project, moneys 1125
received in repayment of and for interest on any loan made by the 1126
authority to a person or governmental agency, whether from the 1127
United States or a department, administration, or agency thereof, 1128
or otherwise, proceeds of bonds to the extent that use thereof for 1129
payment of principal of, premium if any, or interest on the bonds 1130
is authorized by the authority, proceeds from any insurance, 1131
condemnation, or guaranty pertaining to a project or property 1132
mortgaged to secure bonds or pertaining to the financing of the 1133
project, and income and profit from the investment of the proceeds 1134
of water development revenue bonds or of any revenues. 1135

(P) "Public roads" includes all public highways, roads, and 1136
streets in the state whether maintained by the state or a county, 1137
municipal corporation, township, or other political subdivision. 1138

(Q) "Public utility facilities" includes tracks, pipes, 1139
mains, conduits, cables, wires, towers, poles, and other equipment 1140
and appliances of any public utility. 1141

(R) "Construction," unless the context indicates a different 1142
meaning or intent, includes reconstruction, enlargement, 1143
improvement, or providing furnishings or equipment. 1144

(S) "Water development revenue bonds," unless the context 1145

indicates a different meaning or intent, includes water 1146
development revenue notes, water development revenue renewal 1147
notes, and water development revenue refunding bonds, except that 1148
notes issued in anticipation of the issuance of bonds shall have a 1149
maximum maturity of five years as provided in section 6121.06 of 1150
the Revised Code and notes or renewal notes issued as the 1151
definitive obligation may be issued maturing at the time or times 1152
that the authority determines with a maximum maturity of forty 1153
years from the date of issuance of the original note. 1154

Section 2. That existing sections 307.37, 1504.02, 1506.01, 1155
1506.02, 1506.08, 1506.09, 1506.10, 1506.11, 1506.12, 1521.21, 1156
1521.22, 1521.23, 1521.24, 1521.26, 1521.99, and 6121.01 and 1157
sections 1506.03, 1506.06, and 1506.07 of the Revised Code are 1158
hereby repealed. 1159

Section 3. (A) As used in this section, "territory" has the 1160
same meaning as in section 1506.11 of the Revised Code, as amended 1161
by this act. 1162

(B) Section 1506.11 of the Revised Code, as amended by this 1163
act, specifies littoral uses of the territory that do not require 1164
a lease or permit and clarifies the boundaries of the territory 1165
for uses that do require a lease or permit. Not later than sixty 1166
days after the effective date of this act, the Director of Natural 1167
Resources shall provide notice by certified mail of the right to 1168
make a request to terminate any lease or permit if it is not 1169
required under the conditions established in section 1506.11 of 1170
the Revised Code, as amended by this act, to all persons who have 1171
entered into a lease with the state or who have been issued a 1172
permit under section 1506.11 of the Revised Code, as it existed 1173
prior to its amendment by this act. On and after the effective 1174
date of this act, a littoral owner may request the state to 1175
terminate any such lease or permit if it is no longer required 1176

under the conditions established in section 1506.11 of the Revised 1177
Code, as amended by this act. On the date of the termination 1178
request, the lessee or permit holder is released from all 1179
obligations under the lease or permit. 1180

On and after the effective date of this act, a littoral owner 1181
may request the state to amend the lease or permit and any 1182
associated fees to include only territory within which uses are 1183
required to have a lease or permit. 1184

Upon receipt of a request to terminate or amend a lease or 1185
permit, the state, acting through the Director, promptly shall 1186
comply with and take all steps that are necessary to implement the 1187
request in a timely manner. 1188