

As Reported by the House Energy and Environment Committee

125th General Assembly

Regular Session

2003-2004

Sub. H. B. No. 218

**Representatives Grendell, Martin, Young, Callender, Kilbane, Redfern, Jerse,
Hollister, Setzer**

A B I L L

To amend sections 149.56, 317.08, 721.11, 1501.01, 1
1504.02, 1506.01, 1506.02, 1506.06, 1506.08, 2
1506.10 to 1506.12, 1506.30, 1506.34, 1506.35, 3
1521.01, 1521.20, 1521.21, 1521.22, 1521.23, 4
1521.24, 1521.25, 1521.26, 1521.27, 1521.28, 5
1521.29, 1521.99, and 6121.04; to amend, for the 6
purpose of adopting new section numbers as 7
indicated in parentheses, sections 1521.20 8
(1506.38), 1521.21 (1506.39), 1521.22 (1506.40), 9
1521.23 (1506.41), 1521.24 (1506.42), 1521.25 10
(1506.43), 1521.26 (1506.44), 1521.27 (1506.45), 11
1521.28 (1506.46), 1521.29 (1506.47), and 1521.30 12
(1506.48); to enact section 1506.49; and to repeal 13
section 1506.37 of the Revised Code to revise the 14
law governing coastal management and the control 15
of erosion along Lake Erie. 16

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

Section 1. That sections 149.56, 317.08, 721.11, 1501.01, 17
1504.02, 1506.01, 1506.02, 1506.06, 1506.08, 1506.10, 1506.11, 18
1506.12, 1506.30, 1506.34, 1506.35, 1521.01, 1521.20, 1521.21, 19
1521.22, 1521.23, 1521.24, 1521.25, 1521.26, 1521.27, 1521.28, 20

1521.29, 1521.99, and 6121.04 be amended, sections 1521.20 21
(1506.38), 1521.21 (1506.39), 1521.22 (1506.40), 1521.23 22
(1506.41), 1521.24 (1506.42), 1521.25 (1506.43), 1521.26 23
(1506.44), 1521.27 (1506.45), 1521.28 (1506.46), 1521.29 24
(1506.47), and 1521.30 (1506.48) be amended for the purpose of 25
adopting new section numbers as indicated in parentheses, and 26
section 1506.49 of the Revised Code be enacted to read as follows: 27

Sec. 149.56. (A) As used in this section, "abandoned 28
property" has the same meaning as in section 1506.30 of the 29
Revised Code. 30

(B) The Ohio historical society shall establish a program to 31
locate, identify, and evaluate abandoned property and other 32
resources in Lake Erie. The society, in accordance with the 33
authority granted under section 149.30 of the Revised Code, may 34
list any abandoned property it finds to have historical 35
significance on its Ohio archaeological inventory or Ohio 36
historical inventory as the director of the society considers 37
appropriate. In determining whether an item has historical 38
significance, the director shall follow the criteria of the 39
national register of historic places established in 36 C.F.R. 60. 40
The director shall notify the director of natural resources of any 41
abandoned property found to have historical significance. The 42
society may use the services of volunteers to locate, identify, 43
and evaluate abandoned property in Lake Erie. The director shall 44
approve any volunteer programs and may recruit, train, and 45
supervise the services of volunteers. 46

(C) The moneys credited to the Ohio historical society under 47
division (C) of section 1506.35 of the Revised Code and any 48
appropriations, contributions, gifts, and federal grants made to 49
the Ohio historical society for the purposes of this section and 50
the applicable provisions of sections 1506.30 to ~~1506.37~~ 1506.36 51

of the Revised Code shall be placed in a separate fund within the 52
accounts of the Ohio historical society, together with moneys 53
credited to that fund under divisions (D)(2) and (3) of section 54
1506.33 of the Revised Code, to be used solely to implement and 55
administer this section and the duties assigned the society under 56
sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code. 57

Sec. 317.08. Except as provided in division (F) of this 58
section, the county recorder shall keep six separate sets of 59
records as follows: 60

(A) A record of deeds, in which shall be recorded all deeds 61
and other instruments of writing for the absolute and 62
unconditional sale or conveyance of lands, tenements, and 63
hereditaments; all notices as provided for in sections 5301.47 to 64
5301.56 of the Revised Code; all judgments or decrees in actions 65
brought under section 5303.01 of the Revised Code; all 66
declarations and bylaws as provided for in Chapter 5311. of the 67
Revised Code; affidavits as provided for in section 5301.252 of 68
the Revised Code; all certificates as provided for in section 69
5311.17 of the Revised Code; all articles dedicating 70
archaeological preserves accepted by the director of the Ohio 71
historical society under section 149.52 of the Revised Code; all 72
articles dedicating nature preserves accepted by the director of 73
natural resources under section 1517.05 of the Revised Code; all 74
agreements for the registration of lands as archaeological or 75
historic landmarks under section 149.51 or 149.55 of the Revised 76
Code; all conveyances of conservation easements and agricultural 77
easements under section 5301.68 of the Revised Code; all 78
instruments extinguishing agricultural easements under section 79
901.21 or 5301.691 of the Revised Code or pursuant to terms of 80
such an easement granted to a charitable organization under 81
section 5301.68 of the Revised Code; all instruments or orders 82
described in division (B)(1)(c)(ii) of section 5301.56 of the 83

Revised Code; all no further action letters issued under section	84
122.654 or 3746.11 of the Revised Code; all covenants not to sue	85
issued under section 3746.12 of the Revised Code, including all	86
covenants not to sue issued pursuant to section 122.654 of the	87
Revised Code; any restrictions on the use of property contained in	88
a no further action letter issued under section 122.654 of the	89
Revised Code, any restrictions on the use of property identified	90
pursuant to division (C)(3) of section 3746.10 of the Revised	91
Code, and any restrictions on the use of property contained in a	92
deed or other instrument as provided in division (E) of section	93
3737.882 of the Revised Code; all memoranda of trust, as described	94
in division (A) of section 5301.255 of the Revised Code, that	95
describe specific real property; and all agreements entered into	96
under division (A) of section 1521.26 <u>1506.44</u> of the Revised Code;	97
(B) A record of mortgages, in which shall be recorded all of	98
the following:	99
(1) All mortgages, including amendments, supplements,	100
modifications, and extensions of mortgages, or other instruments	101
of writing by which lands, tenements, or hereditaments are or may	102
be mortgaged or otherwise conditionally sold, conveyed, affected,	103
or encumbered;	104
(2) All executory installment contracts for the sale of land	105
executed after September 29, 1961, that by their terms are not	106
required to be fully performed by one or more of the parties to	107
them within one year of the date of the contracts;	108
(3) All options to purchase real estate, including	109
supplements, modifications, and amendments of the options, but no	110
option of that nature shall be recorded if it does not state a	111
specific day and year of expiration of its validity;	112
(4) Any tax certificate sold under section 5721.33 of the	113
Revised Code, or memorandum thereof, that is presented for filing	114

of record.	115
(C) A record of powers of attorney, including all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that do not describe specific real property;	116 117 118
(D) A record of plats, in which shall be recorded all plats and maps of town lots, of the subdivision of town lots, and of other divisions or surveys of lands, any center line survey of a highway located within the county, the plat of which shall be furnished by the director of transportation or county engineer, and all drawings as provided for in Chapter 5311. of the Revised Code;	119 120 121 122 123 124 125
(E) A record of leases, in which shall be recorded all leases, memoranda of leases, and supplements, modifications, and amendments of leases and memoranda of leases;	126 127 128
(F) A record of declarations executed pursuant to section 2133.02 of the Revised Code and durable powers of attorney for health care executed pursuant to section 1337.12 of the Revised Code.	129 130 131 132
All instruments or memoranda of instruments entitled to record shall be recorded in the proper record in the order in which they are presented for record. The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in sections 1513.33, 1513.37, 3752.13, 5111.021, and 5311.18 of the Revised Code.	133 134 135 136 137 138 139 140 141 142 143 144
The recording of an option to purchase real estate, including	145

any supplement, modification, and amendment of the option, under 146
this section shall serve as notice to any purchaser of an interest 147
in the real estate covered by the option only during the period of 148
the validity of the option as stated in the option. 149

(G) In lieu of keeping the six separate sets of records 150
required in divisions (A) to (F) of this section and the records 151
required in division (H) of this section, a county recorder may 152
record all the instruments required to be recorded by this section 153
in two separate sets of record books. One set shall be called the 154
"official records" and shall contain the instruments listed in 155
divisions (A), (B), (C), (E), (F), and (H) of this section. The 156
second set of records shall contain the instruments listed in 157
division (D) of this section. 158

(H) Except as provided in division (G) of this section, the 159
county recorder shall keep a separate set of records containing 160
all corrupt activity lien notices filed with the recorder pursuant 161
to section 2923.36 of the Revised Code and a separate set of 162
records containing all medicaid fraud lien notices filed with the 163
recorder pursuant to section 2933.75 of the Revised Code. 164

Sec. 721.11. Any municipal corporation having jurisdiction 165
over any part of the territory mentioned in section 721.04 of the 166
Revised Code, whether in front of privately owned upland or 167
otherwise, as provided in that section, may, in aid of navigation 168
and water commerce, adopt plans for the development of that 169
waterfront, construct bulkheads at such locations as it approves 170
between the shoreline and the harbor line as fixed by the United 171
States government, make fills with earth or other suitable 172
materials out to those bulkheads, and construct public highways on 173
the filled portions. 174

Leases made pursuant to section 1506.11 of the Revised Code 175
and permits issued under that section are subject to the right of 176

the municipal corporation to maintain a highway, a marginal 177
railroad, and other agreed reasonable means of access to the 178
waters of Lake Erie in conformity with the waterfront plan of that 179
municipal corporation, in aid of navigation and water commerce, 180
provided that an adequate means of access to those waters shall be 181
provided to the lessees and permittees. 182

The municipal corporation may assess, in any one of the three 183
methods authorized by section 727.01 of the Revised Code, against 184
the littoral land and other specially benefited property, such 185
part or all of the cost of constructing the bulkheads, filling, 186
highway, and other improvements, in aid of navigation and water 187
commerce, as is agreed upon by the owners of the littoral lands 188
and the legislative authority of the municipal corporation. The 189
municipal corporation may issue bonds in anticipation of the 190
collection of the assessments and use the proceeds thereof in 191
paying the cost of constructing the improvements of the 192
waterfront. 193

Sec. 1501.01. Except where otherwise expressly provided, the 194
director of natural resources shall formulate and institute all 195
the policies and programs of the department of natural resources. 196
The chief of any division of the department shall not enter into 197
any contract, agreement, or understanding unless it is approved by 198
the director. No appointee or employee of the director, other than 199
the assistant director, may bind the director in a contract except 200
when given general or special authority to do so by the director. 201

The director shall correlate and coordinate the work and 202
activities of the divisions in the department to eliminate 203
unnecessary duplications of effort and overlapping of functions. 204
The chiefs of the various divisions of the department shall meet 205
with the director at least once each month at a time and place 206
designated by the director. 207

The director may create advisory boards to any of those 208
divisions in conformity with section 121.13 of the Revised Code. 209

The director may accept and expend gifts, devises, and 210
bequests of money, lands, and other properties on behalf of the 211
department or any division thereof under the terms set forth in 212
section 9.20 of the Revised Code. Any political subdivision of 213
this state may make contributions to the department for the use of 214
the department or any division therein according to the terms of 215
the contribution. 216

In administering the provisions governing the coastal 217
management program that are established in sections 1506.01 to 218
1506.03 and 1506.05 to 1506.09 of the Revised Code, the director 219
may consult with and provide coordination among state agencies, 220
political subdivisions, the United States and its agencies, and 221
interstate, regional, and areawide agencies. 222

The director may publish and sell or otherwise distribute 223
data, reports, and information. 224

The director shall adopt rules in accordance with Chapter 225
119. of the Revised Code to permit the department to accept by 226
means of a credit card the payment of fees, charges, and rentals 227
at those facilities described in section 1501.07 of the Revised 228
Code that are operated by the department, for any data, reports, 229
or information sold by the department, and for any other goods or 230
services provided by the department. 231

Whenever authorized by the governor to do so, the director 232
may appropriate property for the uses and purposes authorized to 233
be performed by the department and on behalf of any division 234
within the department. This authority shall be exercised in the 235
manner provided in sections 163.01 to 163.22 of the Revised Code 236
for the appropriation of property by the director of 237
administrative services. This authority to appropriate property is 238

in addition to the authority provided by law for the appropriation 239
of property by divisions of the department. The director of 240
natural resources also may acquire by purchase, lease, or 241
otherwise such real and personal property rights or privileges in 242
the name of the state as are necessary for the purposes of the 243
department or any division therein. The director, with the 244
approval of the governor and the attorney general, may sell, 245
lease, or exchange portions of lands or property, real or 246
personal, of any division of the department or grant easements or 247
licenses for the use thereof, or enter into agreements for the 248
sale of water from lands and waters under the administration or 249
care of the department or any of its divisions, when the sale, 250
lease, exchange, easement, agreement, or license for use is 251
advantageous to the state, provided that such approval is not 252
required for leases and contracts made under section 1501.07, 253
1501.09, or 1520.03 or Chapter 1523. of the Revised Code. Water 254
may be sold from a reservoir only to the extent that the reservoir 255
was designed to yield a supply of water for a purpose other than 256
recreation or wildlife, and the water sold is in excess of that 257
needed to maintain the reservoir for purposes of recreation or 258
wildlife. 259

Money received from such sales, leases, easements, exchanges, 260
agreements, or licenses for use, except revenues required to be 261
set aside or paid into depositories or trust funds for the payment 262
of bonds issued under sections 1501.12 to 1501.15 of the Revised 263
Code, and to maintain the required reserves therefor as provided 264
in the orders authorizing the issuance of such bonds or the trust 265
agreements securing such bonds, revenues required to be paid and 266
credited pursuant to the bond proceeding applicable to obligations 267
issued pursuant to section 154.22, and revenues generated under 268
section 1520.05 of the Revised Code, shall be deposited in the 269
state treasury to the credit of the fund of the division of the 270
department having prior jurisdiction over the lands or property. 271

If no such fund exists, the money shall be credited to the general 272
revenue fund. All such money received from lands or properties 273
administered by the division of wildlife shall be credited to the 274
wildlife fund. 275

The director shall provide for the custody, safekeeping, and 276
deposit of all moneys, checks, and drafts received by the 277
department or its employees prior to paying them to the treasurer 278
of state under section 113.08 of the Revised Code. 279

The director shall cooperate with the nature conservancy, 280
other nonprofit organizations, and the United States fish and 281
wildlife service in order to secure protection of islands in the 282
Ohio river and the wildlife and wildlife habitat of those islands. 283

Any instrument by which real property is acquired pursuant to 284
this section shall identify the agency of the state that has the 285
use and benefit of the real property as specified in section 286
5301.012 of the Revised Code. 287

Sec. 1504.02. (A) The division of real estate and land 288
management shall do all of the following: 289

(1) Except as otherwise provided in the Revised Code, 290
coordinate and conduct all real estate functions for the 291
department of natural resources, including at least acquisitions 292
by purchase, lease, gift, devise, bequest, appropriation, or 293
otherwise; grants through sales, leases, exchanges, easements, and 294
licenses; inventories of land; and other related general 295
management duties; 296

(2) Assist the department and its divisions by providing 297
department-wide planning, including at least master planning, 298
comprehensive planning, capital improvements planning, and special 299
purpose planning such as trails coordination and planning under 300
section 1519.03 of the Revised Code; 301

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

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

~~(5) Cooperate with the United States and agencies of it and with political subdivisions in administering federal recreation moneys under the "Land and Water Conservation Fund Act of 1965," 78 Stat. 897, 16 U.S.C.A. 4601-8, as amended; prepare and distribute the statewide comprehensive outdoor recreation plan; and administer the state recreational vehicle fund created in section 4519.11 of the Revised Code;~~

~~(6)~~(4)(a) Support the geographic information system needs for the department as requested by the director, which shall include, but not be limited to, all of the following:

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

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

(iii) Creating, maintaining, and documenting spatial digital

data bases for the division and for other divisions as assigned by 333
the director. 334

(b) Provide information to and otherwise assist government 335
officials, planners, and resource managers in understanding land 336
use planning and resource management; 337

(c) Provide continuing assistance to local government 338
officials and others in natural resource digital data base 339
development and in applying and utilizing the geographic 340
information system for land use planning, current agricultural use 341
value assessment, development reviews, coastal management, and 342
other resource management activities; 343

(d) Coordinate and administer the remote sensing needs of the 344
department, including the collection and analysis of aerial 345
photography, satellite data, and other data pertaining to land, 346
water, and other resources of the state; 347

(e) Prepare and publish maps and digital data relating to the 348
state's land use and land cover over time on a local, regional, 349
and statewide basis; 350

(f) Locate and distribute hard copy maps, digital data, 351
aerial photography, and other resource data and information to 352
government agencies and the public. 353

~~(7)~~(5) Prepare special studies and execute any other duties, 354
functions, and responsibilities requested by the director. 355

(B) The division may do any of the following: 356

(1) Coordinate such environmental matters concerning the 357
department and the state as are necessary to comply with the 358
"National Environmental Policy Act of 1969," 83 Stat. 852, 42 359
U.S.C.A. 4321, as amended, the "Intergovernmental Cooperation Act 360
of 1968," 82 Stat. 1098, 31 U.S.C.A. 6506, and the "Federal Water 361
Pollution Control Act," 91 Stat. 1566 (1977), 33 U.S.C.A. 1251, as 362

amended, and regulations adopted under those acts; 363

(2) On behalf of the director, administer Chapter 1520. of 364
the Revised Code, except divisions (B) to (F) of section 1520.03 365
of the Revised Code, division (A) of section 1520.04 of the 366
Revised Code as it pertains to those divisions, and section 367
1520.05 of the Revised Code; 368

(3) Administer any state or federally funded grant program 369
that is related to natural resources and recreation as considered 370
necessary by the director. 371

Sec. 1506.01. As used in this chapter: 372

(A) "Coastal area" means the waters of Lake Erie, the islands 373
in the lake, and the lands under and adjacent to the lake, 374
including transitional areas, wetlands, and beaches. The coastal 375
area extends in Lake Erie to the international boundary line 376
between the United States and Canada and landward only to the 377
extent necessary to include shorelands, the uses of which have a 378
direct and significant impact on coastal waters as determined by 379
the director of natural resources. 380

(B) "Coastal management program" means the comprehensive 381
action of the state and its political subdivisions cooperatively 382
to preserve, protect, develop, restore, or enhance the resources 383
of the coastal area and to ensure wise use of the land and water 384
resources of the coastal area, giving attention to natural, 385
cultural, historic, and aesthetic values; agricultural, 386
recreational, energy, and economic needs; the interests of private 387
property owners in the coastal areas; and the national interest. 388
"Coastal management program" includes the establishment of 389
objectives, policies, standards, and criteria concerning, without 390
limitation, protection of air, water, wildlife, rare and 391
endangered species, wetlands and natural areas, and other natural 392
resources in the coastal area; management of coastal development 393

and redevelopment; preservation and restoration of historic, 394
cultural, and aesthetic coastal features; and public access to the 395
coastal area for recreation purposes. 396

(C) "Coastal management program document" means a 397
comprehensive statement consisting of, without limitation, text, 398
maps, and illustrations that is adopted by the director in 399
accordance with this chapter, describes the objectives, policies, 400
standards, and criteria of the coastal management program for 401
guiding public and private uses of lands and waters in the coastal 402
area, lists the governmental agencies, including, without 403
limitation, state agencies, involved in implementing the coastal 404
management program, describes their applicable policies and 405
programs, and cites the statutes and rules under which they may 406
adopt and implement those policies and programs. 407

(D) "Person" means any agency of this state, any political 408
subdivision of this state or of the United States, and any legal 409
entity defined as a person under section 1.59 of the Revised Code. 410

(E) "Director" means the director of natural resources or the 411
director's designee. 412

(F) "Permanent structure" means any residential, commercial, 413
industrial, institutional, or agricultural building, any mobile 414
home as defined in division (O) of section 4501.01 of the Revised 415
Code, any manufactured home as defined in division (C)(4) of 416
section 3781.06 of the Revised Code, and any septic system that 417
receives sewage from a single-family, two-family, or three-family 418
dwelling, but does not include any recreational vehicle as defined 419
in section 4501.01 of the Revised Code. 420

(G) "State agency" or "agency of the state" has the same 421
meaning as "agency" as defined in section 111.15 of the Revised 422
Code. 423

(H) "Coastal flood hazard area" means any territory within 424

the coastal area that has been identified as a flood hazard area 425
under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 426
42 U.S.C.A. 4002, as amended. 427

(I) "Coastal erosion area" means any territory included in 428
Lake Erie coastal erosion areas identified by the director under 429
section 1506.06 of the Revised Code. 430

(J) "Ordinary high water mark" means the ordinary high water 431
mark of Lake Erie that is established by the United States army 432
corp of engineers. 433

(K) "Conservancy district" means a conservancy district that 434
is established under Chapter 6101. of the Revised Code. 435

(L) "Park board" means the board of park commissioners of a 436
park district that is created under Chapter 1545. of the Revised 437
Code. 438

(M) "Erosion control structure" means anything that is 439
designed primarily to reduce or control erosion of the shore along 440
or near Lake Erie, including, without limitation, revetments, 441
seawalls, bulkheads, groins or breakwaters, and similar 442
structures. "Erosion control structure" does not include wharves, 443
piers, docks, marinas, boat ramps, and other similar structures. 444

(N) "Commercial" means profit-seeking production, buying, or 445
selling of any good, service, or other product. 446

Sec. 1506.02. (A) The department of natural resources is 447
hereby designated the lead agency for the development and 448
implementation of a coastal management program. The director of 449
natural resources: 450

(1) Shall develop and adopt the coastal management program 451
document. The director shall cooperate and coordinate with other 452
agencies of the state and its political subdivisions in the 453
development of the document. Before adopting the document, the 454

director shall hold four public hearings on it in the coastal 455
area, and may hold additional public meetings, to give the public 456
the opportunity to make comments and recommendations concerning 457
its terms. The director shall consider the public comments and 458
recommendations before adopting the document. The director may 459
amend the coastal management program document, provided that, 460
prior to making changes in it, the director notifies by mail those 461
persons who submitted comments and recommendations concerning the 462
original document, the members of the Lake Erie coastal advisory 463
council created in section 1506.12 of the Revised Code, and the 464
appropriate agencies of the state and its political subdivisions. 465
The director ~~may~~ shall hold at least one public hearing on the 466
proposed changes. 467

(2) Shall administer the coastal management program in 468
accordance with the coastal management program document, this 469
chapter, and rules adopted under it; 470

(3) Shall adopt and may amend or rescind rules under Chapter 471
119. of the Revised Code for the implementation, administration, 472
and enforcement of the coastal management program and the other 473
provisions of this chapter. The rules shall establish a procedure 474
for determining the amount of the fee to be paid for a permit 475
issued under section 1506.11 of the Revised Code, provided that 476
any such fee shall not exceed five hundred dollars. The rules also 477
shall establish a fee schedule for permits issued under section 478
1506.40 of the Revised Code, provided that no fee on the schedule 479
shall exceed five hundred dollars. The fee schedule shall be based 480
on the total square footage of the structure, development, or 481
improvement for which a permit is to be issued under that section. 482
Before the adoption, amendment, or rescission of rules under 483
division (A)(3) of this section, the director shall do all of the 484
following: 485

(a) Maintain a list of interested public and private 486

organizations and mail notice to those organizations of any 487
proposed rule or amendment to or rescission of a rule at least 488
thirty days before any public hearing on the proposal; 489

(b) Mail a copy of each proposed rule, amendment, or 490
rescission to any person who requests a copy within five days 491
after receipt of the request; 492

(c) Consult with appropriate statewide organizations and 493
units of local government that would be affected by the proposed 494
rule, amendment, or rescission. 495

Although the director is expected to discharge ~~these~~ the 496
duties established in divisions (A)(3)(a) to (c) of this section 497
diligently, failure to mail any notice or copy or to so consult 498
with any person is not jurisdictional and shall not be construed 499
to invalidate any proceeding or action of the director. 500

In addition, the director shall consult with the Lake Erie 501
coastal advisory council before adopting, amending, or rescinding 502
rules under division (A)(3) of this section. 503

(4) Shall provide for consultation and coordination between 504
and among state agencies, political subdivisions of the state, and 505
interstate, regional, areawide, and federal agencies in carrying 506
out the purposes of the coastal management program and the other 507
provisions of this chapter; 508

(5) Shall, to the extent practicable and consistent with the 509
protection of coastal area resources, coordinate the rules and 510
policies of the department of natural resources with the rules and 511
policies of other state and federal agencies to simplify and 512
consolidate the regulation of activities along the Lake Erie 513
shoreline; 514

(6) May, to accomplish the purposes of the coastal management 515
program and the other provisions of this chapter, contract with 516
any person and may accept and expend gifts, bequests, and grants 517

of money or property from any person. 518

(B) Every agency of the state, upon request of the director, 519
shall cooperate with the department of natural resources in the 520
implementation of the coastal management program. 521

(C) The director shall establish a coastal management 522
assistance grant program. Grants may be awarded from federal funds 523
received for that purpose and from such other funds as may be 524
provided by law to any municipal corporation, county, township, 525
park district created under section 511.18 or 1545.04 of the 526
Revised Code, conservancy district established under Chapter 6101. 527
of the Revised Code, port authority, other political subdivision, 528
state agency, educational institution, or nonprofit corporation to 529
help implement, administer, or enforce any aspect of the coastal 530
management program. Grants may be used for any of the following 531
purposes: 532

(1) Feasibility studies and engineering reports for projects 533
that are consistent with the policies in the coastal management 534
program document; 535

(2) The protection and preservation of wetlands, beaches, 536
fish and wildlife habitats, minerals, natural areas, prime 537
agricultural land, endangered plant and animal species, or other 538
significant natural coastal resources; 539

(3) The management of shoreline development to prevent loss 540
of life and property in coastal flood hazard areas and coastal 541
erosion areas, to set ~~prioities~~ priorities for water-dependent 542
energy, commercial, industrial, agricultural, and recreational 543
uses, or to identify environmentally acceptable sites for dredge 544
spoil disposal; 545

(4) Increasing public access to Lake Erie and other public 546
places in the coastal area; 547

(5) The protection and preservation of historical, cultural, 548

or aesthetic coastal resources;	549
(6) Improving the predictability and efficiency of governmental decision making related to coastal area management;	550 551
(7) Adopting <u>Developing, adopting</u> , administering, and enforcing zoning ordinances or resolutions relating to coastal flood hazard areas or coastal erosion areas;	552 553 554
(8) The redevelopment of deteriorating and underutilized waterfronts and ports;	555 556
(9) Other purposes approved by the director.	557
Sec. 1506.06. (A) The director of natural resources, using the best available scientific records, data, and analyses of shoreline recession, shall make a preliminary identification of Lake Erie coastal erosion areas, which are the land areas anticipated to be lost by Lake Erie-related erosion within a thirty-year period if no additional approved erosion control measures are completed within that time. The preliminary identification shall state the bluff recession rates for the coastal erosion areas and shall take into account areas where substantial filling, protective measures, or naturally stable land has significantly reduced recession. Prior to making the preliminary identification, the director shall consult with the appropriate authority of each municipal corporation, county, and township having territory within an area that the director proposes to identify as a Lake Erie coastal erosion area. Upon making the preliminary identification, the director shall notify by certified mail the appropriate authority of each municipal corporation, county, and township having territory within a Lake Erie coastal erosion area of the preliminary identification. The notice shall delineate the portion of a Lake Erie coastal erosion area within the jurisdiction of, and shall be made available for public inspection by, the municipal corporation, county, or	558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579

township. The director also shall publish a notice in a newspaper 580
of general circulation in each affected locality stating that the 581
preliminary identification has been made and stating where 582
information delineating the Lake Erie coastal erosion areas may be 583
inspected by the public and shall notify each landowner of record 584
in a coastal erosion area of the preliminary identification. The 585
notification shall be sent by certified mail to the landowner at 586
the address indicated in the most recent tax duplicate. Within 587
sixty days after the notifications required by this division, the 588
director shall hold public hearings in each of the shoreline 589
counties on the preliminary identification of the Lake Erie 590
coastal erosion areas. Any affected municipal corporation, county, 591
township, or private landowner may file with the director a 592
written objection to the preliminary identification at any of 593
those hearings or at any other time within one hundred twenty days 594
from the date indicated in the certified mail notice, which date 595
shall be one week following the date of the notice. For any such 596
objection, verifiable evidence or documentation shall be submitted 597
indicating that some portion of a Lake Erie coastal erosion area 598
should not have been included in the areas defined by the 599
preliminary identification. A municipal corporation, county, or 600
township may object only with respect to territory within its 601
jurisdiction or other territory that it owns; a private landowner 602
may object only with respect to the landowner's land. 603

(B) The director shall review all objections filed under 604
division (A) of this section. The director may then modify the 605
preliminary identification of Lake Erie coastal erosion areas. 606
Within the next ninety days, the director shall notify each 607
objecting person of the director's decision regarding the 608
objection. The director also shall notify, within that ninety-day 609
period, any other owner for whom the director's decision results 610
in a modification on that other owner's property. 611

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

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

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

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

Erie coastal erosion area. The written notice shall be provided in 644
accordance with section 5302.30 of the Revised Code. 645

(G) No state agency, county, township, or municipal 646
corporation, or any other political subdivision or special 647
district in this state established by law shall use the fact that 648
property has been identified as a Lake Erie coastal erosion area 649
as a basis for any of the following: 650

(1) Failing to enter into or renew a lease under section 651
1506.11 of the Revised Code or to issue or renew a permit under 652
that section or section ~~1506.11~~ 1506.40 of the Revised Code; 653

(2) Failing to issue or renew a permit required by law, other 654
than a permit issued under section 1506.07 of the Revised Code; 655

(3) Taking private property for public use in the exercise of 656
the power of eminent domain; 657

(4) Determining what constitutes just compensation for a 658
taking of the property in the exercise of the power of eminent 659
domain. 660

Sec. 1506.08. Any person who is adversely affected by ~~the~~ 661
~~final identification of a Lake Erie coastal erosion area under~~ 662
~~division (D) of section 1506.06 of the Revised Code or any other~~ 663
final administrative act of the director of natural resources 664
under this chapter ~~or who receives denial of a permit application~~ 665
~~under rules adopted under division (A) of section 1506.07 of the~~ 666
Revised Code, within thirty days after the ~~identification, act, or~~ 667
~~denial,~~ may appeal it in accordance with Chapter 119. of the 668
Revised Code, except that, notwithstanding any provisions to the 669
contrary in that chapter, both of the following apply: 670

(A) Any adjudication hearing shall be held in the county in 671
which the property that is the subject of the final administrative 672
act of the director is located. 673

(B) An appeal brought pursuant to section 119.12 of the 674
Revised Code shall be made to the court of common pleas of the 675
county in which the property that is the subject of the appeal is 676
located. 677

Sec. 1506.10. ~~It~~ (A) As used in this section and section 678
1506.11 of the Revised Code, "littoral rights" means the rights of 679
littoral owners to make reasonable use of the submerged lands and 680
waters fronting their lands, including the construction of such 681
things as piers, fills, breakwalls, or wharves, for the purpose of 682
accessing and using the waters of Lake Erie for navigation, 683
fishing, recreation, or other purposes, including, but not limited 684
to, protecting property from erosion, launching and storing 685
watercraft, and wharfing out to navigable waters. 686

(B)(1) It is hereby declared that the waters of Lake Erie 687
consisting of the territory within the boundaries of the state, 688
extending from where the ~~southerly shore waters~~ of Lake Erie make 689
contact with land to the international boundary line between the 690
United States and Canada, together with the soil beneath and their 691
contents, do now belong and have always, since the organization of 692
the state of Ohio, belonged to the state as proprietor in trust 693
for the people of the state, for the public uses to which they may 694
be adapted, subject to the powers of the United States government, 695
to the public rights of navigation, water commerce, and fishery, 696
and to the ~~property~~ littoral rights of littoral owners, ~~including~~ 697
~~the right to make reasonable use of the waters in front of or~~ 698
~~flowing pass their lands.~~ Any artificial encroachments by public 699
or private littoral owners, ~~which~~ that interfere with the free 700
flow of commerce in navigable channels, whether in the form of 701
wharves, piers, fills, or otherwise, beyond where the ~~natural~~ 702
~~shoreline of those waters~~ of Lake Erie make contact with land, not 703
expressly authorized by the general assembly, acting within its 704

powers, or pursuant to section 1506.11 or 1506.40 of the Revised Code, shall not be considered as having prejudiced the rights of the public in such domain. This section does not limit the right of the state to control, improve, or place aids to navigation in the other navigable waters of the state or the territory formerly covered thereby.

(2) The general assembly hereby declares that property owners on Lake Erie have the right to exercise littoral rights. However, the exercise of those rights is subject to all applicable provisions of the Revised Code.

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

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

Sec. 1506.11. (A)(1) "Territory," as used in this section, means the waters and the lands presently underlying the waters of Lake Erie and the lands formerly underlying the waters of Lake Erie and now artificially filled, between the ~~natural shoreline~~ ordinary high water mark and the international boundary line with Canada.

(2) The use of the ordinary high water mark shall be for the administration of this section and shall not be construed to determine any type of property boundary.

(B) Whenever the state, acting through the director of natural resources, upon application of any person who wants to

develop or improve part of the territory for commercial use, and 735
after notice that the director, at the director's discretion, may 736
give as provided in this section, determines that any part of the 737
territory can be developed and improved or the waters thereof used 738
as specified in the application without impairment of the public 739
right of navigation, water commerce, and fishery, a lease of all 740
or any part of the state's interest therein may be entered into 741
with the applicant, or a permit may be issued for that purpose, 742
subject to the powers of the United States government and in 743
accordance with rules adopted by the director in accordance with 744
Chapter 119. of the Revised Code, and without prejudice to the 745
littoral rights of any owner of land fronting on Lake Erie, 746
provided that the legislative authority of the municipal 747
corporation within which any such part of the territory is 748
located, if the municipal corporation is not within the 749
jurisdiction of a port authority, or the county commissioners of 750
the county within which such part of the territory is located, 751
excluding any territory within a municipal corporation or under 752
the jurisdiction of a port authority, or the board of directors of 753
a port authority with respect to such part of the territory 754
included in the jurisdiction of the port authority, has enacted an 755
ordinance or adopted a resolution finding and determining that 756
such part of the territory, described by metes and bounds or by an 757
alternate description referenced to the applicant's upland 758
property description that is considered adequate by the director, 759
is not necessary or required for the construction, maintenance, or 760
operation by the municipal corporation, county, or port authority 761
of breakwaters, piers, docks, wharves, bulkheads, connecting ways, 762
water terminal facilities, and improvements and marginal highways 763
in aid of navigation and water commerce and that the land uses 764
specified in the application comply with regulation of permissible 765
land use under a waterfront plan of the local authority. 766

(C) Upon the filing of the application with the director, the 767

director may hold a public hearing thereon and may cause written 768
notice of the filing to be given to any municipal corporation, 769
county, or port authority, as the case may be, in which such part 770
of the territory is located and also shall cause public notice of 771
the filing to be given by advertisement in a newspaper of general 772
circulation within the locality where such part of the territory 773
is located. If a hearing is to be held, public notice of the 774
filing may be combined with public notice of the hearing and shall 775
be given once a week for four consecutive weeks prior to the date 776
of the initial hearing. All hearings shall be before the director 777
and shall be open to the public, and a record shall be made of the 778
proceeding. Parties thereto are entitled to be heard and to be 779
represented by counsel. The findings and order of the director 780
shall be in writing. All costs of the hearings, including 781
publication costs, shall be paid by the applicant. The director 782
also may hold public meetings on the filing of an application. 783

(D) Not later than fifteen days after the director receives 784
an application for a permit under this section, the director shall 785
determine whether the application is complete and shall provide 786
written notice to the applicant of the director's determination. 787
If the application is not complete, the director shall include in 788
the notice an itemized list of the information or materials that 789
are necessary to complete the application. If the director 790
notifies the applicant that information or materials are necessary 791
to complete the application, the applicant shall provide the 792
missing information or materials not later than thirty days after 793
receipt of the notice. The applicant may resubmit the application 794
with the necessary information or materials. If the director fails 795
to make a completeness determination and provide notice to the 796
applicant within fifteen days after receiving the application, the 797
application shall be deemed complete. 798

Not later than one hundred twenty days after receipt of a 799

complete application, the director shall issue or deny the permit.
If the director fails to issue or deny the permit within one
hundred twenty days after receiving the complete application, the
application shall be deemed approved, and the director shall issue
the permit.

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(E) 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~~
~~Eric 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 permit may be for such periods of time as the director~~
~~determines. On and after the effective date of this amendment, a~~
~~lease entered into under this section shall be for a period of~~
~~time that is equal to the life of the development or improvement~~
~~for commercial use that is the subject of the lease. The~~

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If the director finds that a permit may properly be issued to
the applicant, the director shall determine the fee to be paid for
the permit in accordance with the procedure established in rules
adopted under section 1506.02 of the Revised Code. The applicant
shall pay that fee. A permit issued under this section need not be
renewed. On and after the effective date of this amendment, a
permit issued under this section shall be for a period of time
that is equal to the life of the development or improvement for
commercial use for which the permit was issued.

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The rentals ~~or fee~~ received under the terms of such a lease
or permit shall be paid into the state treasury to the credit of
the Lake Erie submerged lands fund, which is hereby created, ~~and,~~
~~Money in the fund shall be distributed from that fund as follows:~~

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

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department of natural resources for the administration of ~~this~~ 831
~~section and section 1506.10 of the Revised Code and for the~~ 832
coastal management ~~assistance grant~~ program ~~required to be~~ 833
established ~~under division (C) of section 1506.02 of the Revised~~ 834
~~Code;~~ 835

~~(2) Fifty per cent of each rental shall be paid to the~~ 836
~~municipal corporation, county, or port authority making the~~ 837
~~finding provided for in this section~~ in sections 1506.01 to 838
1506.03 and 1506.05 to 1506.09 of the Revised Code. Money in the 839
fund also may be used for grants to a municipal corporation, 840
county, or port authority having shoreline property within its 841
geographical boundaries. 842

All leases and permits shall be executed in the manner 843
provided by ~~section 5501.01~~ 5301.01 of the Revised Code and shall 844
contain, in addition to the provisions required in this section, a 845
reservation to the state of all mineral rights and a provision 846
that the removal of any minerals shall be conducted in such manner 847
as not to damage any improvements placed by the littoral owner, 848
lessee, or permit holder on the lands. No lease or permit of the 849
lands defined in this section shall express or imply any control 850
of fisheries or aquatic wildlife now vested in the division of 851
wildlife of the department. 852

~~(D)~~(F) Upland owners who, prior to October 13, 1955, have 853
erected, developed, or maintained structures, facilities, 854
buildings, or improvements or made use of waters for commercial 855
purposes in the part of the territory in front of those uplands 856
shall be granted a lease or permit under this section by the state 857
upon the presentation of a certification by the chief executive of 858
a municipal corporation, resolution of the board of county 859
commissioners, or resolution of the board of directors of the port 860
authority establishing that the structures, facilities, buildings, 861
improvements, or uses do not constitute an unlawful encroachment 862

on navigation and water commerce. The lease or permit shall 863
specifically enumerate the structures, facilities, buildings, 864
improvements, or uses so included. 865

~~(E)~~(G) Persons having secured a lease or permit under this 866
section are entitled to just compensation for the taking, whether 867
for navigation, water commerce, or otherwise, by any governmental 868
authority having the power of eminent domain, of structures, 869
facilities, buildings, improvements, or uses erected or placed 870
upon the territory pursuant to the lease or permit or the littoral 871
rights of the person and for the taking of the leasehold and the 872
littoral rights of the person pursuant to the procedure provided 873
in Chapter 163. of the Revised Code. The compensation shall not 874
include any compensation for the site in the territory except to 875
the extent of any interest in the site theretofore acquired by the 876
person under this section or by prior acts of the general assembly 877
or grants from the United States government. The failure of any 878
person to apply for or obtain a lease or permit under this section 879
does not prejudice any right the person may have to compensation 880
for a taking of littoral rights or of improvements made in 881
accordance with a lease, a permit, or littoral rights. 882

~~(F)~~(H) If any taxes or assessments are levied or assessed 883
upon ~~property~~ a structure that is the subject of a lease or permit 884
under this section, the taxes or assessments are the obligation of 885
the lessee or permit holder. 886

~~(G)~~(I) If a lease or permit secured under this section 887
requires the lessee or permit holder to obtain the approval of the 888
department ~~or any of its divisions~~ for any changes in structures, 889
facilities, or buildings, for any improvements, or for any changes 890
or expansion in uses, no lessee or permit holder shall change any 891
structures, facilities, or buildings, make any improvements, or 892
expand or change any uses unless the director first determines 893
that the proposed action will not adversely affect any current or 894

prospective exercise of the public right of recreation in the 895
territory and in the state's reversionary interest in any 896
territory leased or permitted under this section and the lessee or 897
permit holder receives an additional permit under this section for 898
any changes in structures, facilities, or buildings, for any 899
improvements, or for any changes or expansion in uses. However, 900
the director shall not require a permit for the rehabilitation of 901
a structure, facility, or building for which a permit previously 902
was issued under this section. 903

Proposed changes or improvements shall be deemed to 904
"adversely affect" the public right of recreation if the changes 905
or improvements cause or will cause any significant demonstrable 906
negative impact upon any present or prospective recreational use 907
of the territory by the public during the term of the lease or 908
permit or any renewals of leases and of any public recreational 909
use of the leased or permitted premises in which the state has a 910
reversionary interest. 911

Sec. 1506.12. There is hereby created the Lake Erie coastal 912
~~resources~~ advisory council, which shall consist of ~~nineteen~~ the 913
director of natural resources or the director's designee and 914
fifteen members, who shall be appointed by the ~~director of natural~~ 915
~~resources,~~ governor and who represent a broad range of interests, 916
experience, and knowledge relating to the management, use, 917
conservation, protection, preservation, and development of coastal 918
area resources. The ~~director~~ governor shall solicit names of 919
qualified persons to serve on the council from the legislative 920
authorities of counties, townships, municipal corporations, and 921
other political subdivisions and from interest groups located in 922
the coastal area. The ~~director~~ governor shall appoint to the 923
council at least one member from each shoreline county, which 924
members shall be selected from the names submitted to the ~~director~~ 925
governor as described above and at least one of which shall be a 926

public official of such a county; at least three individuals who 927
own private shoreline property in a shoreline county; at least one 928
public official of a municipal corporation that ~~is located in a~~ 929
has shoreline county property within its geographical boundaries; 930
at least two individuals who are members of the Ohio association 931
of realtors and whose places of business as specified in section 932
4735.16 of the Revised Code are located in the shoreline area; at 933
least three individuals who have an interest in or are 934
knowledgeable about the preservation of submerged resources, two 935
of whom shall be experienced in scuba diving; and at least two 936
individuals with experience in residential and commercial land 937
development in the shoreline area. Not fewer than seven members 938
shall be individuals who permanently reside in close proximity to 939
shoreline property. No more than ~~ten~~ eight members of the council 940
shall be from the same political party. The director may 941
participate in the deliberations of the council, but shall not 942
vote. 943

~~The members of the council first appointed by the director 944
shall serve terms commencing no later than one hundred eighty days 945
after March 15, 1989, and expiring on February 1, 1990. On 946
February 2, 1990, the director shall appoint six members to serve 947
for a term of one year and seven members to serve for a term of 948
two years. The members first appointed by the director after the 949
effective date of this amendment shall serve terms commencing no 950
later than one hundred eighty days after that date. Three of those 951
members shall serve terms expiring on February 1, 1997, and three 952
of those members shall serve terms expiring on February 1, 1998. 953
On February 2, 1997, the director shall appoint nine members to 954
serve for a term of three years to replace all members whose terms 955
of office expired on February 1, 1997. On February 2, 1998, the 956
director shall appoint ten members to serve for a term of four 957
years to replace all members whose terms of office expired on 958~~

~~February 1, 1998.~~

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On the effective date of this amendment, the governor shall
begin the process of appointing members to the council. Not later
than three months following that date, all of the governor's
appointments shall be completed, and the terms of the initial
members of the council shall commence. Seven of the initial
members shall be appointed for terms ending on the first day of
February of the year that is two years following the year in which
the effective date of this amendment occurs. Eight of the initial
members shall be appointed for terms ending on the first day of
February of the year that is four years following the year in
which the effective date of this amendment occurs. Thereafter,
terms of office for all appointed members shall be for four years
commencing on the second day of February and ending on the first
day of February. Members may be reappointed to the council.

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The ~~director~~ governor may remove any appointed 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 appointed 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 appointed 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.

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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.

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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

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its proceedings, which shall be open to the public for inspection. 990
Special meetings may be called by the chairperson and shall be 991
called upon the written request of two or more members. A majority 992
of the members constitutes a quorum. The department of natural 993
resources shall furnish clerical, technical, legal, and other 994
services required by the council in the performance of its duties. 995

Members shall receive no compensation, but shall be 996
reimbursed from appropriations to the department for the actual 997
and necessary expenses incurred by them in the performance of 998
their official duties. 999

The council shall do all of the following: 1000

(A) Advise the director on carrying out the director's duties 1001
under this chapter, including, without limitation, implementation 1002
of the coastal management program; 1003

(B) Recommend to the director such policies and legislation 1004
as are necessary to preserve, protect, develop, and restore or 1005
enhance the coastal resources of the state; 1006

(C) Review and make recommendations to the director on the 1007
development of policies, plans, and programs for long-term, 1008
comprehensive coastal resource management, including, without 1009
limitation, the coastal management program document adopted under 1010
division (A)(1) of section 1506.02 of the Revised Code; 1011

(D) Recommend to the director ways to enhance cooperation 1012
among governmental agencies, including, without limitation, state 1013
agencies, having an interest in coastal management and to 1014
encourage wise use and protection of the state's coastal 1015
resources. The council may request information and other 1016
assistance from those governmental agencies for this purpose. 1017

Sec. 1506.30. As used in sections 1506.30 to ~~1506.37~~ 1506.36 1018
of the Revised Code: 1019

(A) "Abandoned property" means a submerged aircraft; a 1020
submerged watercraft, including a ship, boat, canoe, skiff, raft, 1021
or barge; the rigging, gear, fittings, trappings, and equipment of 1022
a submerged aircraft or watercraft; the personal property of the 1023
officers, crew, and passengers of a submerged aircraft or 1024
watercraft; the cargo of a submerged aircraft or watercraft that 1025
has been deserted, relinquished, cast away, or left behind and for 1026
which attempts at reclamation have been abandoned by the owners 1027
and insurers; and submerged materials resulting from activities of 1028
prehistoric and historic native Americans. 1029

(B) "Lake Erie" means that portion of the waters and lands of 1030
Lake Erie belonging to the state as provided in section 1506.10 of 1031
the Revised Code. 1032

(C) "Historical value" means the quality of significance 1033
exemplified by an object, structure, site, or district that is 1034
included in or eligible for inclusion in the state registry of 1035
archaeological landmarks authorized under section 149.51 of the 1036
Revised Code, the state registry of historic landmarks authorized 1037
under section 149.55 of the Revised Code, or the national register 1038
of historic places. 1039

(D) "Marine surveyor" means a person engaged in the business 1040
of mapping or surveying submerged lands and abandoned property. 1041

(E) "Mechanical or other assistance" means all ~~manmade~~ 1042
artificial devices used to raise or remove artifacts from 1043
abandoned property, including pry bars, wrenches and other hand or 1044
power tools, cutting torches, explosives, winches, flotation bags, 1045
lines to surface, extra divers buoyancy devices, and other 1046
buoyancy devices. 1047

(F) "Recreational value" means value relating to an activity 1048
in which the public engages or may engage for recreation or sport, 1049
including scuba diving and fishing, as determined by the director 1050

of natural resources. 1051

Sec. 1506.34. (A) The director of natural resources, with the 1052
approval of the director of the Ohio historical society, shall 1053
establish policies and may adopt rules necessary to implement and 1054
administer sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised 1055
Code. Not less than forty-five days prior to adopting a rule under 1056
this section or section 1506.31 of the Revised Code, the director 1057
of natural resources shall send a copy of the proposed rule to the 1058
director of the Ohio historical society, who shall promptly review 1059
it. Not more than thirty days after receiving the proposed rule, 1060
the director of the Ohio historical society shall return the rule 1061
to the director of natural resources together with ~~his~~ the former 1062
director's written approval or disapproval of the proposed rule. 1063
If ~~he~~ the director of the Ohio historical society disapproves the 1064
rule, ~~he~~ the director shall explain the reasons for ~~his~~ the 1065
disapproval and any amendments to the rule ~~he~~ the director 1066
considers necessary to obtain ~~his~~ the director's approval. The 1067
director of natural resources shall not adopt a rule under those 1068
sections that has not been approved by the director of the Ohio 1069
historical society. If the director of the Ohio historical society 1070
does not respond within thirty days as prescribed in this section, 1071
the rule is deemed approved by ~~him~~ the director. 1072

(B) The director of natural resources shall inform the public 1073
of the requirements of sections 1506.30 to ~~1506.37~~ 1506.36 of the 1074
Revised Code and any policies established and rules adopted under 1075
them. In complying with this section, the director may establish 1076
or conduct educational programs or seminars, print and distribute 1077
informational pamphlets, and provide detailed information to 1078
organizations that conduct scuba diving training programs. 1079

(C) The director of natural resources may hire or contract 1080
with a marine archaeologist, a marine historian, a marine 1081

surveyor, or any combination thereof for the purposes of 1082
implementing and administering sections 1506.30 to ~~1506.37~~ 1506.36 1083
of the Revised Code and any rules adopted under them. 1084

Sec. 1506.35. (A) The director of natural resources may 1085
suspend or revoke, in accordance with Chapter 119. of the Revised 1086
Code, a permit issued under section 1506.32 of the Revised Code if 1087
the permit holder has done either of the following: 1088

(1) Failed to comply with sections 1506.30 to ~~1506.37~~ 1506.36 1089
of the Revised Code, any rules adopted under those sections, or 1090
any provision or condition of ~~his~~ the permit; 1091

(2) Damaged abandoned property other than in accordance with 1092
the provisions or conditions of the permit. 1093

(B) Any motor vehicle, as defined in section 4501.01 of the 1094
Revised Code, watercraft, as defined in section 1547.01 of the 1095
Revised Code, mechanical or other assistance, scuba gear, sonar 1096
equipment, or other equipment used by any person in the course of 1097
committing a third or subsequent violation of division (K) of 1098
section 1506.32 of the Revised Code shall be considered contraband 1099
for the purposes of sections 2933.42 and 2933.43 of the Revised 1100
Code, except that proceeds from the sale of such contraband shall 1101
be disposed of in the following order: 1102

(1) To the payment of the costs incurred in the forfeiture 1103
proceedings under section 2933.43 of the Revised Code; 1104

(2) To the payment of the balance due on any security 1105
interest preserved under division (C) of section 2933.43 of the 1106
Revised Code; 1107

(3) To the payment of any costs incurred by the seizing 1108
agency under section 2933.43 of the Revised Code in connection 1109
with the storage, maintenance, security, and forfeiture of the 1110
contraband; 1111

(4) Fifty per cent of the remaining money to the credit of 1112
the Lake Erie submerged lands preserves fund created in division 1113
(C) of this section and fifty per cent of the remaining money to 1114
the Ohio historical society for deposit into the fund created 1115
pursuant to division (C) of section 149.56 of the Revised Code. 1116

(C) There is hereby created in the state treasury the Lake 1117
Erie submerged lands preserves fund. The fund shall be composed of 1118
moneys credited to it under division (B)(4) of this section and 1119
division (D)(2) of section 1506.33 of the Revised Code, all 1120
appropriations, contributions, and gifts made to it, and any 1121
federal grants received by the department of natural resources for 1122
the purposes of sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised 1123
Code. The director shall use the moneys in the Lake Erie submerged 1124
lands preserves fund solely to implement and administer sections 1125
1506.30 to ~~1506.37~~ 1506.36 of the Revised Code. 1126

(D) The director may request the attorney general to, and the 1127
attorney general shall, bring a civil action in any court of 1128
competent jurisdiction for any of the following purposes: 1129

(1) To enforce compliance with or restrain violation of 1130
sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code, any rules 1131
adopted under those sections, or any permit issued under section 1132
1506.32 of the Revised Code; 1133

(2) To enjoin the further removal of abandoned property or 1134
archaeological material from Lake Erie; 1135

(3) To order the restoration of an area affected by a 1136
violation of sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised 1137
Code or of a permit issued under section 1506.32 of the Revised 1138
Code to its prior condition. 1139

Any action under this division is a civil action, governed by 1140
the Rules of Civil Procedure. 1141

(E) A peace officer of a county, township, or municipal corporation, and a preserve officer, wildlife officer, park officer, or watercraft officer designated under section 1517.10, 1531.13, 1541.10, or 1547.521 of the Revised Code, as applicable, may enforce compliance with sections 1506.30 to ~~1506.37~~ 1506.36 of the Revised Code, any rules adopted under those sections, and any permit issued under section 1506.32 of the Revised Code and may make arrests for violation of those laws, rules, and permits.

Sec. ~~1521.20~~ 1506.38. The ~~ehief~~ director of the ~~division of water natural resources~~ shall act as the erosion agent of the state for the purpose of cooperating with the secretary of the army, acting through the chief of engineers of the United States army corps of engineers in the department of defense. The ~~ehief~~ director shall cooperate with the secretary in carrying out, and may conduct, investigations and studies of conditions along the shorelines of Lake Erie and of the bays and projections therefrom, and of the islands therein, within the territorial waters of the state, with a view to devising and perfecting economical and effective methods and works for preventing, correcting, and controlling shore erosion and damage therefrom and controlling the inundation of improved property by the waters of Lake Erie, its bays, and associated inlets.

Sec. ~~1521.21~~ 1506.39. The ~~ehief~~ director of the ~~division of water natural resources~~, in the discharge of the ~~ehief's~~ director's duties under sections ~~1507.20~~ 1506.38 to ~~1507.30~~ 1506.49 of the Revised Code, may call to the ~~ehief's~~ director's assistance, temporarily, any engineers or other employees in any state department, or in the Ohio state university or other educational institutions financed wholly or in part by the state, for the purpose of devising the most effective and economical methods of controlling shore erosion and ~~damage from it and~~

~~controlling the inundation of improved property by~~ along the 1173
~~waters~~ shore of Lake Erie and its bays and associated inlets. 1174

Such engineers and employees shall not receive any additional 1175
compensation over that which they receive from the departments or 1176
institutions by which they are employed, but they shall be 1177
reimbursed for their actual necessary expenses incurred while 1178
working under the direction of the ~~chief~~ director on erosion and 1179
inundation projects. 1180

Sec. ~~1521.22~~ 1506.40. (A)(1) As used in this section, 1181
"territory" has the same meaning as in section 1506.11 of the 1182
Revised Code. 1183

(2) The use of the ordinary high water mark shall be for the 1184
administration of this section and shall not be construed to 1185
determine any type of property boundary. 1186

(B) No person shall construct a beach, groin, or other 1187
structure to arrest or control erosion, wave action, or inundation 1188
along or near the Ohio shoreline of Lake Erie, including related 1189
islands, bays, and inlets, or develop or improve part of the 1190
territory for other than commercial use, without first obtaining a 1191
~~shore structure~~ permit from the ~~chief of the division~~ director of 1192
~~water~~ natural resources. The 1193

The application for a ~~shore structure~~ permit shall include 1194
detailed plans and specifications as prescribed by the director. 1195
The detailed plans and specifications shall be prepared by a 1196
professional engineer registered under Chapter 4733. of the 1197
Revised Code. ~~An~~ unless they pertain to a project that is or 1198
solely involves any of the following: 1199

(1) A project that is not an erosion control structure or the 1200
rehabilitation of such a structure; 1201

(2) The rehabilitation of a structure for which a permit 1202

previously was issued under this section; 1203

(3) The rehabilitation of a structure that was constructed 1204
prior to October 5, 1955, provided that the purpose of the 1205
rehabilitation is to return the structure to its condition prior 1206
to that date; 1207

(4) Beach nourishment with natural sand. 1208

An applicant for a permit under this section shall provide 1209
appropriate evidence of compliance with any applicable provisions 1210
of this chapter and Chapters 1505. and ~~1506.~~ 1521. of the Revised 1211
Code, as determined by the ~~chief~~ director. A temporary ~~shore~~ 1212
~~structure~~ permit may be issued by the ~~chief or an authorized~~ 1213
~~representative of the chief~~ director if it is determined necessary 1214
to safeguard life, health, or property. 1215

Each application or reapplication for a permit under this 1216
section shall be accompanied by a non-refundable fee ~~as the chief~~ 1217
~~shall prescribe by rule~~ in an amount determined by the director 1218
using the fee schedule established in rules adopted under section 1219
1506.02 of the Revised Code. 1220

~~If the application is approved, the chief shall issue a~~ 1221
~~permit to the applicant authorizing construction of the project.~~ 1222
~~If~~ 1223

(C) Upon receipt of an application submitted under this 1224
section, the director shall notify owners of littoral real 1225
property that is adjacent to the proposed area of construction, 1226
development, or improvement. The notice shall be in writing, state 1227
that an application for a permit has been filed, summarize the 1228
proposed construction, development, or improvement that is the 1229
subject of the application, and state that the recipient of the 1230
notice may submit comments to the director concerning the 1231
application not later than thirty days following receipt of the 1232
notice. 1233

(D) Not later than fifteen days after the director receives 1234
an application for a permit under this section, the director shall 1235
determine whether the application is complete and shall provide 1236
written notice to the applicant of the director's determination. 1237
If the application is not complete, the director shall include in 1238
the notice an itemized list of the information or materials that 1239
are necessary to complete the application. If the director 1240
notifies the applicant that information or materials are necessary 1241
to complete the application, the applicant shall provide the 1242
missing information or materials not later than thirty days after 1243
receipt of the notice. The applicant may resubmit the application 1244
with the necessary information or materials. If the director fails 1245
to make a completeness determination and provide notice to the 1246
applicant within fifteen days after receiving the application, the 1247
application shall be deemed complete. 1248

If the project is not for commercial use, the director shall 1249
issue or deny the permit not later than ninety days after receipt 1250
of a complete application. If the project is for commercial use, 1251
the director shall issue or deny the permit not later than one 1252
hundred twenty days after receipt of a complete application. If 1253
the director fails to issue or deny the permit within ninety or 1254
one hundred twenty days, as applicable, after receiving the 1255
complete application, the application shall be deemed approved, 1256
and the director shall issue the permit. 1257

If requested in writing by the applicant within thirty days 1258
of issuance of a notice of disapproval of the application, the 1259
chief director shall conduct an adjudication hearing under Chapter 1260
119. of the Revised Code, except sections 119.12 and 119.121 of 1261
the Revised Code. After reviewing the record of the hearing, the 1262
chief director shall issue a final order approving the 1263
application, disapproving it, or approving it conditioned on the 1264
making of specified revisions in the plans and specifications. 1265

(E) The ~~chief director~~, by rule, shall limit the period 1266
during which a ~~construction~~ permit issued under this section is 1267
valid and shall establish reapplication requirements governing a 1268
~~construction~~ permit that expires before construction, development, 1269
or improvement is completed. 1270

~~In accordance with Chapter 119. of the Revised Code, the 1271
chief shall adopt, and may amend or rescind, such rules as are 1272
necessary for the administration, implementation, and enforcement 1273
of this section. 1274~~

(F) Nothing in this section shall be construed as determining 1275
the boundary of the state's ownership of the waters of Lake Erie 1276
as provided in section 1506.10 of the Revised Code. 1277

Sec. ~~1521.23~~ 1506.41. All moneys derived from the granting of 1278
permits and leases under section 1505.07 of the Revised Code for 1279
the removal of sand, gravel, stone, gas, oil, and other minerals 1280
and substances from and under the bed of Lake Erie and from 1281
applications for ~~shore structure~~ permits submitted under section 1282
~~1521.22~~ 1506.40 of the Revised Code shall be paid into the state 1283
treasury to the credit of the permit and lease fund, which is 1284
hereby created. Notwithstanding any section of the Revised Code 1285
relating to the distribution or crediting of fines for violations 1286
of the Revised Code, all fines imposed under division (A) of 1287
section 1505.99 of the Revised Code and under division ~~(C)~~(A) of 1288
section ~~1521.99~~ 1506.99 of the Revised Code for violations of 1289
section 1506.40 of the Revised Code shall be paid into that fund. 1290
The fund shall be administered by the department of natural 1291
resources for the protection of Lake Erie shores and waters; 1292
investigation and control of erosion; the planning, development, 1293
and construction of facilities for recreational use of Lake Erie; 1294
implementation of section ~~1521.22~~ 1506.40 of the Revised Code; 1295
preparation of the state shore erosion plan under section ~~1521.29~~ 1296

1506.47 of the Revised Code; provision of technical assistance to shoreline property owners under that section; and state administration of Lake Erie coastal erosion areas under sections 1506.06 and 1506.07 of the Revised Code. Money in the fund also may be used for grants to a municipal corporation, county, or port authority having Lake Erie shoreline property within its geographical boundaries.

Sec. ~~1521.24~~ 1506.42. The state, acting through the ~~chief director of the division of water~~ natural resources, subject to section ~~1521.28~~ 1506.46 of the Revised Code, may enter into agreements with counties, townships, municipal corporations, park boards, and conservancy districts, other political subdivisions, or any state departments or divisions for the purpose of constructing and maintaining projects to control erosion along the Ohio shoreline of Lake Erie and in any rivers and bays that are connected with Lake Erie and any other watercourses that flow into Lake Erie. Such projects also may be constructed on any Lake Erie island that is situated within the boundaries of the state.

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

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

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

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

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

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

The ~~chief~~ director shall approve and supervise all projects that are to be constructed in accordance with this section. The ~~chief~~ director shall not proceed with the construction of any

project until all funds that are to be paid by the county, 1358
township, municipal corporation, park board, or conservancy 1359
district, in accordance with the terms of the agreement entered 1360
into between the ~~chief~~ director and the county, township, 1361
municipal corporation, park board, or conservancy district, are in 1362
the ~~chief's~~ director's possession and deposited in the shore 1363
erosion fund, which is hereby created in the state treasury. If 1364
the ~~chief~~ director finds it to be in the best interests of the 1365
state to construct projects as set forth in this section by the 1366
state itself, without the financial contribution of counties, 1367
townships, municipal corporations, park boards, or conservancy 1368
districts, the ~~chief~~ director may construct the projects. 1369

In deciding whether to assist a county or municipal 1370
corporation in constructing and maintaining a project under this 1371
section, the state, acting through the chief, shall consider, 1372
among other factors, whether the county or municipal corporation 1373
has adopted or is in the process of adopting a Lake Erie coastal 1374
erosion area resolution or ordinance under division (D) of section 1375
1506.07 of the Revised Code. 1376

All projects constructed by the state in conformity with 1377
sections ~~1521.20~~ 1506.38 to ~~1521.28~~ 1506.46 of the Revised Code 1378
shall be constructed subject to sections 153.01 to 153.20 of the 1379
Revised Code, except that the state architect and engineer is not 1380
required to prepare the plans and specifications for those 1381
projects. 1382

Sec. ~~1521.25~~ 1506.43. The ~~chief~~ director of the ~~division of~~ 1383
~~water~~ natural resources may enter into a contract with any county, 1384
township, municipal corporation, conservancy district, or park 1385
board that has an agreement with the state in accordance with 1386
section ~~1521.24~~ 1506.42 of the Revised Code for the construction 1387
of a shore erosion project. No contract shall be let until all 1388

money that is to be paid by the political subdivision entering 1389
into the agreement has been deposited in the shore erosion fund 1390
created in that section ~~1521.24 of the Revised Code, and no~~ 1391
~~contract shall be valid until approved by the director of natural~~ 1392
~~resources.~~ 1393

Sec. ~~1521.26~~ 1506.44. (A) A board of county commissioners may 1394
use a loan obtained under division (C) of this section to provide 1395
financial assistance to any person who owns real property in a 1396
coastal erosion area, ~~as defined in section 1506.01 of the Revised~~ 1397
~~Code,~~ and who has received a permit under section ~~1521.22~~ 1506.40 1398
of the Revised Code to construct an erosion control structure in 1399
that coastal erosion area. The board shall enter into an agreement 1400
with the person that complies with all of the following 1401
requirements: 1402

(1) The agreement shall identify the person's real property 1403
for which the erosion control structure is being constructed and 1404
shall include a legal description of that property and a reference 1405
to the volume and page of the deed record in which the title of 1406
that person to that property is recorded. 1407

(2) In accordance with rules adopted by the Ohio water 1408
development authority under division (V) of section 6121.04 of the 1409
Revised Code for the purposes of division (C) of this section and 1410
pursuant to an agreement between the board and the authority under 1411
that division, the board shall agree to cause payments to be made 1412
by the authority to the contractor hired by the person to 1413
construct an erosion control structure in amounts not to exceed 1414
the total amount specified in the agreement between the board and 1415
the person. 1416

(3) The person shall agree to pay to the board, or to the 1417
authority as the assignee pursuant to division (C) of this 1418

section, the total amount of the payments plus administrative or 1419
other costs of the board or the authority at times, in 1420
installments, and bearing interest as specified in the agreement. 1421

The agreement may contain additional provisions that the 1422
board determines necessary to safeguard the interests of the 1423
county or to comply with an agreement entered into under division 1424
(C) of this section. 1425

(B) Upon entering into an agreement under division (A) of 1426
this section, the board shall do all of the following: 1427

(1) Cause the agreement to be recorded in the county deed 1428
records in the office of the county recorder of the county in 1429
which the real property is situated. Failure to record the 1430
agreement does not affect the validity of the agreement or the 1431
collection of any amounts due under the agreement. 1432

(2) Establish by resolution an erosion control repayment fund 1433
into which shall be deposited all amounts collected under division 1434
(B)(3) of this section. Moneys in that fund shall be used by the 1435
board for the repayment of the loan and for administrative or 1436
other costs of the board or the authority as specified in an 1437
agreement entered into under division (C) of this section. If the 1438
amount of money in the fund is inadequate to repay the loan when 1439
due, the board of county commissioners, by resolution, may advance 1440
money from any other fund in order to repay the loan if that use 1441
of the money from the other fund is not in conflict with law. If 1442
the board so advances money in order to repay the loan, the board 1443
subsequently shall reimburse each fund from which the board 1444
advances money with moneys from the erosion control repayment 1445
fund. 1446

(3) Bill and collect all amounts when due under the agreement 1447
entered into under division (A) of this section. The board shall 1448
certify amounts not paid when due to the county auditor, who shall 1449

enter the amounts on the real property tax list and duplicate 1450
against the property identified under division (A)(1) of this 1451
section. The amounts not paid when due shall be a lien on that 1452
property from the date on which the amounts are placed on the tax 1453
list and duplicate and shall be collected in the same manner as 1454
other taxes. 1455

(C) A board may apply to the authority for a loan for the 1456
purpose of entering into agreements under division (A) of this 1457
section. The loan shall be for an amount and on the terms 1458
established in an agreement between the board and the authority. 1459
The board may assign any agreements entered into under division 1460
(A) of this section to the authority in order to provide for the 1461
repayment of the loan and may pledge any lawfully available 1462
revenues to the repayment of the loan, provided that no moneys 1463
raised by taxation shall be obligated or pledged by the board for 1464
the repayment of the loan. Any agreement with the authority 1465
pursuant to this division is not subject to Chapter 133. of the 1466
Revised Code or any requirements or limitations established in 1467
that chapter. 1468

(D) The authority, as assignee of any agreement pursuant to 1469
division (C) of this section, may enforce and compel the board and 1470
the county auditor by mandamus pursuant to Chapter 2731. of the 1471
Revised Code to comply with division (B) of this section in a 1472
timely manner. 1473

(E) The construction of an erosion control structure by a 1474
contractor hired by an individual homeowner, group of individual 1475
homeowners, or homeowners association that enters into an 1476
agreement with a board under division (A) of this section is not a 1477
public improvement, as defined in section 4115.03 of the Revised 1478
Code, and is not subject to competitive bidding or public bond 1479
laws. 1480

Sec. ~~1521.27~~ 1506.45. The state, or any county, township, 1481
municipal corporation, conservancy district, or park board that 1482
has entered into a contract under section ~~1521.25~~ 1506.43 of the 1483
Revised Code, may acquire lands by gift or devise, purchase, or 1484
appropriation. In case of appropriation, the proceedings shall be 1485
instituted in the name of the state or the political subdivision 1486
and shall be conducted in the manner provided for the 1487
appropriation of private property by the state or the political 1488
subdivision insofar as those proceedings are applicable. Either 1489
the fee or any lesser interest may be acquired as the state or the 1490
political subdivision considers advisable. 1491

Sec. ~~1521.28~~ 1506.46. Any action taken by the chief director 1492
of ~~the division of water~~ natural resources under sections ~~1521.20~~ 1493
1506.38 to ~~1521.30~~ 1506.49 of the Revised Code shall not be deemed 1494
in conflict with certain powers and duties conferred upon and 1495
delegated to federal agencies and to municipal corporations under 1496
Section 7 of Article XVIII, Ohio Constitution, or as provided by 1497
sections 721.04 to 721.11 of the Revised Code. 1498

Sec. ~~1521.29~~ 1506.47. The chief director of ~~the division of~~ 1499
~~water, in cooperation with the division of geological survey,~~ 1500
natural resources may prepare a plan for the management of shore 1501
erosion in the state along Lake Erie, its bays, and associated 1502
inlets, revise the plan whenever it can be made more effective, 1503
and make the plan available for public inspection. In the 1504
preparation of the plan, the chief director may employ such 1505
existing plans as are available. 1506

The chief director also may establish a program to provide 1507
technical assistance on shore erosion control measures to 1508
municipal corporations, counties, townships, conservancy 1509
districts, park boards, and shoreline property owners. 1510

Sec. ~~1521.30~~ 1506.48. Upon application of any owner of real 1511
property damaged or destroyed by shore erosion, the county auditor 1512
of the county in which the real property is situated shall cause a 1513
reappraisal to be made and shall place the property on the tax 1514
list at its true value in money. 1515

Whenever the county auditor finds that ninety per cent or 1516
more of the area of any littoral parcel of land appearing upon the 1517
tax duplicate has been eroded and lies within the natural 1518
boundaries of Lake Erie and that the remainder of the parcel, if 1519
any, has no taxable value, the auditor may certify that finding to 1520
the county board of revision. Upon consideration thereof, the 1521
board may authorize removal of the parcel from the tax duplicate 1522
and cancellation of all current and delinquent taxes, assessments, 1523
interest, and penalties charged against the parcel. 1524

Sec. 1506.49. The director of natural resources or any 1525
employee in the service of the department of natural resources may 1526
enter on lands to conduct surveys and inspections for the purposes 1527
of this chapter, provided that at least five business days prior 1528
to entry, the director or the employee sends notice by certified 1529
mail to the owner of the property that is to be surveyed or 1530
inspected. The director or an employee may enter on the land 1531
during the period starting on the sixth business day following the 1532
mailing of the notice and ending on the fifteenth business day 1533
following the mailing of the notice. Such an entry does not 1534
constitute a civil or criminal trespass when necessary in the 1535
discharge of the duties specified in this chapter. 1536

Sec. 1521.01. As used in sections 1521.01 to 1521.05, and 1537
1521.13 to 1521.18, ~~and 1521.20 to 1521.30~~ of the Revised Code: 1538

(A) "Consumptive use," "diversion," "Lake Erie drainage 1539
basin," "other great lakes states and provinces," "water 1540

resources," and "waters of the state" have the same meanings as in 1541
section 1501.30 of the Revised Code. 1542

(B) "Well" means any excavation, regardless of design or 1543
method of construction, created for any of the following purposes: 1544

(1) Removing ground water from or recharging water into an 1545
aquifer, excluding subsurface drainage systems installed to 1546
enhance agricultural crop production or urban or suburban 1547
landscape management or to control seepage in dams, dikes, and 1548
levees; 1549

(2) Determining the quantity, quality, level, or movement of 1550
ground water in or the stratigraphy of an aquifer, excluding 1551
borings for instrumentation in dams, dikes, levees, or highway 1552
embankments; 1553

(3) Removing or exchanging heat from ground water, excluding 1554
horizontal trenches that are installed for water source heat pump 1555
systems. 1556

(C) "Aquifer" means a consolidated or unconsolidated geologic 1557
formation or series of formations that are hydraulically 1558
interconnected and that have the ability to receive, store, or 1559
transmit water. 1560

(D) "Ground water" means all water occurring in an aquifer. 1561

(E) "Ground water stress area" means a definable geographic 1562
area in which ground water quantity is being affected by human 1563
activity or natural forces to the extent that continuous 1564
availability of supply is jeopardized by withdrawals. 1565

(F) "Person" has the same meaning as in section 1.59 of the 1566
Revised Code and also includes the United States, the state, any 1567
political subdivision of the state, and any department, division, 1568
board, commission, agency, or instrumentality of the United 1569
States, the state, or a political subdivision of the state. 1570

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

(H) "Development" means any artificial change to improved or unimproved real estate, including the construction of buildings and other structures, any substantial improvement of a structure, and mining, dredging, filling, grading, paving, excavating, and drilling operations.

(I) "Floodplain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water.

(J) "Floodplain management" means the implementation of an overall program of corrective and preventive measures for reducing flood damage, including the collection and dissemination of flood information, construction of flood control works, nonstructural flood damage reduction techniques, and adoption of rules, ordinances, or resolutions governing development in floodplains.

(K) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year.

(L) "One-hundred-year floodplain" means that portion of a floodplain inundated by a one-hundred-year flood.

(M) "Structure" means a walled and roofed building, including, without limitation, gas or liquid storage tanks, mobile homes, and manufactured homes.

(N) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty per cent of the market value of the structure before the start of construction of the improvement. "Substantial improvement" includes repairs to structures that have incurred substantial damage regardless of the actual repair work performed. "Substantial improvement" does not

include either of the following: 1601

(1) Any project for the improvement of a structure to correct 1602
existing violations of state or local health, sanitary, or safety 1603
code specifications that have been identified by the state or 1604
local code enforcement official having jurisdiction and that are 1605
the minimum necessary to ensure safe living conditions; 1606

(2) Any alteration of an historic structure designated or 1607
listed pursuant to federal or state law, provided that the 1608
alteration will not preclude the structure's continued listing or 1609
designation as an historic structure. 1610

~~(O) "Shore structure" includes, but is not limited to:~~ 1611
~~beaches; groins; revetments; bulkheads; seawalls; breakwaters;~~ 1612
~~certain dikes designated by the chief of the division of water;~~ 1613
~~piers; docks; jetties; wharves; marinas; boat ramps; any~~ 1614
~~associated fill or debris used as part of the construction of~~ 1615
~~shore structures that may affect shore erosion, wave action, or~~ 1616
~~inundation; and fill or debris placed along or near the shore,~~ 1617
~~including bluffs, banks, or beach ridges, for the purpose of~~ 1618
~~stabilizing slopes.~~ 1619

~~(P) "Conservancy district" means a conservancy district~~ 1620
~~established under Chapter 6101. of the Revised Code.~~ 1621

~~(Q) "Park board" means the board of park commissioners of a~~ 1622
~~park district created under Chapter 1545. of the Revised Code.~~ 1623

~~(R) "Erosion control structure" means anything that is~~ 1624
~~designed primarily to reduce or control erosion of the shore along~~ 1625
~~or near lake erie, including, but not limited to, revetments,~~ 1626
~~seawalls, bulkheads, certain breakwaters designated by the chief,~~ 1627
~~and similar structures. "Erosion control structure" does not~~ 1628
~~include wharves, piers, docks, marinas, boat ramps, and other~~ 1629
~~similar structures.~~ 1630

Sec. 1521.99. (A) Whoever violates division (C)(1) of section 1631
1521.05 or division (E)(1) of section 1521.16 of the Revised Code 1632
is guilty of a misdemeanor of the fourth degree. 1633

(B) Whoever violates section 1521.06 or 1521.062 of the 1634
Revised Code shall be fined not less than one hundred dollars nor 1635
more than one thousand dollars for each offense. Each day of 1636
violation constitutes a separate offense. 1637

~~(C) Whoever violates sections 1521.20 to 1521.30 of the 1638
Revised Code shall be fined not less than one hundred dollars nor 1639
more than one thousand dollars for each offense. Each day of 1640
violation constitutes a separate offense. 1641~~

Sec. 6121.04. The Ohio water development authority may do any 1642
or all of the following: 1643

(A) Adopt bylaws for the regulation of its affairs and the 1644
conduct of its business; 1645

(B) Adopt an official seal; 1646

(C) Maintain a principal office and suboffices at places 1647
within the state that it designates; 1648

(D) Sue and plead in its own name and be sued and impleaded 1649
in its own name with respect to its contracts or torts of its 1650
members, employees, or agents acting within the scope of their 1651
employment, or to enforce its obligations and covenants made under 1652
sections 6121.06, 6121.08, and 6121.13 of the Revised Code. Any 1653
such actions against the authority shall be brought in the court 1654
of common pleas of the county in which the principal office of the 1655
authority is located or in the court of common pleas of the county 1656
in which the cause of action arose, provided that the county is 1657
located within this state, and all summonses, exceptions, and 1658
notices of every kind shall be served on the authority by leaving 1659

a copy thereof at the principal office with the person in charge 1660
thereof or with the secretary-treasurer of the authority. 1661

(E) Make loans and grants to governmental agencies for the 1662
acquisition or construction of water development projects by any 1663
such governmental agency and adopt rules and procedures for making 1664
~~such~~ the loans and grants; 1665

(F) Acquire, construct, reconstruct, enlarge, improve, 1666
furnish, equip, maintain, repair, operate, or lease or rent to, or 1667
contract for operation by, a governmental agency or person, water 1668
development projects, and establish rules for the use of those 1669
projects; 1670

(G) Make available the use or services of any water 1671
development project to one or more persons, one or more 1672
governmental agencies, or any combination thereof; 1673

(H) Issue water development revenue bonds and notes and water 1674
development revenue refunding bonds of the state, payable solely 1675
from revenues as provided in section 6121.06 of the Revised Code, 1676
unless the bonds are refunded by refunding bonds, for the purpose 1677
of paying any part of the cost of one or more water development 1678
projects or parts thereof; 1679

(I) Acquire by gift or purchase, hold, and dispose of real 1680
and personal property in the exercise of its powers and the 1681
performance of its duties under this chapter; 1682

(J) Acquire, in the name of the state, by purchase or 1683
otherwise, on terms and in the manner that it considers proper, or 1684
by the exercise of the right of condemnation in the manner 1685
provided by section 6121.18 of the Revised Code, public or private 1686
lands, including public parks, playgrounds, or reservations, or 1687
parts thereof or rights therein, rights-of-way, property, rights, 1688
easements, and interests that it considers necessary for carrying 1689
out this chapter, but excluding the acquisition by the exercise of 1690

the right of condemnation of any waste water facility or water 1691
management facility owned by any person or governmental agency, 1692
and compensation shall be paid for public or private lands so 1693
taken, except that a government-owned waste water facility may be 1694
appropriated in accordance with section 6121.041 of the Revised 1695
Code; 1696

(K) Adopt rules to protect augmented flow in waters of the 1697
state, to the extent augmented by a water development project, 1698
from depletion so it will be available for beneficial use, and to 1699
provide standards for the withdrawal from waters of the state of 1700
the augmented flow created by a water development project that is 1701
not returned to the waters of the state so augmented and to 1702
establish reasonable charges therefor if considered necessary by 1703
the authority; 1704

(L) Make and enter into all contracts and agreements and 1705
execute all instruments necessary or incidental to the performance 1706
of its duties and the execution of its powers under this chapter 1707
in accordance with the following requirements: 1708

(1) When the cost under any such contract or agreement, other 1709
than compensation for personal services, involves an expenditure 1710
of more than ten thousand dollars, the authority shall make a 1711
written contract with the lowest responsive and responsible 1712
bidder, in accordance with section 9.312 of the Revised Code, 1713
after advertisement for not less than two consecutive weeks in a 1714
newspaper of general circulation in Franklin county, and in other 1715
publications that the authority determines, which shall state the 1716
general character of the work and the general character of the 1717
materials to be furnished, the place where plans and 1718
specifications therefor may be examined, and the time and place of 1719
receiving bids, provided that a contract or lease for the 1720
operation of a water development project constructed and owned by 1721
the authority or an agreement for cooperation in the acquisition 1722

or construction of a water development project pursuant to section 1723
6121.13 of the Revised Code or any contract for the construction 1724
of a water development project that is to be leased by the 1725
authority to, and operated by, persons who are not governmental 1726
agencies and the cost of the project is to be amortized 1727
exclusively from rentals or other charges paid to the authority by 1728
persons who are not governmental agencies is not subject to the 1729
foregoing requirements and the authority may enter into such a 1730
contract or lease or such an agreement pursuant to negotiation and 1731
upon terms and conditions and for the period that it finds to be 1732
reasonable and proper in the circumstances and in the best 1733
interests of proper operation or of efficient acquisition or 1734
construction of the project. 1735

(2) Each bid for a contract for the construction, demolition, 1736
alteration, repair, or reconstruction of an improvement shall 1737
contain the full name of every person interested in it and shall 1738
meet the requirements of section 153.54 of the Revised Code. 1739

(3) Each bid for a contract except as provided in division 1740
(L)(2) of this section shall contain the full name of every person 1741
or company interested in it and shall be accompanied by a 1742
sufficient bond or certified check on a solvent bank that if the 1743
bid is accepted, a contract will be entered into and the 1744
performance thereof secured. 1745

(4) The authority may reject any and all bids. 1746

(5) A bond with good and sufficient surety, approved by the 1747
authority, shall be required of every contractor awarded a 1748
contract except as provided in division (L)(2) of this section, in 1749
an amount equal to at least fifty per cent of the contract price, 1750
conditioned upon the faithful performance of the contract. 1751

(M) Employ managers, superintendents, and other employees and 1752
retain or contract with consulting engineers, financial 1753

consultants, accounting experts, architects, attorneys, and other 1754
consultants and independent contractors that are necessary in its 1755
judgment to carry out this chapter, and fix the compensation 1756
thereof. All expenses thereof shall be payable solely from the 1757
proceeds of water development revenue bonds or notes issued under 1758
this chapter, from revenues, or from funds appropriated for that 1759
purpose by the general assembly. 1760

(N) Receive and accept from any federal agency, subject to 1761
the approval of the governor, grants for or in aid of the 1762
construction of any water development project or for research and 1763
development with respect to waste water or water management 1764
facilities, and receive and accept aid or contributions from any 1765
source of money, property, labor, or other things of value, to be 1766
held, used, and applied only for the purposes for which the grants 1767
and contributions are made; 1768

(O) Engage in research and development with respect to waste 1769
water or water management facilities; 1770

(P) Purchase fire and extended coverage and liability 1771
insurance for any water development project and for the principal 1772
office and suboffices of the authority, insurance protecting the 1773
authority and its officers and employees against liability for 1774
damage to property or injury to or death of persons arising from 1775
its operations, and any other insurance the authority may agree to 1776
provide under any resolution authorizing its water development 1777
revenue bonds or in any trust agreement securing the same; 1778

(Q) Charge, alter, and collect rentals and other charges for 1779
the use or services of any water development project as provided 1780
in section 6121.13 of the Revised Code; 1781

(R) Provide coverage for its employees under Chapters 145., 1782
4123., and 4141. of the Revised Code; 1783

(S) Assist in the implementation and administration of the 1784

drinking water assistance fund and program created in section 1785
6109.22 of the Revised Code and the water pollution control loan 1786
fund and program created in section 6111.036 of the Revised Code, 1787
including, without limitation, performing or providing fiscal 1788
management for the funds and investing and disbursing moneys in 1789
the funds, and enter into all necessary and appropriate agreements 1790
with the director of environmental protection for those purposes; 1791

(T) Issue water development revenue bonds and notes of the 1792
state in principal amounts that are necessary for the purpose of 1793
raising moneys for the sole benefit of the water pollution control 1794
loan fund created in section 6111.036 of the Revised Code, 1795
including moneys to meet the requirement for providing matching 1796
moneys under division (D) of that section. The bonds and notes may 1797
be secured by appropriate trust agreements and repaid from moneys 1798
credited to the fund from payments of principal and interest on 1799
loans made from the fund, as provided in division (F) of section 1800
6111.036 of the Revised Code. 1801

(U) Issue water development revenue bonds and notes of the 1802
state in principal amounts that are necessary for the purpose of 1803
raising moneys for the sole benefit of the drinking water 1804
assistance fund created in section 6109.22 of the Revised Code, 1805
including moneys to meet the requirement for providing matching 1806
moneys under divisions (B) and (F) of that section. The bonds and 1807
notes may be secured by appropriate trust agreements and repaid 1808
from moneys credited to the fund from payments of principal and 1809
interest on loans made from the fund, as provided in division (F) 1810
of section 6109.22 of the Revised Code. 1811

(V) Make loans to and enter into agreements with boards of 1812
county commissioners for the purposes of section ~~1521.26~~ 1506.44 1813
of the Revised Code and adopt rules establishing requirements and 1814
procedures for making the loans and entering into the agreements; 1815

(W) Do all acts necessary or proper to carry out the powers 1816
expressly granted in this chapter. 1817

Any instrument by which real property is acquired pursuant to 1818
this section shall identify the agency of the state that has the 1819
use and benefit of the real property as specified in section 1820
5301.012 of the Revised Code. 1821

Section 2. That existing sections 149.56, 317.08, 721.11, 1822
1501.01, 1504.02, 1506.01, 1506.02, 1506.06, 1506.08, 1506.10, 1823
1506.11, 1506.12, 1506.30, 1506.34, 1506.35, 1521.01, 1521.20, 1824
1521.21, 1521.22, 1521.23, 1521.24, 1521.25, 1521.26, 1521.27, 1825
1521.28, 1521.29, 1521.30, 1521.99, and 6121.04 and section 1826
1506.37 of the Revised Code are hereby repealed. 1827

Section 3. (A) As used in this section: 1828

(1) "Territory" has the same meaning as in section 1506.11 of 1829
the Revised Code, as amended by this act. 1830

(2) "Commercial" has the same meaning as in section 1506.01 1831
of the Revised Code, as amended by this act. 1832

(B) Section 1506.11 of the Revised Code, as amended by this 1833
act, requires a lease or a permit for the development or 1834
improvement of a part of the territory only for commercial use. 1835
Not later than sixty days after the effective date of this act, 1836
the Director of Natural Resources shall provide notice by 1837
certified mail of the right to make a request to terminate a lease 1838
to all persons who have entered into a lease with the state under 1839
section 1506.11 of the Revised Code, as it existed prior to its 1840
amendment by this act, if the development or improvement for which 1841
the lease was entered into was for other than commercial use. 1842
Beginning one hundred twenty days after receipt of the 1843
notification, a littoral owner may request the state to terminate 1844
any such lease. On the date of the termination request, the lease 1845

is terminated, and the lessee is released from all obligations 1846
under it. However, any permit that was issued in conjunction with 1847
the lease continues in effect. 1848

If a lease is terminated or expires, the littoral owner shall 1849
pay an administrative fee in an amount determined by the Director, 1850
provided that the fee shall not exceed two hundred dollars. The 1851
Director shall deposit the fee in the state treasury to the credit 1852
of the Lake Erie Submerged Lands Fund created in section 1506.11 1853
of the Revised Code, as amended by this act. 1854

On and after the effective date of this act, a littoral owner 1855
may request the state to amend a lease that was entered into with 1856
the state under section 1506.11 of the Revised Code, as it existed 1857
prior to its amendment by this act, and any associated fees to 1858
include only territory that was developed or improved for 1859
commercial use. 1860

Upon receipt of a request to terminate or amend a lease under 1861
this section, the state, acting through the Director, promptly 1862
shall comply with and take all steps that are necessary to 1863
implement the request in a timely manner. 1864

Section 4. On the effective date of this section, the Coastal 1865
Resources Advisory Council created in section 1506.12 of the 1866
Revised Code, as that section existed prior to its amendment by 1867
this act, is abolished, and all of its assets, liabilities, 1868
equipment, and records, irrespective of form or medium, are 1869
transferred to the Lake Erie Coastal Advisory Council that is 1870
created in section 1506.12 of the Revised Code as amended by this 1871
act. Former members of the Coastal Resources Advisory Council may 1872
be appointed to the Lake Erie Coastal Advisory Council if the 1873
Governor so chooses. 1874

Section 5. On the effective date of this section, the 1875

Submerged Lands Advisory Council created in former section 1506.37 1876
of the Revised Code is abolished, and all of its assets, 1877
liabilities, equipment, and records, irrespective of form or 1878
medium, are transferred to the Lake Erie Coastal Advisory Council 1879
that is created in section 1506.12 of the Revised Code, as amended 1880
by this act. Former members of the Submerged Lands Advisory 1881
Council who satisfy the appointment criteria established in 1882
section 1506.12 of the Revised Code as amended by this act for 1883
members of the Lake Erie Coastal Advisory Council may be appointed 1884
to the Lake Erie Coastal Advisory Council if the Governor so 1885
chooses. 1886

Section 6. Section 6121.04 of the Revised Code is presented 1887
in this act as a composite of the section as amended by both Sub. 1888
H.B. 601 and Am. Sub. H.B. 628 of the 123rd General Assembly. The 1889
General Assembly, applying the principle stated in division (B) of 1890
section 1.52 of the Revised Code that amendments are to be 1891
harmonized if reasonably capable of simultaneous operation, finds 1892
that the composite is the resulting version of the section in 1893
effect prior to the effective date of the section as presented in 1894
this act. 1895