

As Introduced

**127th General Assembly
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H. B. No. 47

Representative Gibbs

Cosponsors: Representatives Fessler, Combs, Collier

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A B I L L

To amend sections 6101.10, 6101.48, 6101.53, 6101.67, 1
and 6101.70 and to enact section 6101.101 of the 2
Revised Code to revise the membership of the board 3
of directors of a conservancy district that 4
includes all or parts of more than sixteen 5
counties, to require the board of directors of 6
such a district rather than the conservancy court 7
to perform certain functions under the Conservancy 8
Districts Law, to prohibit the levying of an 9
assessment by such a conservancy district on real 10
property that is not directly benefited from the 11
assessment, and to make other changes concerning 12
the levying of an assessment by such a conservancy 13
district. 14

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

Section 1. That sections 6101.10, 6101.48, 6101.53, 6101.67, 15
and 6101.70 be amended and section 6101.101 of the Revised Code be 16
enacted to read as follows: 17

Sec. 6101.10. (A) Except as provided in division (B) of this 18
section, within thirty days after entering the decree 19

incorporating a conservancy district, the court shall appoint 20
three persons, at least two of whom are residents of counties, all 21
or part of which are included within the territorial limits of the 22
district, as a board of directors of the conservancy district, one 23
for a term of three years, one for a term of five years, and one 24
for a term of seven years. At the expiration of their terms of 25
office, appointments shall be made for terms of five years. The 26
court shall fill any vacancy ~~which~~ that may occur on the board for 27
the unexpired term. 28

(B) Within thirty days after the entering of a decree under 29
section 6101.09 of the Revised Code incorporating a conservancy 30
district that includes all or parts of more than sixteen counties, 31
the ~~court~~ presidents of the boards of county commissioners of the 32
counties all or part of which are included within the territorial 33
limits of the district shall appoint ~~five~~ seven persons, each of 34
whom is a resident of a ~~different~~ county ~~and at least three of~~ 35
~~whom are residents of counties~~ all or part of which are is 36
included within the territorial limits of the district, as a 37
members of the board of directors of the conservancy district. A 38
majority vote of the presidents of the boards of county 39
commissioners is necessary for appointment of a member of the 40
board of directors of the conservancy district. Of the initial 41
appointments made to the board, one shall be for a term of two 42
years, two for a term of three years, ~~one~~ two for a term of four 43
years, one and two for a term of five years, ~~one for a term of six~~ 44
~~years, and one for a term of seven years.~~ At the expiration of 45
their terms of office, appointments shall be ~~made~~ for terms of 46
five years. The ~~court~~ presidents of the boards of county 47
commissioners of the counties all or part of which are included 48
within the territorial limits of the district shall fill any 49
vacancy ~~which~~ that may occur on the board for the unexpired term. 50
A member of the board of directors of the conservancy district may 51
be reappointed. 52

(C) Within thirty days after issuing an order under section 53
6101.30, 6101.70, or 6101.72 of the Revised Code annexing lands to 54
a district or uniting districts and resulting in a district that 55
includes all or parts of more than sixteen counties, ~~the court~~ 56
~~shall appoint to the a~~ board of directors ~~two additional members,~~ 57
~~each of whom is a resident of a different county and does not~~ 58
~~reside in the same county as any member of the existing board, for~~ 59
~~terms of not more than five years, provided that the terms of~~ 60
~~those two members shall not expire in the same year or in the year~~ 61
~~in which any existing member's term expires. At the expiration of~~ 62
~~their terms of office, appointments shall be made for terms of~~ 63
~~five years. In appointing the two additional members, the court~~ 64
~~shall ensure that at least three of the five members of the board~~ 65
~~are residents of counties all or part of which are included within~~ 66
~~the territorial limits of the district. The court shall fill any~~ 67
~~vacancy which may occur on the board for the unexpired term and,~~ 68
~~in filling vacancies or making subsequent appointments, shall~~ 69
~~ensure that all members of the board reside in different counties~~ 70
for the resulting conservancy district shall be appointed in 71
accordance with division (B) of this section. Upon the appointment 72
of the new board of directors, the prior board of directors of the 73
conservancy district shall terminate, and the new board of 74
directors shall govern and operate the conservancy district. 75

Sec. 6101.101. (A) On and after the effective date of this 76
section and notwithstanding any other section of the Revised Code 77
to the contrary, the board of directors of a conservancy district 78
that is composed of all or parts of more than sixteen counties 79
shall perform all of the functions of the conservancy court 80
established under this chapter for the district except the 81
functions of the court specified in sections 6101.05, 6101.06, 82
6101.061, 6101.07, 6101.08, 6101.09, 6101.10, 6101.11, 6101.181, 83
6101.26, 6101.35, 6101.36, 6101.37, 6101.38, 6101.54, 6101.59, 84

6101.60, 6101.66, 6101.68, 6101.69, 6101.70, 6101.71, 6101.72, 85
6101.73, 6101.74, 6101.76, 6101.77, 6101.78, and 6101.79 of the 86
Revised Code and the function of the court specified in division 87
(D) of sections 6101.48 and 6101.53 of the Revised Code. 88

(B) In performing the functions of the court pursuant to 89
division (A) of this section, the board shall resolve reasonably 90
any conflicts that may occur and shall avoid duplication of any 91
requirement. 92

(C) Notwithstanding any section of this chapter to the 93
contrary, a person or public corporation that is within the 94
territorial boundaries of a district that is composed of all or 95
parts of more than sixteen counties that considers itself injured 96
in any manner by any act performed by the board of directors as 97
required by division (A) of this section may file an action in the 98
court of common pleas of the county in which the person or public 99
corporation is located. 100

Sec. 6101.48. After (A) Except as otherwise provided in 101
division (B) of this section, after the conservancy appraisal 102
record as approved by the court, or that part of it from which no 103
appeal is pending, has been filed with the secretary of the 104
conservancy district as provided in section 6101.37 of the Revised 105
Code, from time to time, as the affairs of the district demand it, 106
the board of directors of the conservancy district shall levy on 107
all real property and on all public corporations, upon which 108
benefits have been appraised, an assessment of the portion of the 109
benefits that is found necessary by the board to pay the cost of 110
the execution of the official plan, including superintendence of 111
construction and administration, plus one-ninth of that total to 112
be added for contingencies, but not to exceed in the total of 113
principal the appraised benefits so adjudicated. 114

The assessment shall be apportioned to and levied on each tract of land or other property and each public corporation in the district in proportion to the benefits appraised, and not in excess of the benefits appraised. Interest at a rate not to exceed the rate provided in section 9.95 of the Revised Code, payable semiannually, shall be included in and added to the assessment, but the interest shall not be considered as a part of the cost in determining whether or not the expenses and costs of making the improvement are equal to or in excess of the benefits appraised.

After the assessment is levied, the board shall report it to the court for confirmation. Upon the entry of the order of the court confirming the assessment, the clerk of the court shall transmit a certified copy of the order to the governing or taxing body of each political subdivision assessed, and the governing or taxing body shall receive and file the order. Thereafter, the board may order the issuance of notes in an amount not exceeding ninety per cent of the assessment in anticipation of the collection of the assessment.

After the court has confirmed the assessment, the secretary of the conservancy district, at the expense of the district, shall prepare an assessment record named "Conservancy Assessment Record of District." It shall contain a notation of the items of property appraised and the public corporations to which benefits have been appraised, the total amount of benefits appraised against each item or public corporation, and the total assessment levied against each item or public corporation. If successive levies of assessment are made for the execution of the official plan and the acquisition or construction of improvements, the conservancy assessment record shall contain suitable notations to show the number of levies and the amount of each, to the end that the conservancy assessment record may disclose the aggregate of all such levies made up to that time.

Upon the completion of the conservancy assessment record, it shall be signed and certified by the president of the board and by the secretary of the conservancy district and placed on file and shall become a permanent record in the office of the district. After the expiration of the thirty-day period for the payment of assessments as provided by section 6101.49 of the Revised Code, a copy of that part of the conservancy assessment record affecting lands or public corporations in any county shall be filed with the county auditor of the county.

If it is found at any time that the total amount of assessments levied is insufficient to pay the cost of works set out in the official plan or of additional work done, the board may make an additional levy to provide funds to complete the work, provided the total of all levies of the assessment exclusive of interest does not exceed the total of benefits appraised.

(B)(1) On and after the effective date of this amendment, the board of directors of a conservancy district that is composed of all or parts of more than sixteen counties shall not levy an assessment on real property that does not or will not directly benefit from the improvement for which the assessment is to be levied.

(2) On and after the effective date of this amendment, the board of directors of a conservancy district that is composed of all or parts of more than sixteen counties shall not levy an assessment on real property that is exempt from taxation unless the owner of the property has specifically requested in writing that the assessment be imposed on the exempt real property. If a board of directors receives such a written request from the owner of real property that is exempt from taxation, the board shall levy and collect the assessment in accordance with the procedures and requirements established in this chapter.

(C) The owner of real property that is exempt from an

assessment levied under this section may submit a written request 179
to the board of directors of the conservancy district that the 180
assessment be imposed on the owner's real property. The procedures 181
established in division (B)(2) of this section apply to such a 182
request. 183

(D) A person may appeal an assessment levied by the board of 184
directors of a conservancy district that is appointed under 185
division (B) or (C) of section 6101.10 of the Revised Code to the 186
court of common pleas of the county in which the person owns real 187
property that is subject to the assessment. 188

Sec. 6101.53. ~~To~~ (A) Except as otherwise provided in division 189
(B) of this section, to maintain, operate, and preserve the 190
reservoirs, ditches, drains, dams, levies, canals, sewers, pumping 191
stations, treatment and disposal works, or other properties or 192
improvements acquired or made pursuant to this chapter, to 193
strengthen, repair, and restore the same, when needed, and to 194
defray the current expenses of the conservancy district, the board 195
of directors of the district may, upon the substantial completion 196
of the improvements and on or before the first day of September in 197
each year thereafter, levy an assessment upon each tract or parcel 198
of land and upon each public corporation within the district, 199
subject to assessments under this chapter, to be known as a 200
conservancy maintenance assessment. No assessment shall be made 201
with respect to works and improvements acquired or constructed for 202
the purpose of providing a water supply for domestic, industrial, 203
and public use within the district, when the water supply can be 204
metered or measured when furnished to persons or public 205
corporations. If the district, for the benefit of one or more 206
persons or political subdivisions, provides a water supply that 207
recharges underground aquifers and thereby replenishes wells or 208
provides a source of water for new wells, or increases the natural 209
low flow of a stream used for water supply, or creates an 210

impoundment, in such a way that the augmented use of water cannot 211
be metered or measured for individual or public consumption, the 212
board may make a maintenance assessment against benefited property 213
and public corporations in the same manner provided in this 214
section for maintenance of other properties or improvements. 215

The maintenance assessment shall be apportioned upon the 216
basis of the total appraisal of benefits accruing for original and 217
subsequent construction, shall not exceed one per cent of the 218
total appraisal of benefits in any one year unless the court by 219
its order authorizes an assessment of a larger percentage, shall 220
not be less than two dollars, and shall be certified to the county 221
auditor of each county in which lands of the district are located 222
in the conservancy assessment record, but in a separate column in 223
like manner and at the same time as the annual installment of the 224
assessment levied under section 6101.48 of the Revised Code is 225
certified, under the heading maintenance assessment. The auditor 226
shall certify the same to the county treasurer of the county at 227
the same time that the auditor certifies the annual installment of 228
the assessments levied under that section, and the sum of the 229
levies for any tract or public corporation may be certified as a 230
single item. The treasurer shall demand and collect the 231
maintenance assessment and make return of it, and shall be liable 232
for the same penalties for failure to do so as are provided for 233
the annual installment of the assessment levied under section 234
6101.48 of the Revised Code. 235

The amount of the maintenance assessment paid by any parcel 236
of land or public corporation shall not be credited against the 237
benefits assessed against the parcel of land or public 238
corporation, but the maintenance assessment shall be in addition 239
to any assessment that has been or can be levied under section 240
6101.48 of the Revised Code. 241

To maintain, operate, and preserve the works and improvements 242

of the district acquired or constructed for the purpose of 243
providing a water supply, to strengthen, repair, and restore the 244
same, and to defray the current expenses of the district for this 245
purpose, the board may impose rates for the sale of water to 246
public corporations and persons within the district. The rates to 247
be charged for the water shall be fixed and adjusted by the board 248
at intervals of not less than one year, so that the income thus 249
produced will be adequate to provide a maintenance fund for the 250
purpose of water supply. Contracts for supplying water to public 251
corporations and persons shall be entered into before the service 252
is rendered by the district. Contracts shall specify the maximum 253
quantity of water to be furnished to the public corporation or 254
person, and the quantity shall be fixed so as equitably to 255
distribute the supply. Preference shall be given to water supply 256
furnished to public corporations for domestic and public uses. 257
Bills for water supplied to public corporations shall be rendered 258
at regular intervals and shall be payable from the waterworks fund 259
of the public corporation or, if it is not sufficient, from the 260
general fund. 261

(B)(1) On and after the effective date of this amendment, the 262
board of directors of a conservancy district that is composed of 263
all or parts of more than sixteen counties shall not levy a 264
maintenance assessment on real property that does not or will not 265
directly benefit from the property or improvement for which the 266
maintenance assessment is to be levied. 267

(2) On and after the effective date of this amendment, the 268
board of directors of a conservancy district that is composed of 269
all or parts of more than sixteen counties shall not levy a 270
maintenance assessment on real property that is exempt from 271
taxation unless the owner of the property has specifically 272
requested in writing that the maintenance assessment be imposed on 273
the exempt real property. If a board of directors receives such a 274

written request from the owner of real property that is exempt 275
from taxation, the board shall levy and collect the maintenance 276
assessment in accordance with the procedures and requirements 277
established in this chapter. 278

(C) The owner of real property that is exempt from a 279
maintenance assessment levied under this section may submit a 280
written request to the board of directors of the conservancy 281
district that the maintenance assessment be imposed on the owner's 282
real property. The procedures established in division (B)(2) of 283
this section apply to such a request. 284

(D) A person may appeal a maintenance assessment levied by 285
the board of directors of a conservancy district that is appointed 286
under division (B) or (C) of section 6101.10 of the Revised Code 287
to the court of common pleas of the county in which the person 288
owns real property that is subject to the maintenance assessment. 289

Sec. 6101.67. Each member of the board of directors of a 290
conservancy district and each member of the board of appraisers of 291
a conservancy district shall receive a sum established by the 292
court or by the board of directors of a conservancy district 293
composed of all or parts of more than sixteen counties, as 294
applicable, and necessary expenses for the time actually employed 295
in performing official duties. The compensation and expenses shall 296
be paid only upon itemized statements submitted and certified to 297
by the individual member. 298

Sec. 6101.70. (A) If two or more conservancy districts have 299
been organized in a territory ~~which~~ that, in the opinion of the 300
board of directors of the conservancy district of any one of the 301
districts, should constitute only one district, the board of any 302
one of the districts may petition the court for an order uniting 303
those districts into a single district. The petition shall be 304

filed in the office of the clerk of the court of common pleas of 305
that county that has the greatest valuation of real property 306
within the districts sought to be included, as shown by the tax 307
duplicates of the respective counties. The petition shall set 308
forth the necessity for the union of the two or more districts and 309
that the union of the districts would be conducive to the public 310
health, convenience, safety, or welfare and to the economical 311
execution of the purposes for which the districts were organized. 312
Upon receipt of the petition, the clerk shall give notice by 313
publication or by personal service to the boards of the districts 314
that it is desired to unite with the district of the petitioners. 315
The notice shall contain the time and place where the hearing on 316
the petition will be had and the purpose of the hearing. The 317
hearing shall be had in accordance with this chapter as for an 318
original hearing. If, after the hearing, the court finds that the 319
averments of the petition are true and that the districts, or any 320
of them, should be united, it shall so order, and thereafter those 321
districts shall be united into one and proceed as one. The court 322
shall designate the corporate name of the united district, and 323
further proceedings shall be taken as provided for in this 324
chapter. ~~In accordance with division (A) or (B) of section 6101.10~~ 325
~~of the Revised Code, as applicable~~ 326

If the united district comprises all or parts of sixteen 327
counties or less, the court shall direct in the order in 328
accordance with division (A) of section 6101.10 of the Revised 329
Code who shall be the members of the board of the united district, 330
who shall thereafter have the powers and be subject to the 331
regulations as are provided for the board in districts created in 332
the first instance. However, if the united district comprises all 333
or parts of more than sixteen counties, the presidents of the 334
boards of county commissioners of the counties all or part of 335
which are included within the territorial limits of the united 336
district shall appoint the members of the board of the united 337

district in accordance with divisions (B) and (C) of section 338
6101.10 of the Revised Code, who shall thereafter have the powers 339
and be subject to the regulations as are provided for the board in 340
districts created in the first instance. 341

(B) All legal proceedings already instituted by or against 342
any of the constituent districts united into a single district 343
under division (A) of this section may be revived and continued 344
against the united district by an order of court substituting the 345
name of the united district for the constituent district, and 346
those proceedings shall then proceed as provided in this chapter. 347

(C) Instead of organizing a new district from the constituent 348
districts, the court may do one of the following: 349

(1) Direct that one or more of the districts described in the 350
petition be included into another of the districts, which other 351
district shall continue under its original corporate name and 352
organization, unless the resulting district includes all or parts 353
of more than sixteen counties, in which case ~~the court shall~~ 354
~~appoint two additional members whose appointments and terms of~~ 355
~~office shall comply with the requirements established in division~~ 356
a new board of directors shall be appointed in accordance with 357
divisions (B) and (C) of section 6101.10 of the Revised Code; 358

(2) Direct that the districts absorbed as described in 359
division (C)(1) of this section shall be represented on the board 360
of the original district, designating what members of the board of 361
the original district shall be retired from the new board and what 362
members representing the included districts shall take their 363
places, except that, if the resulting district includes all or 364
parts of more than sixteen counties, ~~the court also shall appoint~~ 365
~~two additional members whose appointments and terms of office~~ 366
~~shall comply with the requirements established in division~~ a new 367
board of directors shall be appointed in accordance with divisions 368
(B) and (C) of section 6101.10 of the Revised Code; 369

(3) Direct that the included districts shall become 370
subdistricts of the main district. 371

(D) If the districts sought to be united were organized in 372
different counties, the court to determine the question involved 373
shall consist of one judge from each of the counties in the court 374
of which one of the districts was organized, and a majority shall 375
be necessary to render a decision. From the decision or from a 376
failure to decide, any interested property owner may appeal. No 377
action under this section shall interrupt or delay any proceeding 378
under this chapter, until the questions involved are finally 379
determined. 380

Section 2. That existing sections 6101.10, 6101.48, 6101.53, 381
6101.67, and 6101.70 of the Revised Code are hereby repealed. 382

Section 3. Not later than thirty days after the effective 383
date of this section, the presidents of the boards of county 384
commissioners of the counties all or part of which are included 385
within the territorial limits of an existing conservancy district 386
that includes all or parts of more than sixteen counties shall 387
appoint two additional persons as members of the existing board of 388
directors of the conservancy district. The terms of office of the 389
resulting seven-member board shall be as follows: two years for 390
one of the new additional persons, three years for one of the new 391
additional persons and one existing member, four years for two 392
existing members, and five years for two existing members. Each 393
member of the board shall be a resident of a county all or part of 394
which is included within the territorial limits of the district. 395
The procedures and requirements established in division (B) of 396
section 6101.10 of the Revised Code, as amended by this act, shall 397
govern the filling of vacancies, terms of office of future 398
appointments, reappointments, and other appointment matters. 399

Upon the appointment of the two additional members to the 400

existing board of directors of an existing conservancy district 401
under this section, the board of directors of the conservancy 402
district that was appointed prior to the effective date of this 403
section shall terminate, and the new board of directors shall 404
govern and operate the conservancy district. 405