

As Introduced

**127th General Assembly
Regular Session
2007-2008**

S. B. No. 170

Senator Amstutz

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A BILL

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 under 10
specified circumstances, and to make other changes 11
concerning the levying of an assessment by such a 12
conservancy district. 13

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

Section 1. That sections 6101.10, 6101.48, 6101.53, 6101.67, 14
and 6101.70 be amended and section 6101.101 of the Revised Code be 15
enacted to read as follows: 16

Sec. 6101.10. (A) Except as provided in division (B) of this 17
section, within thirty days after entering the decree 18
incorporating a conservancy district, the court shall appoint 19
three persons, at least two of whom are residents of counties, all 20
or part of which are included within the territorial limits of the 21

district, as a board of directors of the conservancy district, one 22
for a term of three years, one for a term of five years, and one 23
for a term of seven years. At the expiration of their terms of 24
office, appointments shall be made for terms of five years. The 25
court shall fill any vacancy ~~which~~ that may occur on the board for 26
the unexpired term. 27

(B) Within thirty days after the entering of a decree under 28
section 6101.09 of the Revised Code incorporating a conservancy 29
district that includes all or parts of more than sixteen counties, 30
the ~~court~~ presidents of the boards of county commissioners of the 31
counties all or part of which are included within the territorial 32
limits of the district shall appoint ~~five~~ seven persons, each of 33
whom is a resident of a ~~different~~ county ~~and at least three of~~ 34
~~whom are residents of counties~~ all or part of which ~~are~~ is 35
included within the territorial limits of the district, as a 36
members of the board of directors of the conservancy district. A 37
majority vote of the presidents of the boards of county 38
commissioners is necessary for appointment of a member of the 39
board of directors of the conservancy district. Of the initial 40
appointments made to the board, one shall be for a term of two 41
years, two for a term of three years, ~~one~~ two for a term of four 42
years, ~~one~~ and two for a term of five years, ~~one for a term of six~~ 43
~~years, and one for a term of seven years.~~ At the expiration of 44
their terms of office, appointments shall be ~~made~~ for terms of 45
five years. The ~~court~~ presidents of the boards of county 46
commissioners of the counties all or part of which are included 47
within the territorial limits of the district shall fill any 48
vacancy ~~which~~ that may occur on the board for the unexpired term. 49
A member of the board of directors of the conservancy district may 50
be reappointed. 51

(C) Within thirty days after issuing an order under section 52
6101.30, 6101.70, or 6101.72 of the Revised Code annexing lands to 53

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

Sec. 6101.101. (A) On and after the effective date of this 75
section and notwithstanding any other section of the Revised Code 76
to the contrary, the board of directors of a conservancy district 77
that is composed of all or parts of more than sixteen counties 78
shall perform all of the functions of the conservancy court 79
established under this chapter for the district except the 80
functions of the court specified in sections 6101.05, 6101.06, 81
6101.061, 6101.07, 6101.08, 6101.09, 6101.10, 6101.11, 6101.181, 82
6101.26, 6101.35, 6101.36, 6101.37, 6101.38, 6101.54, 6101.59, 83
6101.60, 6101.66, 6101.68, 6101.69, 6101.70, 6101.71, 6101.72, 84
6101.73, 6101.74, 6101.76, 6101.77, 6101.78, and 6101.79 of the 85

Revised Code and the function of the court specified in division (D) of sections 6101.48 and 6101.53 of the Revised Code. 86
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(B) In performing the functions of the court pursuant to division (A) of this section, the board shall resolve reasonably any conflicts that may occur and shall avoid duplication of any requirement. 88
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(C) Notwithstanding any section of this chapter to the contrary, a person or public corporation that is within the territorial boundaries of a district that is composed of all or parts of more than sixteen counties that considers itself injured in any manner by any act performed by the board of directors as required by division (A) of this section may file an action in the court of common pleas of the county in which the person or public corporation is located. 92
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Sec. 6101.48. After (A) Except as otherwise provided in division (B) of this section, after the conservancy appraisal record as approved by the court, or that part of it from which no appeal is pending, has been filed with the secretary of the conservancy district as provided in section 6101.37 of the Revised Code, from time to time, as the affairs of the district demand it, the board of directors of the conservancy district shall levy on all real property and on all public corporations, upon which benefits have been appraised, an assessment of the portion of the benefits that is found necessary by the board to pay the cost of the execution of the official plan, including superintendence of construction and administration, plus one-ninth of that total to be added for contingencies, but not to exceed in the total of principal the appraised benefits so adjudicated. 100
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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 114
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excess of the benefits appraised. Interest at a rate not to exceed 117
the rate provided in section 9.95 of the Revised Code, payable 118
semiannually, shall be included in and added to the assessment, 119
but the interest shall not be considered as a part of the cost in 120
determining whether or not the expenses and costs of making the 121
improvement are equal to or in excess of the benefits appraised. 122

After the assessment is levied, the board shall report it to 123
the court for confirmation. Upon the entry of the order of the 124
court confirming the assessment, the clerk of the court shall 125
transmit a certified copy of the order to the governing or taxing 126
body of each political subdivision assessed, and the governing or 127
taxing body shall receive and file the order. Thereafter, the 128
board may order the issuance of notes in an amount not exceeding 129
ninety per cent of the assessment in anticipation of the 130
collection of the assessment. 131

After the court has confirmed the assessment, the secretary 132
of the conservancy district, at the expense of the district, shall 133
prepare an assessment record named "Conservancy Assessment Record 134
of District." It shall contain a notation of the items of 135
property appraised and the public corporations to which benefits 136
have been appraised, the total amount of benefits appraised 137
against each item or public corporation, and the total assessment 138
levied against each item or public corporation. If successive 139
levies of assessment are made for the execution of the official 140
plan and the acquisition or construction of improvements, the 141
conservancy assessment record shall contain suitable notations to 142
show the number of levies and the amount of each, to the end that 143
the conservancy assessment record may disclose the aggregate of 144
all such levies made up to that time. 145

Upon the completion of the conservancy assessment record, it 146
shall be signed and certified by the president of the board and by 147
the secretary of the conservancy district and placed on file and 148

shall become a permanent record in the office of the district. 149
After the expiration of the thirty-day period for the payment of 150
assessments as provided by section 6101.49 of the Revised Code, a 151
copy of that part of the conservancy assessment record affecting 152
lands or public corporations in any county shall be filed with the 153
county auditor of the county. 154

If it is found at any time that the total amount of 155
assessments levied is insufficient to pay the cost of works set 156
out in the official plan or of additional work done, the board may 157
make an additional levy to provide funds to complete the work, 158
provided the total of all levies of the assessment exclusive of 159
interest does not exceed the total of benefits appraised. 160

(B)(1) On and after the effective date of this amendment, the 161
board of directors of a conservancy district that is composed of 162
all or parts of more than sixteen counties shall not levy an 163
assessment under this section for any new work or improvement that 164
is not in the current version of the district's official plan 165
until the board has done both of the following: 166

(a) Amended, in a sufficiently detailed manner, the 167
district's official plan in accordance with section 6101.39 of the 168
Revised Code to provide for the new work or improvement; 169

(b) Completed an appraisal of benefits of and damages from 170
the new work or improvement in accordance with section 6101.28 of 171
the Revised Code and filed the conservancy appraisal record in 172
accordance with section 6101.31 of the Revised Code. 173

(2) On and after the effective date of this amendment, the 174
board of directors of a conservancy district that is composed of 175
all or parts of more than sixteen counties shall not levy an 176
assessment on real property that is exempt from taxation unless 177
the owner of the property has specifically requested in writing 178
that the assessment be imposed on the exempt real property. If a 179

board of directors receives such a written request from the owner 180
of real property that is exempt from taxation, the board shall 181
levy and collect the assessment in accordance with the procedures 182
and requirements established in this chapter. 183

(C) 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 under this section until after the works or 265
improvements are substantially completed as required in division 266
(A) of this section. In addition, the board shall not levy a 267
maintenance assessment under this section for the maintenance of 268
or improvements to projects that were not previously constructed 269
under the district's official plan. 270

(2) On and after the effective date of this amendment, the 271
board of directors of a conservancy district that is composed of 272
all or parts of more than sixteen counties shall not levy a 273
maintenance assessment on real property that is exempt from 274
taxation unless the owner of the property has specifically 275

requested in writing that the maintenance assessment be imposed on 276
the exempt real property. If a board of directors receives such a 277
written request from the owner of real property that is exempt 278
from taxation, the board shall levy and collect the maintenance 279
assessment in accordance with the procedures and requirements 280
established in this chapter. 281

(C) A person may appeal a maintenance assessment levied by 282
the board of directors of a conservancy district that is appointed 283
under division (B) or (C) of section 6101.10 of the Revised Code 284
to the court of common pleas of the county in which the person 285
owns real property that is subject to the maintenance assessment. 286

Sec. 6101.67. Each member of the board of directors of a 287
conservancy district and each member of the board of appraisers of 288
a conservancy district shall receive a sum established by the 289
court or by the board of directors of a conservancy district 290
composed of all or parts of more than sixteen counties, as 291
applicable, and necessary expenses for the time actually employed 292
in performing official duties. The compensation and expenses shall 293
be paid only upon itemized statements submitted and certified to 294
by the individual member. 295

Sec. 6101.70. (A) If two or more conservancy districts have 296
been organized in a territory ~~which~~ that, in the opinion of the 297
board of directors of the conservancy district of any one of the 298
districts, should constitute only one district, the board of any 299
one of the districts may petition the court for an order uniting 300
those districts into a single district. The petition shall be 301
filed in the office of the clerk of the court of common pleas of 302
that county that has the greatest valuation of real property 303
within the districts sought to be included, as shown by the tax 304
duplicates of the respective counties. The petition shall set 305
forth the necessity for the union of the two or more districts and 306

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

If the united district comprises all or parts of sixteen 324
counties or less, the court shall direct in the order in 325
accordance with division (A) of section 6101.10 of the Revised 326
Code who shall be the members of the board of the united district, 327
who shall thereafter have the powers and be subject to the 328
regulations as are provided for the board in districts created in 329
the first instance. However, if the united district comprises all 330
or parts of more than sixteen counties, the presidents of the 331
boards of county commissioners of the counties all or part of 332
which are included within the territorial limits of the united 333
district shall appoint the members of the board of the united 334
district in accordance with divisions (B) and (C) of section 335
6101.10 of the Revised Code, who shall thereafter have the powers 336
and be subject to the regulations as are provided for the board in 337
districts created in the first instance. 338

(B) All legal proceedings already instituted by or against 339
any of the constituent districts united into a single district 340
under division (A) of this section may be revived and continued 341
against the united district by an order of court substituting the 342
name of the united district for the constituent district, and 343
those proceedings shall then proceed as provided in this chapter. 344

(C) Instead of organizing a new district from the constituent 345
districts, the court may do one of the following: 346

(1) Direct that one or more of the districts described in the 347
petition be included into another of the districts, which other 348
district shall continue under its original corporate name and 349
organization, unless the resulting district includes all or parts 350
of more than sixteen counties, in which case ~~the court shall~~ 351
~~appoint two additional members whose appointments and terms of~~ 352
~~office shall comply with the requirements established in division~~ 353
a new board of directors shall be appointed in accordance with 354
divisions (B) and (C) of section 6101.10 of the Revised Code; 355

(2) Direct that the districts absorbed as described in 356
division (C)(1) of this section shall be represented on the board 357
of the original district, designating what members of the board of 358
the original district shall be retired from the new board and what 359
members representing the included districts shall take their 360
places, except that, if the resulting district includes all or 361
parts of more than sixteen counties, ~~the court also shall appoint~~ 362
~~two additional members whose appointments and terms of office~~ 363
~~shall comply with the requirements established in division~~ a new 364
board of directors shall be appointed in accordance with divisions 365
(B) and (C) of section 6101.10 of the Revised Code; 366

(3) Direct that the included districts shall become 367
subdistricts of the main district. 368

(D) If the districts sought to be united were organized in 369

different counties, the court to determine the question involved 370
shall consist of one judge from each of the counties in the court 371
of which one of the districts was organized, and a majority shall 372
be necessary to render a decision. From the decision or from a 373
failure to decide, any interested property owner may appeal. No 374
action under this section shall interrupt or delay any proceeding 375
under this chapter, until the questions involved are finally 376
determined. 377

Section 2. That existing sections 6101.10, 6101.48, 6101.53, 378
6101.67, and 6101.70 of the Revised Code are hereby repealed. 379

Section 3. Not later than thirty days after the effective 380
date of this section, the presidents of the boards of county 381
commissioners of the counties all or part of which are included 382
within the territorial limits of an existing conservancy district 383
that includes all or parts of more than sixteen counties shall 384
appoint two additional persons as members of the existing board of 385
directors of the conservancy district. The terms of office of the 386
resulting seven-member board shall be as follows: two years for 387
one of the new additional persons, three years for one of the new 388
additional persons and one existing member, four years for two 389
existing members, and five years for two existing members. Each 390
member of the board shall be a resident of a county all or part of 391
which is included within the territorial limits of the district. 392
The procedures and requirements established in division (B) of 393
section 6101.10 of the Revised Code, as amended by this act, shall 394
govern the filling of vacancies, terms of office of future 395
appointments, reappointments, and other appointment matters. 396

Upon the appointment of the two additional members to the 397
existing board of directors of an existing conservancy district 398
under this section, the board of directors of the conservancy 399
district that was appointed prior to the effective date of this 400

section shall terminate, and the new board of directors shall
govern and operate the conservancy district.

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