

**As Introduced**

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

**S. B. No. 189**

**Senator Grendell**

**Cosponsors: Senators Spada, Gardner, Mumper, Cates, Schaffer**

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**A B I L L**

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

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

**Section 1.** That sections 317.08, 1501.01, 1504.02, 1506.01, 16  
1506.02, 1506.06, 1506.08, 1506.10, 1506.11, 1506.12, 1521.01, 17  
1521.20, 1521.21, 1521.22, 1521.23, 1521.24, 1521.25, 1521.26, 18  
1521.27, 1521.28, 1521.29, 1521.99, and 6121.04 be amended, 19  
sections 1521.20 (1506.38), 1521.21 (1506.39), 1521.22 (1506.40), 20

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

**Sec. 317.08.** (A) Except as provided in divisions (C) and (D) 26  
of this section, the county recorder shall keep six separate sets 27  
of records as follows: 28

(1) A record of deeds, in which shall be recorded all deeds 29  
and other instruments of writing for the absolute and 30  
unconditional sale or conveyance of lands, tenements, and 31  
hereditaments; all notices as provided in sections 5301.47 to 32  
5301.56 of the Revised Code; all judgments or decrees in actions 33  
brought under section 5303.01 of the Revised Code; all 34  
declarations and bylaws, and all amendments to declarations and 35  
bylaws, as provided in Chapter 5311. of the Revised Code; 36  
affidavits as provided in sections 5301.252 and 5301.56 of the 37  
Revised Code; all certificates as provided in section 5311.17 of 38  
the Revised Code; all articles dedicating archaeological preserves 39  
accepted by the director of the Ohio historical society under 40  
section 149.52 of the Revised Code; all articles dedicating nature 41  
preserves accepted by the director of natural resources under 42  
section 1517.05 of the Revised Code; all agreements for the 43  
registration of lands as archaeological or historic landmarks 44  
under section 149.51 or 149.55 of the Revised Code; all 45  
conveyances of conservation easements and agricultural easements 46  
under section 5301.68 of the Revised Code; all instruments 47  
extinguishing agricultural easements under section 901.21 or 48  
5301.691 of the Revised Code or pursuant to terms of such an 49  
easement granted to a charitable organization under section 50  
5301.68 of the Revised Code; all instruments or orders described 51

in division (B)(2)(b) of section 5301.56 of the Revised Code; all 52  
no further action letters issued under section 122.654 or 3746.11 53  
of the Revised Code; all covenants not to sue issued under section 54  
3746.12 of the Revised Code, including all covenants not to sue 55  
issued pursuant to section 122.654 of the Revised Code; any 56  
restrictions on the use of property contained in a no further 57  
action letter issued under section 122.654 of the Revised Code, 58  
any restrictions on the use of property identified pursuant to 59  
division (C)(3)(a) of section 3746.10 of the Revised Code, and any 60  
restrictions on the use of property contained in a deed or other 61  
instrument as provided in division (E) or (F) of section 3737.882 62  
of the Revised Code; any easement executed or granted under 63  
section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code; 64  
any environmental covenant entered into in accordance with 65  
sections 5301.80 to 5301.92 of the Revised Code; all memoranda of 66  
trust, as described in division (A) of section 5301.255 of the 67  
Revised Code, that describe specific real property; and all 68  
agreements entered into under division (A) of section ~~1521.26~~ 69  
1506.44 of the Revised Code; 70

(2) A record of mortgages, in which shall be recorded all of 71  
the following: 72

(a) All mortgages, including amendments, supplements, 73  
modifications, and extensions of mortgages, or other instruments 74  
of writing by which lands, tenements, or hereditaments are or may 75  
be mortgaged or otherwise conditionally sold, conveyed, affected, 76  
or encumbered; 77

(b) All executory installment contracts for the sale of land 78  
executed after September 29, 1961, that by their terms are not 79  
required to be fully performed by one or more of the parties to 80  
them within one year of the date of the contracts; 81

(c) All options to purchase real estate, including 82  
supplements, modifications, and amendments of the options, but no 83

option of that nature shall be recorded if it does not state a	84
specific day and year of expiration of its validity;	85
(d) Any tax certificate sold under section 5721.33 of the	86
Revised Code, or memorandum of it, that is presented for filing of	87
record.	88
(3) A record of powers of attorney, including all memoranda	89
of trust, as described in division (A) of section 5301.255 of the	90
Revised Code, that do not describe specific real property;	91
(4) A record of plats, in which shall be recorded all plats	92
and maps of town lots, of the subdivision of town lots, and of	93
other divisions or surveys of lands, any center line survey of a	94
highway located within the county, the plat of which shall be	95
furnished by the director of transportation or county engineer,	96
and all drawings and amendments to drawings, as provided in	97
Chapter 5311. of the Revised Code;	98
(5) A record of leases, in which shall be recorded all	99
leases, memoranda of leases, and supplements, modifications, and	100
amendments of leases and memoranda of leases;	101
(6) A record of declarations executed pursuant to section	102
2133.02 of the Revised Code and durable powers of attorney for	103
health care executed pursuant to section 1337.12 of the Revised	104
Code.	105
(B) All instruments or memoranda of instruments entitled to	106
record shall be recorded in the proper record in the order in	107
which they are presented for record. The recorder may index, keep,	108
and record in one volume unemployment compensation liens, internal	109
revenue tax liens and other liens in favor of the United States as	110
described in division (A) of section 317.09 of the Revised Code,	111
personal tax liens, mechanic's liens, agricultural product liens,	112
notices of liens, certificates of satisfaction or partial release	113
of estate tax liens, discharges of recognizances, excise and	114

franchise tax liens on corporations, broker's liens, and liens 115  
provided for in sections 1513.33, 1513.37, 3752.13, 5111.022, and 116  
5311.18 of the Revised Code. 117

The recording of an option to purchase real estate, including 118  
any supplement, modification, and amendment of the option, under 119  
this section shall serve as notice to any purchaser of an interest 120  
in the real estate covered by the option only during the period of 121  
the validity of the option as stated in the option. 122

(C) In lieu of keeping the six separate sets of records 123  
required in divisions (A)(1) to (6) of this section and the 124  
records required in division (D) of this section, a county 125  
recorder may record all the instruments required to be recorded by 126  
this section in two separate sets of record books. One set shall 127  
be called the "official records" and shall contain the instruments 128  
listed in divisions (A)(1), (2), (3), (5), and (6) and (D) of this 129  
section. The second set of records shall contain the instruments 130  
listed in division (A)(4) of this section. 131

(D) Except as provided in division (C) of this section, the 132  
county recorder shall keep a separate set of records containing 133  
all corrupt activity lien notices filed with the recorder pursuant 134  
to section 2923.36 of the Revised Code and a separate set of 135  
records containing all medicaid fraud lien notices filed with the 136  
recorder pursuant to section 2933.75 of the Revised Code. 137

**Sec. 1501.01.** Except where otherwise expressly provided, the 138  
director of natural resources shall formulate and institute all 139  
the policies and programs of the department of natural resources. 140  
The chief of any division of the department shall not enter into 141  
any contract, agreement, or understanding unless it is approved by 142  
the director. No appointee or employee of the director, other than 143  
the assistant director, may bind the director in a contract except 144  
when given general or special authority to do so by the director. 145

The director shall correlate and coordinate the work and 146  
activities of the divisions in the department to eliminate 147  
unnecessary duplications of effort and overlapping of functions. 148  
The chiefs of the various divisions of the department shall meet 149  
with the director at least once each month at a time and place 150  
designated by the director. 151

The director may create advisory boards to any of those 152  
divisions in conformity with section 121.13 of the Revised Code. 153

The director may accept and expend gifts, devises, and 154  
bequests of money, lands, and other properties on behalf of the 155  
department or any division thereof under the terms set forth in 156  
section 9.20 of the Revised Code. Any political subdivision of 157  
this state may make contributions to the department for the use of 158  
the department or any division therein according to the terms of 159  
the contribution. 160

In administering the coastal management program, the director 161  
shall consult with and provide coordination among state agencies, 162  
political subdivisions, the United States and its agencies, and 163  
interstate, regional, and areawide agencies. Such coordination may 164  
include the development of consolidated permit processes regarding 165  
applicable permits with state agencies, political subdivisions, 166  
and the United States and its agencies. 167

The director may publish and sell or otherwise distribute 168  
data, reports, and information. 169

The director shall adopt rules in accordance with Chapter 170  
119. of the Revised Code to permit the department to accept by 171  
means of a credit card the payment of fees, charges, and rentals 172  
at those facilities described in section 1501.07 of the Revised 173  
Code that are operated by the department, for any data, reports, 174  
or information sold by the department, and for any other goods or 175  
services provided by the department. 176

Whenever authorized by the governor to do so, the director 177  
may appropriate property for the uses and purposes authorized to 178  
be performed by the department and on behalf of any division 179  
within the department. This authority shall be exercised in the 180  
manner provided in sections 163.01 to 163.22 of the Revised Code 181  
for the appropriation of property by the director of 182  
administrative services. This authority to appropriate property is 183  
in addition to the authority provided by law for the appropriation 184  
of property by divisions of the department. The director of 185  
natural resources also may acquire by purchase, lease, or 186  
otherwise such real and personal property rights or privileges in 187  
the name of the state as are necessary for the purposes of the 188  
department or any division therein. The director, with the 189  
approval of the governor and the attorney general, may sell, 190  
lease, or exchange portions of lands or property, real or 191  
personal, of any division of the department or grant easements or 192  
licenses for the use thereof, or enter into agreements for the 193  
sale of water from lands and waters under the administration or 194  
care of the department or any of its divisions, when the sale, 195  
lease, exchange, easement, agreement, or license for use is 196  
advantageous to the state, provided that such approval is not 197  
required for leases and contracts made under section 1501.07, 198  
1501.09, or 1520.03 or Chapter 1523. of the Revised Code. Water 199  
may be sold from a reservoir only to the extent that the reservoir 200  
was designed to yield a supply of water for a purpose other than 201  
recreation or wildlife, and the water sold is in excess of that 202  
needed to maintain the reservoir for purposes of recreation or 203  
wildlife. 204

Money received from such sales, leases, easements, exchanges, 205  
agreements, or licenses for use, except revenues required to be 206  
set aside or paid into depositories or trust funds for the payment 207  
of bonds issued under sections 1501.12 to 1501.15 of the Revised 208  
Code, and to maintain the required reserves therefor as provided 209

in the orders authorizing the issuance of such bonds or the trust 210  
agreements securing such bonds, revenues required to be paid and 211  
credited pursuant to the bond proceeding applicable to obligations 212  
issued pursuant to section 154.22, and revenues generated under 213  
section 1520.05 of the Revised Code, shall be deposited in the 214  
state treasury to the credit of the fund of the division of the 215  
department having prior jurisdiction over the lands or property. 216  
If no such fund exists, the money shall be credited to the general 217  
revenue fund. All such money received from lands or properties 218  
administered by the division of wildlife shall be credited to the 219  
wildlife fund. 220

The director shall provide for the custody, safekeeping, and 221  
deposit of all moneys, checks, and drafts received by the 222  
department or its employees prior to paying them to the treasurer 223  
of state under section 113.08 of the Revised Code. 224

The director shall cooperate with the nature conservancy, 225  
other nonprofit organizations, and the United States fish and 226  
wildlife service in order to secure protection of islands in the 227  
Ohio river and the wildlife and wildlife habitat of those islands. 228

Any instrument by which real property is acquired pursuant to 229  
this section shall identify the agency of the state that has the 230  
use and benefit of the real property as specified in section 231  
5301.012 of the Revised Code. 232

**Sec. 1504.02.** (A) The division of real estate and land 233  
management shall do all of the following: 234

(1) Except as otherwise provided in the Revised Code, 235  
coordinate and conduct all real estate functions for the 236  
department of natural resources, including at least acquisitions 237  
by purchase, lease, gift, devise, bequest, appropriation, or 238  
otherwise; grants through sales, leases, exchanges, easements, and 239  
licenses; inventories of land; and other related general 240



management duties;	241
(2) Assist the department and its divisions by providing	242
department-wide planning, including at least master planning,	243
comprehensive planning, capital improvements planning, and special	244
purpose planning such as trails coordination and planning under	245
section 1519.03 of the Revised Code;	246
<del>(3) On behalf of the director of natural resources,</del>	247
<del>administer the coastal management program established under</del>	248
<del>sections 1506.01 to 1506.03 and 1506.05 to 1506.09 of the Revised</del>	249
<del>Code and consult with and provide coordination among state</del>	250
<del>agencies, political subdivisions, the United States and agencies</del>	251
<del>of it, and interstate, regional, and areawide agencies to assist</del>	252
<del>the director in executing the director's duties and</del>	253
<del>responsibilities under that program and to assist the department</del>	254
<del>as the lead agency for the development and implementation of the</del>	255
<del>program;</del>	256
<del>(4) On behalf of the director, administer sections 1506.10</del>	257
<del>and 1506.11 and sections 1506.31 to 1506.36 of the Revised Code;</del>	258
<del>(5) Cooperate with the United States and agencies of it and</del>	259
<del>with political subdivisions in administering federal recreation</del>	260
<del>moneys under the "Land and Water Conservation Fund Act of 1965,"</del>	261
<del>78 Stat. 897, 16 U.S.C.A. 4601-8, as amended; prepare and</del>	262
<del>distribute the statewide comprehensive outdoor recreation plan;</del>	263
<del>and administer the state recreational vehicle fund created in</del>	264
<del>section 4519.11 of the Revised Code;</del>	265
<del>(6)</del> (4)(a) Support the geographic information system needs for	266
the department as requested by the director, which shall include,	267
but not be limited to, all of the following:	268
(i) Assisting in the training and education of department	269
resource managers, administrators, and other staff in the	270
application and use of geographic information system technology;	271

(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;	272 273 274 275 276
(iii) Creating, maintaining, and documenting spatial digital data bases for the division and for other divisions as assigned by the director.	277 278 279
(b) Provide information to and otherwise assist government officials, planners, and resource managers in understanding land use planning and resource management;	280 281 282
(c) Provide continuing assistance to local government officials and others in natural resource digital data base development and in applying and utilizing the geographic information system for land use planning, current agricultural use value assessment, development reviews, coastal management, and other resource management activities;	283 284 285 286 287 288
(d) Coordinate and administer the remote sensing needs of the department, including the collection and analysis of aerial photography, satellite data, and other data pertaining to land, water, and other resources of the state;	289 290 291 292
(e) Prepare and publish maps and digital data relating to the state's land use and land cover over time on a local, regional, and statewide basis;	293 294 295
(f) Locate and distribute hard copy maps, digital data, aerial photography, and other resource data and information to government agencies and the public.	296 297 298
<del>(7)</del> (5) Prepare special studies and execute any other duties, functions, and responsibilities requested by the director.	299 300
(B) The division may do any of the following:	301

(1) Coordinate such environmental matters concerning the 302  
department and the state as are necessary to comply with the 303  
"National Environmental Policy Act of 1969," 83 Stat. 852, 42 304  
U.S.C.A. 4321, as amended, the "Intergovernmental Cooperation Act 305  
of 1968," 82 Stat. 1098, 31 U.S.C.A. 6506, and the "Federal Water 306  
Pollution Control Act," 91 Stat. 1566 (1977), 33 U.S.C.A. 1251, as 307  
amended, and regulations adopted under those acts; 308

(2) With the approval of the director, coordinate and 309  
administer compensatory mitigation grant programs and other 310  
programs for streams and wetlands as approved in accordance with 311  
certifications and permits issued under sections 401 and 404 of 312  
the "Federal Water Pollution Control Act", 91 Stat. 1566(1977), 33 313  
U.S.C.A. 1251, as amended, by the environmental protection agency 314  
and the United States army corps of engineers; 315

(3) Administer any state or federally funded grant program 316  
that is related to natural resources and recreation as considered 317  
necessary by the director. 318

**Sec. 1506.01.** As used in this chapter: 319

(A) "Coastal area" means the waters of Lake Erie, the islands 320  
in the lake, and the lands under and adjacent to the lake, 321  
including transitional areas, wetlands, and beaches. The coastal 322  
area extends in Lake Erie to the international boundary line 323  
between the United States and Canada and landward only to the 324  
extent necessary to include shorelands, the uses of which have a 325  
direct and significant impact on coastal waters as determined by 326  
the director of natural resources. 327

(B) "Coastal management program" means the comprehensive 328  
action of the state and its political subdivisions cooperatively 329  
to preserve, protect, develop, restore, or enhance the resources 330  
of the coastal area, to prevent erosion, and to ensure wise use of 331  
the land and water resources of the coastal area, giving attention 332

to natural, cultural, historic, and aesthetic values; 333  
agricultural, recreational, energy, and economic needs; the 334  
interests and littoral rights of private property owners in the 335  
coastal areas; and the national interest. "Coastal management 336  
program" includes the establishment of objectives, policies, 337  
standards, and criteria concerning, without limitation, protection 338  
of air, water, wildlife, rare and endangered species, wetlands and 339  
natural areas, and other natural resources in the coastal area; 340  
management of coastal development and redevelopment; preservation 341  
and restoration of historic, cultural, and aesthetic coastal 342  
features; and public access to the coastal area for recreation 343  
purposes. 344

(C) "Coastal management program document" means a 345  
comprehensive statement consisting of, without limitation, text, 346  
maps, and illustrations that is adopted by the director in 347  
accordance with this chapter, describes the objectives, policies, 348  
standards, and criteria of the coastal management program for 349  
guiding public and private uses of lands and waters in the coastal 350  
area, lists the governmental agencies, including, without 351  
limitation, state agencies, involved in implementing the coastal 352  
management program, describes their applicable policies and 353  
programs, and cites the statutes and rules under which they may 354  
adopt and implement those policies and programs. 355

(D) "Person" means any agency of this state, any political 356  
subdivision of this state or of the United States, and any legal 357  
entity defined as a person under section 1.59 of the Revised Code. 358

(E) "Director" means the director of natural resources or the 359  
director's designee. 360

(F) "Permanent structure" means any residential, commercial, 361  
industrial, institutional, or agricultural building, any mobile 362  
home as defined in division (O) of section 4501.01 of the Revised 363  
Code, any manufactured home as defined in division (C)(4) of 364

section 3781.06 of the Revised Code, and any septic system that 365  
receives sewage from a single-family, two-family, or three-family 366  
dwelling, but does not include any recreational vehicle as defined 367  
in section 4501.01 of the Revised Code. 368

(G) "State agency" or "agency of the state" has the same 369  
meaning as "agency" as defined in section 111.15 of the Revised 370  
Code. 371

(H) "Coastal flood hazard area" means any territory within 372  
the coastal area that has been identified as a flood hazard area 373  
under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 374  
42 U.S.C.A. 4002, as amended. 375

(I) "Coastal erosion area" means any territory included in 376  
Lake Erie coastal erosion areas identified by the director under 377  
section 1506.06 of the Revised Code. 378

(J) "Southerly shore" and "natural shoreline" mean the line 379  
at which the water usually stands when free from disturbing 380  
causes. 381

(K) "Conservancy district" means a conservancy district that 382  
is established under Chapter 6101. of the Revised Code. 383

(L) "Park board" means the board of park commissioners of a 384  
park district that is created under Chapter 1545. of the Revised 385  
Code. 386

(M) "Erosion control structure" means anything that is 387  
designed primarily to reduce or control erosion of the shore along 388  
or near Lake Erie, including, without limitation, revetments, 389  
seawalls, bulkheads, groins or breakwaters, and similar 390  
structures. "Erosion control structure" does not include wharves, 391  
piers, docks, marinas, boat ramps, and other similar structures. 392

(N) "Littoral rights" means the rights of littoral owners to 393  
make reasonable use of the waters of Lake Erie and to access the 394

submerged lands and waters of Lake Erie fronting their lands for 395  
purposes of navigation, commerce, fishing, recreation, and other 396  
reasonable purposes. "Littoral rights" includes the right to 397  
construct such things as piers, fills, erosion control structures, 398  
or wharves for the purpose of protecting property from erosion, 399  
launching and storing watercraft, and wharfing out to navigable 400  
waters. "Littoral rights" also includes the right to own 401  
additional lands created by accretion or reliction and, with 402  
respect to lands lost by avulsion or artificially induced erosion, 403  
to restore the lands out to the natural shoreline as it existed at 404  
the time of the loss. 405

(O) "Accretion" means the accumulation of land that results 406  
from the deposition of soil, sand, or sediment through the 407  
operation of natural causes. 408

(P) "Reliction" means the gradual exposure of land by the 409  
recession of a body of water. 410

(Q) "Avulsion" means a sudden and perceptible loss of land by 411  
the action of water or other natural causes. 412

**Sec. 1506.02.** (A) The department of natural resources is 413  
hereby designated the lead agency for the development and 414  
implementation of a coastal management program. The director of 415  
natural resources: 416

(1) Shall develop and adopt the coastal management program 417  
document. The director shall cooperate and coordinate with other 418  
agencies of the state and its political subdivisions in the 419  
development of the document. Before adopting the document, the 420  
director shall hold four public hearings on it in the coastal 421  
area, and may hold additional public meetings, to give the public 422  
the opportunity to make comments and recommendations concerning 423  
its terms. The director shall consider the public comments and 424  
recommendations before adopting the document. The director may 425

amend the coastal management program document, provided that, 426  
prior to making changes in it, the director notifies by mail those 427  
persons who submitted comments and recommendations concerning the 428  
original document, the members of the Lake Erie coastal advisory 429  
council created in section 1506.12 of the Revised Code, and the 430  
appropriate agencies of the state and its political subdivisions. 431  
The director ~~may~~ shall hold at least one public hearing on the 432  
proposed changes in a community that has Lake Erie shoreline 433  
property within its geographical boundaries. In addition, the 434  
director shall publish notice of the date, time, and location of 435  
the hearing in newspapers of general circulation in the counties 436  
having Lake Erie shoreline property within their geographical 437  
boundaries. 438

(2) Shall administer the coastal management program in 439  
accordance with the coastal management program document, this 440  
chapter, and rules adopted under it; 441

(3) Shall adopt and may amend or rescind rules under Chapter 442  
119. of the Revised Code for the implementation, administration, 443  
and enforcement of the coastal management program and the other 444  
provisions of this chapter. The rules shall establish a fee 445  
schedule for construction permits issued under section 1506.40 of 446  
the Revised Code, provided that no fee on the schedule shall 447  
exceed five hundred dollars. The fee schedule shall be based on 448  
the total square footage of the structure, development, or 449  
improvement for which a construction permit is to be issued under 450  
that section. Before the adoption, amendment, or rescission of 451  
rules under division (A)(3) of this section, the director shall do 452  
all of the following: 453

(a) Maintain a list of interested public and private 454  
organizations and mail notice to those organizations of any 455  
proposed rule or amendment to or rescission of a rule at least 456  
thirty days before any public hearing on the proposal; 457

(b) Mail a copy of each proposed rule, amendment, or 458  
rescission to any person who requests a copy within five days 459  
after receipt of the request; 460

(c) Consult with appropriate statewide organizations and 461  
units of local government that would be affected by the proposed 462  
rule, amendment, or rescission. 463

Although the director is expected to discharge ~~these~~ the 464  
duties established in divisions (A)(3)(a) to (c) of this section 465  
diligently, failure to mail any notice or copy or to so consult 466  
with any person is not jurisdictional and shall not be construed 467  
to invalidate any proceeding or action of the director. 468

In addition, the director shall consult with the Lake Erie 469  
coastal advisory council before adopting, amending, or rescinding 470  
rules under division (A)(3) of this section. 471

(4) Shall provide for consultation and coordination between 472  
and among state agencies, political subdivisions of the state, and 473  
interstate, regional, areawide, and federal agencies in carrying 474  
out the purposes of the coastal management program and the other 475  
provisions of this chapter; 476

(5) Shall, to the extent practicable and consistent with the 477  
protection of coastal area resources, coordinate the rules and 478  
policies of the department of natural resources with the rules and 479  
policies of other state and federal agencies to simplify and 480  
consolidate the regulation of activities along the Lake Erie 481  
shoreline; 482

(6) May, to accomplish the purposes of the coastal management 483  
program and the other provisions of this chapter, contract with 484  
any person and may accept and expend gifts, bequests, and grants 485  
of money or property from any person. 486

(B) Every agency of the state, upon request of the director, 487  
shall cooperate with the department of natural resources in the 488



implementation of the coastal management program. 489

(C) The director shall establish a coastal management 490  
assistance grant program. Grants may be awarded from federal funds 491  
received for that purpose and from such other funds as may be 492  
provided by law to any municipal corporation, county, township, 493  
park district created under section 511.18 or 1545.04 of the 494  
Revised Code, conservancy district established under Chapter 6101. 495  
of the Revised Code, port authority, other political subdivision, 496  
state agency, educational institution, or nonprofit corporation to 497  
help implement, administer, or enforce any aspect of the coastal 498  
management program. Grants may be used for any of the following 499  
purposes: 500

(1) Feasibility studies and engineering reports for projects 501  
that are consistent with the policies in the coastal management 502  
program document; 503

(2) The protection and preservation of wetlands, beaches, 504  
fish and wildlife habitats, minerals, natural areas, prime 505  
agricultural land, endangered plant and animal species, or other 506  
significant natural coastal resources; 507

(3) The management of shoreline development to prevent loss 508  
of life and property in coastal flood hazard areas and coastal 509  
erosion areas, to set ~~priorities~~ priorities for water-dependent 510  
energy, commercial, industrial, agricultural, and recreational 511  
uses, or to identify environmentally acceptable sites for dredge 512  
spoil disposal; 513

(4) Increasing public access to Lake Erie and other public 514  
places in the coastal area, provided that the land acquired for 515  
that purpose is purchased from a willing seller; 516

(5) The protection and preservation of historical, cultural, 517  
or aesthetic coastal resources; 518

(6) Improving the predictability and efficiency of 519

governmental decision making related to coastal area management; 520

(7) ~~Adopting~~ Developing, adopting, administering, and 521  
enforcing zoning ordinances or resolutions relating to coastal 522  
flood hazard areas or coastal erosion areas; 523

(8) The redevelopment of deteriorating and underutilized 524  
waterfronts and ports; 525

(9) Other purposes that are approved by the director and that 526  
are consistent with the purposes specified in division (C) of this 527  
section. 528

**Sec. 1506.06.** (A) The director of natural resources, using 529  
the best available scientific records, data, and analyses of 530  
shoreline recession, shall make a preliminary identification of 531  
Lake Erie coastal erosion areas, which are the land areas 532  
anticipated to be lost by Lake Erie-related erosion within a 533  
thirty-year period if no additional approved erosion control 534  
measures are completed within that time. The preliminary 535  
identification shall state the bluff recession rates for the 536  
coastal erosion areas and shall take into account areas where 537  
substantial filling, protective measures, or naturally stable land 538  
has significantly reduced recession. Prior to making the 539  
preliminary identification, the director shall consult with the 540  
appropriate authority of each municipal corporation, county, and 541  
township having territory within an area that the director 542  
proposes to identify as a Lake Erie coastal erosion area. Upon 543  
making the preliminary identification, the director shall notify 544  
by certified mail the appropriate authority of each municipal 545  
corporation, county, and township having territory within a Lake 546  
Erie coastal erosion area of the preliminary identification. The 547  
notice shall delineate the portion of a Lake Erie coastal erosion 548  
area within the jurisdiction of, and shall be made available for 549  
public inspection by, the municipal corporation, county, or 550

township. The director also shall publish a notice in a newspaper 551  
of general circulation in each affected locality stating that the 552  
preliminary identification has been made and stating where 553  
information delineating the Lake Erie coastal erosion areas may be 554  
inspected by the public and shall notify each landowner of record 555  
in a coastal erosion area of the preliminary identification. The 556  
notification shall be sent by certified mail to the landowner at 557  
the address indicated in the most recent tax duplicate. Within 558  
sixty days after the notifications required by this division, the 559  
director shall hold public hearings in each of the shoreline 560  
counties on the preliminary identification of the Lake Erie 561  
coastal erosion areas. Any affected municipal corporation, county, 562  
township, or private landowner may file with the director a 563  
written objection to the preliminary identification at any of 564  
those hearings or at any other time within one hundred twenty days 565  
from the date indicated in the certified mail notice, which date 566  
shall be one week following the date of the notice. For any such 567  
objection, verifiable evidence or documentation shall be submitted 568  
indicating that some portion of a Lake Erie coastal erosion area 569  
should not have been included in the areas defined by the 570  
preliminary identification. A municipal corporation, county, or 571  
township may object only with respect to territory within its 572  
jurisdiction or other territory that it owns; a private landowner 573  
may object only with respect to the landowner's land. 574

(B) The director shall review all objections filed under 575  
division (A) of this section. The director may then modify the 576  
preliminary identification of Lake Erie coastal erosion areas. 577  
Within the next ninety days, the director shall notify each 578  
objecting person of the director's decision regarding the 579  
objection. The director also shall notify, within that ninety-day 580  
period, any other owner for whom the director's decision results 581  
in a modification on that other owner's property. 582

(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 615  
accordance with section 5302.30 of the Revised Code. 616

(G) No state agency, county, township, or municipal 617  
corporation, or any other political subdivision or special 618  
district in this state established by law shall use the fact that 619  
property has been identified as a Lake Erie coastal erosion area 620  
as a basis for any of the following: 621

(1) Failing to enter into or renew a lease under section 622  
1506.11 of the Revised Code or to issue or renew a construction 623  
permit under section ~~1506.11~~ 1506.40 of the Revised Code; 624

(2) Failing to issue or renew a permit required by law, other 625  
than a permit issued under section 1506.07 of the Revised Code; 626

(3) Taking private property for public use in the exercise of 627  
the power of eminent domain; 628

(4) Determining what constitutes just compensation for a 629  
taking of the property in the exercise of the power of eminent 630  
domain. 631

**Sec. 1506.08.** Any person who is adversely affected by ~~the~~ 632  
~~final identification of a Lake Erie coastal erosion area under~~ 633  
~~division (D) of section 1506.06 of the Revised Code or any other~~ 634  
final administrative act of the director of natural resources 635  
under this chapter ~~or who receives denial of a permit application~~ 636  
~~under rules adopted under division (A) of section 1506.07 of the~~ 637  
~~Revised Code, within thirty days after the identification, act, or~~ 638  
~~denial,~~ may appeal it in accordance with Chapter 119. of the 639  
Revised Code, except that, notwithstanding any provisions to the 640  
contrary in that chapter, both of the following apply: 641

(A) Any adjudication hearing shall be held in the county in 642  
which the property that is the subject of the final administrative 643  
act of the director is located. 644

(B) An appeal brought pursuant to section 119.12 of the 645  
Revised Code shall be made to the court of common pleas of the 646  
county in which the property that is the subject of the appeal is 647  
located. 648

**Sec. 1506.10.** It is hereby declared that the waters of Lake 649  
Erie consisting of the territory within the boundaries of the 650  
state, extending from the southerly shore of Lake Erie to the 651  
international boundary line between the United States and Canada, 652  
together with the soil beneath and their contents, do now belong 653  
and have always, since the organization of the state of Ohio, 654  
belonged to the state as proprietor in trust for the people of the 655  
state, for the public uses to which they may be adapted, subject 656  
to the powers of the United States government, to the public 657  
rights of navigation, water commerce, and fishery, and to the 658  
property and littoral rights of littoral owners, ~~including the~~ 659  
~~right to make reasonable use of the waters in front of or flowing~~ 660  
~~pass their lands.~~ Any artificial encroachments by public or 661  
private littoral owners, ~~which~~ that interfere with the free flow 662  
of commerce in navigable channels, whether in the form of wharves, 663  
piers, fills, or otherwise, beyond the natural shoreline of those 664  
waters, not expressly authorized by the general assembly, acting 665  
within its powers, or pursuant to section 1506.11 of the Revised 666  
Code, shall not be considered as having prejudiced the rights of 667  
the public in such domain. This section does not limit the right 668  
of the state to control, improve, or place aids to navigation in 669  
the other navigable waters of the state or the territory formerly 670  
covered thereby. 671

The department of natural resources is hereby designated as 672  
the state agency in all matters pertaining to the care, 673  
protection, and enforcement of the state's rights designated in 674  
this section. In any proceeding that involves littoral rights and 675  
the determination of the location of the natural shoreline of Lake 676

Erie as it applies to a situation in which a littoral owner 677  
restores lands that were lost to submersion, the department shall 678  
bear the burden of proving that the lands became submerged as a 679  
result of natural erosion rather than as a result of avulsion or 680  
artificially induced erosion. 681

Any order of the director of natural resources in any matter 682  
pertaining to the care, protection, and enforcement of the state's 683  
rights in that territory is a rule or adjudication within the 684  
meaning of ~~sections 119.01 to 119.13~~ Chapter 119. of the Revised 685  
Code. 686

**Sec. 1506.11.** (A) "Territory," as used in this section, means 687  
the waters and the lands presently underlying the waters of Lake 688  
Erie and the lands formerly underlying the waters of Lake Erie and 689  
now artificially filled, other than lands that are artificially 690  
filled pursuant to the exercise of littoral rights, between the 691  
natural shoreline and the international boundary line with Canada. 692

(B) Whenever the state, acting through the director of 694  
natural resources, upon application of any person who wants to 695  
develop or improve part of the territory primarily for purposes 696  
other than the exercise of littoral rights, and after notice that 697  
the director, at the director's discretion, may give as provided 698  
in this section, determines that any part of the territory can be 699  
developed and improved or the waters thereof used as specified in 700  
the application without impairment of the public right of 701  
navigation, water commerce, and fishery, a lease of all or any 702  
part of the state's interest therein may be entered into with the 703  
applicant, ~~or a permit may be issued for that purpose,~~ subject to 704  
the powers of the United States government and in accordance with 705  
rules adopted by the director in accordance with Chapter 119. of 706  
the Revised Code, and without prejudice to the littoral rights of 707

any owner of land fronting on Lake Erie, provided that the 708  
legislative authority of the municipal corporation within which 709  
any such part of the territory is located, if the municipal 710  
corporation is not within the jurisdiction of a port authority, or 711  
the county commissioners of the county within which such part of 712  
the territory is located, excluding any territory within a 713  
municipal corporation or under the jurisdiction of a port 714  
authority, or the board of directors of a port authority with 715  
respect to such part of the territory included in the jurisdiction 716  
of the port authority, has enacted an ordinance or adopted a 717  
resolution finding and determining that such part of the 718  
territory, described by metes and bounds or by an alternate 719  
description referenced to the applicant's upland property 720  
description that is considered adequate by the director, is not 721  
necessary or required for the construction, maintenance, or 722  
operation by the municipal corporation, county, or port authority 723  
of breakwaters, piers, docks, wharves, bulkheads, connecting ways, 724  
water terminal facilities, and improvements and marginal highways 725  
in aid of navigation and water commerce and that the land uses 726  
specified in the application comply with regulation of permissible 727  
land use under a waterfront plan of the local authority. 728

(C) Upon the filing of the application with the director, the 729  
director may hold a public hearing thereon and may cause written 730  
notice of the filing to be given to any municipal corporation, 731  
county, or port authority, as the case may be, in which such part 732  
of the territory is located and also shall cause public notice of 733  
the filing to be given by advertisement in a newspaper of general 734  
circulation within the locality where such part of the territory 735  
is located. If a hearing is to be held, public notice of the 736  
filing may be combined with public notice of the hearing and shall 737  
be given once a week for four consecutive weeks prior to the date 738  
of the initial hearing. All hearings shall be before the director 739  
and shall be open to the public, and a record shall be made of the 740



proceeding. Parties thereto are entitled to be heard and to be 741  
represented by counsel. The findings and order of the director 742  
shall be in writing. All costs of the hearings, including 743  
publication costs, shall be paid by the applicant. The director 744  
also may hold public meetings on the filing of an application. 745

If the director finds that a lease may properly be entered 746  
into with the applicant ~~or a permit may properly be issued to the~~ 747  
~~applicant~~, the director shall determine the consideration to be 748  
paid by the applicant, which consideration shall exclude the value 749  
of the littoral rights of the owner of land fronting on Lake Erie 750  
and improvements made or paid for by the owner of land fronting on 751  
Lake Erie or that owner's predecessors in title. ~~The lease or~~ 752  
~~permit may be for such periods of time as the director determines~~ 753  
On and after the effective date of this amendment, a lease entered 754  
into under this section shall be for a period of time that is 755  
equal to the life of the development or improvement for purposes 756  
other than the exercise of littoral rights that is the subject of 757  
the lease. The 758

The rentals received under the terms of such a lease ~~or~~ 759  
~~permit~~ shall be paid into the state treasury to the credit of the 760  
Lake Erie submerged lands fund, which is hereby created, and shall 761  
be distributed from that fund as follows: 762

(1) Fifty per cent of each rental shall be paid to the 763  
department of natural resources for the administration of this 764  
section and section 1506.10 of the Revised Code and for the 765  
coastal management assistance grant program required to be 766  
established under division (C) of section 1506.02 of the Revised 767  
Code; 768

(2) Fifty per cent of each rental shall be paid to the 769  
municipal corporation, county, or port authority making the 770  
finding provided for in this section. 771

All leases ~~and permits~~ shall be executed in the manner 772  
provided by section ~~5501.01~~ 5301.01 of the Revised Code and shall 773  
contain, in addition to the provisions required in this section, a 774  
reservation to the state of all mineral rights and a provision 775  
that the removal of any minerals shall be conducted in such manner 776  
as not to damage any improvements placed by the littoral owner, or 777  
~~lessee, or permit holder~~ on the lands. No lease ~~or permit~~ of the 778  
lands defined in this section shall express or imply any control 779  
of fisheries or aquatic wildlife now vested in the division of 780  
wildlife of the department. 781

(D) Upland owners who, prior to ~~October 13, 1955~~ January 1, 782  
2008, have erected, developed, or maintained structures, 783  
facilities, buildings, or improvements or made use of waters 784  
primarily for purposes other than the exercise of littoral rights 785  
in the part of the territory in front of those uplands shall be 786  
granted a lease ~~or permit~~ under this section by the state upon the 787  
presentation of a certification by the chief executive of a 788  
municipal corporation, resolution of the board of county 789  
commissioners, or resolution of the board of directors of the port 790  
authority establishing that the structures, facilities, buildings, 791  
improvements, or uses do not constitute an unlawful encroachment 792  
on navigation and water commerce. The lease ~~or permit~~ shall 793  
specifically enumerate the structures, facilities, buildings, 794  
improvements, or uses so included. 795

(E) Persons having secured a lease ~~or permit~~ under this 796  
section are entitled to just compensation for the taking, whether 797  
for navigation, water commerce, or otherwise, by any governmental 798  
authority having the power of eminent domain, of structures, 799  
facilities, buildings, improvements, or uses erected or placed 800  
upon the territory pursuant to the lease ~~or permit~~ or the littoral 801  
rights of the person and for the taking of the leasehold and the 802  
littoral rights of the person pursuant to the procedure provided 803

in Chapter 163. of the Revised Code. The compensation shall not 804  
include any compensation for the site in the territory except to 805  
the extent of any interest in the site theretofore acquired by the 806  
person under this section or by prior acts of the general assembly 807  
or grants from the United States government. The failure of any 808  
person to apply for or obtain a lease ~~or permit~~ under this section 809  
does not prejudice any right the person may have to compensation 810  
for a taking of littoral rights or of improvements made in 811  
accordance with a lease, ~~a permit,~~ or littoral rights. 812

(F) If any taxes or assessments are levied or assessed upon 813  
~~property~~ a structure that is the subject of a lease ~~or permit~~ 814  
under this section, the taxes or assessments are the obligation of 815  
the lessee ~~or permit holder~~. 816

(G) If a lease ~~or permit~~ secured under this section requires 817  
the lessee ~~or permit holder~~ to obtain the approval of the 818  
department ~~or any of its divisions~~ for any changes in structures, 819  
facilities, or buildings, for any improvements, or for any changes 820  
or expansion in uses, no lessee ~~or permit holder~~ shall change any 821  
structures, facilities, or buildings, make any improvements, or 822  
expand or change any uses unless the director first determines 823  
that the proposed action will not adversely affect any current or 824  
prospective exercise of the public right of recreation in the 825  
territory and in the state's reversionary interest in any 826  
territory leased ~~or permitted~~ under this section. 827

Proposed changes or improvements shall be deemed to 828  
"adversely affect" the public right of recreation if the changes 829  
or improvements cause or will cause any significant demonstrable 830  
negative impact upon any present or prospective recreational use 831  
of the territory by the public during the term of the lease ~~or~~ 832  
~~permit~~ or any renewals of leases and of any public recreational 833  
use of the leased ~~or permitted~~ premises in which the state has a 834  
reversionary interest. 835

Sec. 1506.12. There is hereby created the Lake Erie coastal 836  
resources advisory council, which shall consist of ~~nineteen~~ the 837  
director of natural resources or the director's designee and 838  
nineteen members, who shall be appointed by the ~~director of~~ 839  
~~natural resources,~~ governor and who represent a broad range of 840  
interests, experience, and knowledge relating to the management, 841  
use, conservation, protection, preservation, and development of 842  
coastal area resources. The ~~director~~ governor shall solicit names 843  
of qualified persons to serve on the council from the legislative 844  
authorities of counties, townships, municipal corporations, and 845  
other political subdivisions and from interest groups located in 846  
the coastal area. The ~~director~~ governor shall appoint to the 847  
council at least one member from each shoreline county, which 848  
members shall be selected from the names submitted to the ~~director~~ 849  
governor as described above and at least one of which shall be a 850  
public official of such a county; at least three individuals who 851  
own private shoreline property in a shoreline county; at least one 852  
public official of a municipal corporation that ~~is located in a~~ 853  
has shoreline county property within its geographical boundaries; 854  
at least two individuals who are members of the Ohio association 855  
of realtors and whose places of business as specified in section 856  
4735.16 of the Revised Code are located in the shoreline area; at 857  
least three individuals who have an interest in or are 858  
knowledgeable about the preservation of submerged resources, two 859  
of whom shall be experienced in scuba diving; and at least two 860  
individuals with experience in residential and commercial land 861  
development in the shoreline area. Not fewer than seven members 862  
shall be individuals who are year-round residents who live 863  
adjacent to the shoreline. No more than ten members of the council 864  
shall be from the same political party. The director may 865  
participate in the deliberations of the council, but shall not 866  
vote. 867

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

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. Nine 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. Ten 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.

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.

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

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

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

The council shall do all of the following:

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

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

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

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

**Sec. ~~1521.20~~ 1506.38.** The ~~chief 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 ~~chief 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 ~~chief director~~ of the ~~division of water~~ natural resources, in the discharge of the ~~chief's~~ director's duties under sections ~~1507.20~~ 1506.38 to ~~1507.30~~ 1506.49 of the Revised Code, may call to the ~~chief'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, 962  
for the purpose of devising the most effective and economical 963  
methods of controlling shore erosion and ~~damage from it and~~ 964  
~~controlling the inundation of improved property by~~ along the 965  
~~waters~~ shore of Lake Erie and its bays and associated inlets. 966

Such engineers and employees shall not receive any additional 967  
compensation over that which they receive from the departments or 968  
institutions by which they are employed, but they shall be 969  
reimbursed for their actual necessary expenses incurred while 970  
working under the direction of the ~~chief~~ director on erosion and 971  
inundation projects. 972

**Sec. ~~1521.22~~ 1506.40.** (A) As used in this section, "ordinary 973  
high water mark" means the ordinary high water mark of Lake Erie 974  
that is established from time to time by the United States army 975  
corp of engineers for regulatory purposes. 976

(B) The use of the ordinary high water mark shall be for the 977  
administration of this section and shall not be construed to 978  
determine any type of property boundary. 979

(C) No person shall construct a beach, ~~groin~~ erosion control 980  
structure, or other ~~structure to control erosion, wave action, or~~ 981  
~~inundation~~ improvement along or near the Ohio shoreline of Lake 982  
Erie, including related islands, bays, and inlets, lakeward of the 983  
ordinary high water mark, without first obtaining a ~~shore~~ 984  
~~structure~~ construction permit from the ~~chief of the division~~ 985  
director of ~~water~~ natural resources. ~~The~~ 986

The application for a ~~shore structure~~ construction permit 987  
shall include detailed plans and specifications as prescribed by 988  
the director. The detailed plans and specifications shall be 989  
prepared by a professional engineer registered under Chapter 4733. 990  
of the Revised Code. ~~An~~ unless they pertain to a project that is 991  
or solely involves any of the following: 992



<u>(1) A project that is not an erosion control structure or the rehabilitation of such a structure;</u>	993
	994
<u>(2) The rehabilitation of a structure for which a permit previously was issued under this section;</u>	995
	996
<u>(3) A project or structure that does not require a professional engineer to prepare the plans or specifications as described in section 4733.18 of the Revised Code;</u>	997
	998
	999
<u>(4) Beach nourishment with natural sand.</u>	1000
<u>An applicant for a construction permit under this section</u>	1001
shall provide appropriate evidence of compliance with any	1002
applicable provisions of this chapter and Chapters 1505. and <del>1506.</del>	1003
<u>1521.</u> of the Revised Code, as determined by the <del>chief</del> <u>director</u> . A	1004
temporary <del>shore structure</del> <u>construction</u> permit may be issued by the	1005
<del>chief or an authorized representative of the chief</del> <u>director</u> if it	1006
is determined necessary to safeguard life, health, or property.	1007
Each application or reapplication for a <u>construction</u> permit	1008
under this section shall be accompanied by a non-refundable fee <del>as</del>	1009
<del>the chief shall prescribe by rule</del> <u>in an amount determined by the</u>	1010
<u>director using the fee schedule established in rules adopted under</u>	1011
<u>section 1506.02 of the Revised Code.</u>	1012
<del>If the application is approved, the chief shall issue a</del>	1013
<del>permit to the applicant authorizing construction of the project.</del>	1014
<del>if</del>	1015
<u>(D) Upon receipt of an application submitted under this</u>	1016
<u>section, the director shall notify owners of littoral real</u>	1017
<u>property that is adjacent to the proposed area of construction,</u>	1018
<u>development, or improvement. The notice shall be in writing, state</u>	1019
<u>that an application for a construction permit has been filed,</u>	1020
<u>summarize the proposed construction, development, or improvement</u>	1021
<u>that is the subject of the application, and state that the</u>	1022
<u>recipient of the notice may submit comments to the director</u>	1023

concerning the application not later than thirty days following 1024  
receipt of the notice. 1025

(E) Not later than fifteen days after the director receives 1026  
an application for a construction permit under this section, the 1027  
director shall determine whether the application is complete and 1028  
shall provide written notice to the applicant of the director's 1029  
determination. If the application is not complete, the director 1030  
shall include in the notice an itemized list of the information or 1031  
materials that are necessary to complete the application. If the 1032  
director notifies the applicant that information or materials are 1033  
necessary to complete the application, the applicant shall provide 1034  
the missing information or materials not later than thirty days 1035  
after receipt of the notice. The applicant may resubmit the 1036  
application with the necessary information or materials. If the 1037  
director fails to make a completeness determination and provide 1038  
notice to the applicant within fifteen days after receiving the 1039  
application, the application shall be deemed complete. 1040

If the project solely involves the exercise of littoral 1041  
rights, the director shall issue or deny the construction permit 1042  
not later than ninety days after receipt of a complete 1043  
application. If the project is for a purpose other than the 1044  
exercise of littoral rights, the director shall issue or deny the 1045  
construction permit not later than one hundred twenty days after 1046  
receipt of a complete application. If the director fails to issue 1047  
or deny the construction permit within ninety or one hundred 1048  
twenty days, as applicable, after receiving the complete 1049  
application, the application shall be deemed approved, and the 1050  
director shall issue the permit. 1051

If requested in writing by the applicant within thirty days 1052  
of issuance of a notice of disapproval of the application, the 1053  
chief director shall conduct an adjudication hearing under Chapter 1054  
119. of the Revised Code, except sections 119.12 and 119.121 of 1055

the Revised Code. After reviewing the record of the hearing, the 1056  
chief director shall issue a final order approving the 1057  
application, disapproving it, or approving it conditioned on the 1058  
making of specified revisions in the plans and specifications. 1059

(F) The ~~chief director~~, by rule, shall limit the period 1060  
during which a construction permit issued under this section is 1061  
valid and shall establish reapplication requirements governing a 1062  
construction permit that expires before construction, development, 1063  
or improvement is completed. 1064

~~In accordance with Chapter 119. of the Revised Code, the 1065  
chief shall adopt, and may amend or rescind, such rules as are 1066  
necessary for the administration, implementation, and enforcement 1067  
of this section.~~ 1068

(G) A beach, erosion control structure, or other improvement 1069  
that exists on the effective date of this amendment, is located 1070  
lakeward of the ordinary high water mark, and exists primarily for 1071  
the purpose of enabling the exercise of littoral rights is not 1072  
subject to the requirements established in this section. However, 1073  
this exemption applies only to the portion of the beach, erosion 1074  
control structure, or other improvement that exists on the 1075  
effective date of this amendment and not to any substantial 1076  
alteration or expansion to it that subsequently is made by the 1077  
littoral owner. 1078

(H) Nothing in this section shall be construed as determining 1079  
the boundary of the state's ownership of the waters of Lake Erie 1080  
as provided in section 1506.10 of the Revised Code. 1081

**Sec. ~~1521.23~~ 1506.41.** All moneys derived from the granting of 1082  
permits and leases under section 1505.07 of the Revised Code for 1083  
the removal of sand, gravel, stone, gas, oil, and other minerals 1084  
and substances from and under the bed of Lake Erie and from 1085  
applications for ~~shore structure~~ construction permits submitted 1086

under section ~~1521.22~~ 1506.40 of the Revised Code shall be paid 1087  
into the state treasury to the credit of the permit and lease 1088  
fund, which is hereby created. Notwithstanding any section of the 1089  
Revised Code relating to the distribution or crediting of fines 1090  
for violations of the Revised Code, all fines imposed under 1091  
division (A) of section 1505.99 of the Revised Code and under 1092  
division ~~(C)~~(A) of section ~~1521.99~~ 1506.99 of the Revised Code for 1093  
violations of section 1506.40 of the Revised Code shall be paid 1094  
into that fund. The fund shall be administered by the department 1095  
of natural resources for the protection of Lake Erie shores and 1096  
waters; investigation and control of erosion; the planning, 1097  
development, and construction of facilities for recreational use 1098  
of Lake Erie; implementation of section ~~1521.22~~ 1506.40 of the 1099  
Revised Code; preparation of the state shore erosion plan under 1100  
section ~~1521.29~~ 1506.47 of the Revised Code; provision of 1101  
technical assistance to shoreline property owners under that 1102  
section; purchase of land for public access to Lake Erie; and 1103  
state administration of Lake Erie coastal erosion areas under 1104  
sections 1506.06 and 1506.07 of the Revised Code. Money in the 1105  
fund also may be used for grants to a municipal corporation, 1106  
county, or port authority having Lake Erie shoreline property 1107  
within its geographical boundaries. 1108

**Sec. ~~1521.24~~ 1506.42.** The state, acting through the ~~chief~~ 1109  
~~director~~ of the division of water natural resources, subject to 1110  
section ~~1521.28~~ 1506.46 of the Revised Code, may enter into 1111  
agreements with counties, townships, municipal corporations, park 1112  
boards, and conservancy districts, other political subdivisions, 1113  
or any state departments or divisions for the purpose of 1114  
constructing and maintaining projects to control erosion along the 1115  
Ohio shoreline of Lake Erie and in any rivers and bays that are 1116  
connected with Lake Erie and any other watercourses that flow into 1117  
Lake Erie. Such projects also may be constructed on any Lake Erie 1118

island that is situated within the boundaries of the state. 1119

The cost of such shore erosion projects that are for the 1120  
benefit of public littoral property shall be prorated on the basis 1121  
of two-thirds of the total cost to the state through 1122  
appropriations made to the ~~division~~ department of ~~water~~ natural 1123  
resources and one-third of the cost to the counties, townships, 1124  
municipal corporations, park boards, conservancy districts, or 1125  
other political subdivisions. 1126

If a shore erosion emergency is declared by the governor, the 1127  
state, acting through the ~~chief~~ director, may spend whatever state 1128  
funds are available to alleviate shore erosion, without 1129  
participation by any political subdivision, regardless of whether 1130  
the project will benefit public or private littoral property. 1131

A board of county commissioners, acting for the county over 1132  
which it has jurisdiction, may enter into and carry out agreements 1133  
with the ~~chief~~ director for the construction and maintenance of 1134  
projects to control shore erosion. In providing the funds for the 1135  
county's proportionate share of the cost of constructing and 1136  
maintaining the projects referred to in this section, the board 1137  
shall be governed by and may issue and refund bonds in accordance 1138  
with Chapter 133. of the Revised Code. 1139

A municipal corporation or a township, acting through the 1140  
legislative authority or the board of township trustees, may enter 1141  
into and carry out agreements with the ~~chief~~ director for the 1142  
purpose of constructing and maintaining projects to control shore 1143  
erosion. In providing the funds for the municipal corporation's or 1144  
township's proportionate share of the cost of constructing and 1145  
maintaining the projects referred to in this section, a municipal 1146  
corporation or township may issue and refund bonds in accordance 1147  
with Chapter 133. of the Revised Code. The contract shall be 1148  
executed on behalf of the municipal corporation or township by the 1149  
mayor, city manager, or other chief executive officer who has the 1150

authority to act for the municipal corporation or township. 1151

Conservancy districts may enter into and carry out agreements 1152  
with the ~~chief~~ director, in accordance with the intent of this 1153  
section, under the powers conferred upon conservancy districts 1154  
under Chapter 6101. of the Revised Code. 1155

Park boards may enter into and carry out agreements with the 1156  
~~chief~~ director, in accordance with the intent of this section, and 1157  
issue bonds for that purpose under the powers conferred upon park 1158  
districts under Chapter 1545. of the Revised Code. 1159

The ~~chief~~ director shall approve and supervise all projects 1160  
that are to be constructed in accordance with this section. The 1161  
~~chief~~ director shall not proceed with the construction of any 1162  
project until all funds that are to be paid by the county, 1163  
township, municipal corporation, park board, or conservancy 1164  
district, in accordance with the terms of the agreement entered 1165  
into between the ~~chief~~ director and the county, township, 1166  
municipal corporation, park board, or conservancy district, are in 1167  
the ~~chief's~~ director's possession and deposited in the shore 1168  
erosion fund, which is hereby created in the state treasury. If 1169  
the ~~chief~~ director finds it to be in the best interests of the 1170  
state to construct projects as set forth in this section by the 1171  
state itself, without the financial contribution of counties, 1172  
townships, municipal corporations, park boards, or conservancy 1173  
districts, the ~~chief~~ director may construct the projects. 1174

In deciding whether to assist a county or municipal 1175  
corporation in constructing and maintaining a project under this 1176  
section, the state, acting through the chief, shall consider, 1177  
among other factors, whether the county or municipal corporation 1178  
has adopted or is in the process of adopting a Lake Erie coastal 1179  
erosion area resolution or ordinance under division (D) of section 1180  
1506.07 of the Revised Code. 1181

All projects constructed by the state in conformity with 1182  
sections ~~1521.20~~ 1506.38 to ~~1521.28~~ 1506.46 of the Revised Code 1183  
shall be constructed subject to sections 153.01 to 153.20 of the 1184  
Revised Code, except that the state architect and engineer is not 1185  
required to prepare the plans and specifications for those 1186  
projects. 1187

**Sec. ~~1521.25~~ 1506.43.** The ~~chief director~~ of the ~~division of~~ 1188  
~~water~~ natural resources may enter into a contract with any county, 1189  
township, municipal corporation, conservancy district, or park 1190  
board that has an agreement with the state in accordance with 1191  
section ~~1521.24~~ 1506.42 of the Revised Code for the construction 1192  
of a shore erosion project. No contract shall be let until all 1193  
money that is to be paid by the political subdivision entering 1194  
into the agreement has been deposited in the shore erosion fund 1195  
created in that section ~~1521.24~~ of the Revised Code, and no 1196  
contract shall be valid until approved by the director of natural 1197  
resources. 1198

**Sec. ~~1521.26~~ 1506.44.** (A) A board of county commissioners may 1199  
use a loan obtained under division (C) of this section to provide 1200  
financial assistance to any person who owns real property in a 1201  
coastal erosion area, ~~as defined in section 1506.01 of the Revised~~ 1202  
~~Code,~~ and who has received a construction permit under section 1203  
~~1521.22~~ 1506.40 of the Revised Code to construct an erosion 1204  
control structure in that coastal erosion area. The board shall 1205  
enter into an agreement with the person that complies with all of 1206  
the following requirements: 1207

(1) The agreement shall identify the person's real property 1208  
for which the erosion control structure is being constructed and 1209  
shall include a legal description of that property and a reference 1210  
to the volume and page of the deed record in which the title of 1211  
that person to that property is recorded. 1212

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

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

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

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

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

(2) Establish by resolution an erosion control repayment fund into which shall be deposited all amounts collected under division (B)(3) of this section. Moneys in that fund shall be used by the board for the repayment of the loan and for administrative or other costs of the board or the authority as specified in an agreement entered into under division (C) of this section. If the



amount of money in the fund is inadequate to repay the loan when 1244  
due, the board of county commissioners, by resolution, may advance 1245  
money from any other fund in order to repay the loan if that use 1246  
of the money from the other fund is not in conflict with law. If 1247  
the board so advances money in order to repay the loan, the board 1248  
subsequently shall reimburse each fund from which the board 1249  
advances money with moneys from the erosion control repayment 1250  
fund. 1251

(3) Bill and collect all amounts when due under the agreement 1252  
entered into under division (A) of this section. The board shall 1253  
certify amounts not paid when due to the county auditor, who shall 1254  
enter the amounts on the real property tax list and duplicate 1255  
against the property identified under division (A)(1) of this 1256  
section. The amounts not paid when due shall be a lien on that 1257  
property from the date on which the amounts are placed on the tax 1258  
list and duplicate and shall be collected in the same manner as 1259  
other taxes. 1260

(C) A board may apply to the authority for a loan for the 1261  
purpose of entering into agreements under division (A) of this 1262  
section. The loan shall be for an amount and on the terms 1263  
established in an agreement between the board and the authority. 1264  
The board may assign any agreements entered into under division 1265  
(A) of this section to the authority in order to provide for the 1266  
repayment of the loan and may pledge any lawfully available 1267  
revenues to the repayment of the loan, provided that no moneys 1268  
raised by taxation shall be obligated or pledged by the board for 1269  
the repayment of the loan. Any agreement with the authority 1270  
pursuant to this division is not subject to Chapter 133. of the 1271  
Revised Code or any requirements or limitations established in 1272  
that chapter. 1273

(D) The authority, as assignee of any agreement pursuant to 1274  
division (C) of this section, may enforce and compel the board and 1275

the county auditor by mandamus pursuant to Chapter 2731. of the 1276  
Revised Code to comply with division (B) of this section in a 1277  
timely manner. 1278

(E) The construction of an erosion control structure by a 1279  
contractor hired by an individual homeowner, group of individual 1280  
homeowners, or homeowners association that enters into an 1281  
agreement with a board under division (A) of this section is not a 1282  
public improvement, as defined in section 4115.03 of the Revised 1283  
Code, and is not subject to competitive bidding or public bond 1284  
laws. 1285

**Sec. ~~1521.27~~ 1506.45.** The state, or any county, township, 1286  
municipal corporation, conservancy district, or park board that 1287  
has entered into a contract under section ~~1521.25~~ 1506.43 of the 1288  
Revised Code, may acquire lands by gift or devise, purchase, or 1289  
appropriation. In case of appropriation, the proceedings shall be 1290  
instituted in the name of the state or the political subdivision 1291  
and shall be conducted in the manner provided for the 1292  
appropriation of private property by the state or the political 1293  
subdivision insofar as those proceedings are applicable. Either 1294  
the fee or any lesser interest may be acquired as the state or the 1295  
political subdivision considers advisable. 1296

**Sec. ~~1521.28~~ 1506.46.** Any action taken by the ~~chief director~~ 1297  
of ~~the division of water~~ natural resources under sections ~~1521.20~~ 1298  
1506.38 to ~~1521.30~~ 1506.49 of the Revised Code shall not be deemed 1299  
in conflict with certain powers and duties conferred upon and 1300  
delegated to federal agencies and to municipal corporations under 1301  
Section 7 of Article XVIII, Ohio Constitution, or as provided by 1302  
sections 721.04 to 721.11 of the Revised Code. 1303

**Sec. ~~1521.29~~ 1506.47.** The ~~chief director~~ of ~~the division of~~ 1304  
~~water, in cooperation with the division of geological survey,~~ 1305

natural resources may prepare a plan for the management of shore erosion in the state along Lake Erie, its bays, and associated inlets, revise the plan whenever it can be made more effective, and make the plan available for public inspection. In the preparation of the plan, the chief director may employ such existing plans as are available.

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

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

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

**Sec. 1506.49.** The director of natural resources or any employee in the service of the department of natural resources, after providing notice as required by this section, may enter on lands to conduct surveys and inspections that are necessary or appropriate for the purposes of reviewing an application for a permit under this chapter and monitoring the construction of a

structure or project under such a permit. Not less than two nor 1336  
more than twelve business days prior to the date of entry, the 1337  
director or the employee shall provide, by means that are 1338  
reasonably available, notice of the impending entry to the owner 1339  
or person in possession of the property that is to be surveyed or 1340  
inspected. An entry that is made in accordance with this section 1341  
does not constitute a civil or criminal trespass. 1342

**Sec. 1521.01.** As used in sections 1521.01 to 1521.05, and 1343  
1521.13 to 1521.18, ~~and 1521.20 to 1521.30~~ of the Revised Code: 1344

(A) "Consumptive use," "diversion," "Lake Erie drainage 1345  
basin," "other great lakes states and provinces," "water 1346  
resources," and "waters of the state" have the same meanings as in 1347  
section 1501.30 of the Revised Code. 1348

(B) "Well" means any excavation, regardless of design or 1349  
method of construction, created for any of the following purposes: 1350

(1) Removing ground water from or recharging water into an 1351  
aquifer, excluding subsurface drainage systems installed to 1352  
enhance agricultural crop production or urban or suburban 1353  
landscape management or to control seepage in dams, dikes, and 1354  
levees; 1355

(2) Determining the quantity, quality, level, or movement of 1356  
ground water in or the stratigraphy of an aquifer, excluding 1357  
borings for instrumentation in dams, dikes, levees, or highway 1358  
embankments; 1359

(3) Removing or exchanging heat from ground water, excluding 1360  
horizontal trenches that are installed for water source heat pump 1361  
systems. 1362

(C) "Aquifer" means a consolidated or unconsolidated geologic 1363  
formation or series of formations that are hydraulically 1364  
interconnected and that have the ability to receive, store, or 1365

transmit water.	1366
(D) "Ground water" means all water occurring in an aquifer.	1367
(E) "Ground water stress area" means a definable geographic area in which ground water quantity is being affected by human activity or natural forces to the extent that continuous availability of supply is jeopardized by withdrawals.	1368 1369 1370 1371
(F) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes the United States, the state, any political subdivision of the state, and any department, division, board, commission, agency, or instrumentality of the United States, the state, or a political subdivision of the state.	1372 1373 1374 1375 1376
(G) "State agency" or "agency of the state" has the same meaning as "agency" in section 111.15 of the Revised Code.	1377 1378
(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, mining, dredging, filling, grading, paving, excavating, and drilling operations, and storage of equipment or materials.	1379 1380 1381 1382 1383
(I) "Floodplain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water.	1384 1385 1386
(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.	1387 1388 1389 1390 1391 1392
(K) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year.	1393 1394
(L) "One-hundred-year floodplain" means that portion of a	1395

floodplain inundated by a one-hundred-year flood. 1396

(M) "Structure" means a walled and roofed building, 1397  
including, without limitation, gas or liquid storage tanks, mobile 1398  
homes, and manufactured homes. 1399

(N) "Substantial improvement" means any reconstruction, 1400  
rehabilitation, addition, or other improvement of a structure, the 1401  
cost of which equals or exceeds fifty per cent of the market value 1402  
of the structure before the start of construction of the 1403  
improvement. "Substantial improvement" includes repairs to 1404  
structures that have incurred substantial damage regardless of the 1405  
actual repair work performed. "Substantial improvement" does not 1406  
include either of the following: 1407

(1) Any project for the improvement of a structure to correct 1408  
existing violations of state or local health, sanitary, or safety 1409  
code specifications that have been identified by the state or 1410  
local code enforcement official having jurisdiction and that are 1411  
the minimum necessary to ensure safe living conditions; 1412

(2) Any alteration of an historic structure designated or 1413  
listed pursuant to federal or state law, provided that the 1414  
alteration will not preclude the structure's continued listing or 1415  
designation as an historic structure. 1416

~~(O) "Shore structure" includes, but is not limited to:~~ 1417  
~~beaches; groins; revetments; bulkheads; seawalls; breakwaters;~~ 1418  
~~certain dikes designated by the chief of the division of water;~~ 1419  
~~piers; docks; jetties; wharves; marinas; boat ramps; any~~ 1420  
~~associated fill or debris used as part of the construction of~~ 1421  
~~shore structures that may affect shore erosion, wave action, or~~ 1422  
~~inundation; and fill or debris placed along or near the shore,~~ 1423  
~~including bluffs, banks, or beach ridges, for the purpose of~~ 1424  
~~stabilizing slopes.~~ 1425

~~(P)~~ "Substantial damage" means damage of any origin that is 1426

sustained by a structure if the cost of restoring the structure to 1427  
its condition prior to the damage would equal or exceed fifty per 1428  
cent of the market value of the structure before the damage 1429  
occurred. 1430

~~(Q)~~(P) "National flood insurance program" means the national 1431  
flood insurance program established in the "National Flood 1432  
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C. 4001, as amended, 1433  
and regulations adopted under it. 1434

~~(R)~~(O) "Conservancy district" means a conservancy district 1435  
established under Chapter 6101. of the Revised Code. 1436

~~(S)~~ "Park board" means the board of park commissioners of a 1437  
park district created under Chapter 1545. of the Revised Code. 1438

~~(T)~~ "Erosion control structure" means anything that is 1439  
designed primarily to reduce or control erosion of the shore along 1440  
or near lake erie, including, but not limited to, revetments, 1441  
seawalls, bulkheads, certain breakwaters designated by the chief, 1442  
and similar structures. "Erosion control structure" does not 1443  
include wharves, piers, docks, marinas, boat ramps, and other 1444  
similar structures. 1445

**Sec. 1521.99.** (A) Whoever violates division (E)(1) of section 1446  
1521.05 or division (E)(1) of section 1521.16 of the Revised Code 1447  
is guilty of a misdemeanor of the fourth degree. 1448

(B) Whoever violates section 1521.06 or 1521.062 of the 1449  
Revised Code shall be fined not less than one hundred dollars nor 1450  
more than one thousand dollars for each offense. Each day of 1451  
violation constitutes a separate offense. 1452

~~(C)~~ Whoever violates sections 1521.20 to 1521.30 of the 1453  
Revised Code shall be fined not less than one hundred dollars nor 1454  
more than one thousand dollars for each offense. Each day of 1455  
violation constitutes a separate offense. 1456

Sec. 6121.04. The Ohio water development authority may do any 1457  
or all of the following: 1458

(A) Adopt bylaws for the regulation of its affairs and the 1459  
conduct of its business; 1460

(B) Adopt an official seal; 1461

(C) Maintain a principal office and suboffices at places 1462  
within the state that it designates; 1463

(D) Sue and plead in its own name and be sued and impleaded 1464  
in its own name with respect to its contracts or torts of its 1465  
members, employees, or agents acting within the scope of their 1466  
employment, or to enforce its obligations and covenants made under 1467  
sections 6121.06, 6121.08, and 6121.13 of the Revised Code. Any 1468  
such actions against the authority shall be brought in the court 1469  
of common pleas of the county in which the principal office of the 1470  
authority is located or in the court of common pleas of the county 1471  
in which the cause of action arose, provided that the county is 1472  
located within this state, and all summonses, exceptions, and 1473  
notices of every kind shall be served on the authority by leaving 1474  
a copy thereof at the principal office with the person in charge 1475  
thereof or with the secretary-treasurer of the authority. 1476

(E) Make loans and grants to governmental agencies for the 1477  
acquisition or construction of water development projects by any 1478  
such governmental agency and adopt rules and procedures for making 1479  
~~such~~ the loans and grants; 1480

(F) Acquire, construct, reconstruct, enlarge, improve, 1481  
furnish, equip, maintain, repair, operate, or lease or rent to, or 1482  
contract for operation by, a governmental agency or person, water 1483  
development projects, and establish rules for the use of those 1484  
projects; 1485

(G) Make available the use or services of any water 1486



development project to one or more persons, one or more 1487  
governmental agencies, or any combination thereof; 1488

(H) Issue water development revenue bonds and notes and water 1489  
development revenue refunding bonds of the state, payable solely 1490  
from revenues as provided in section 6121.06 of the Revised Code, 1491  
unless the bonds are refunded by refunding bonds, for the purpose 1492  
of paying any part of the cost of one or more water development 1493  
projects or parts thereof; 1494

(I) Acquire by gift or purchase, hold, and dispose of real 1495  
and personal property in the exercise of its powers and the 1496  
performance of its duties under this chapter; 1497

(J) Acquire, in the name of the state, by purchase or 1498  
otherwise, on terms and in the manner that it considers proper, or 1499  
by the exercise of the right of condemnation in the manner 1500  
provided by section 6121.18 of the Revised Code, public or private 1501  
lands, including public parks, playgrounds, or reservations, or 1502  
parts thereof or rights therein, rights-of-way, property, rights, 1503  
easements, and interests that it considers necessary for carrying 1504  
out this chapter, but excluding the acquisition by the exercise of 1505  
the right of condemnation of any waste water facility or water 1506  
management facility owned by any person or governmental agency, 1507  
and compensation shall be paid for public or private lands so 1508  
taken, except that a government-owned waste water facility may be 1509  
appropriated in accordance with section 6121.041 of the Revised 1510  
Code; 1511

(K) Adopt rules to protect augmented flow in waters of the 1512  
state, to the extent augmented by a water development project, 1513  
from depletion so it will be available for beneficial use, and to 1514  
provide standards for the withdrawal from waters of the state of 1515  
the augmented flow created by a water development project that is 1516  
not returned to the waters of the state so augmented and to 1517  
establish reasonable charges therefor if considered necessary by 1518

the authority; 1519

(L) Make and enter into all contracts and agreements and 1520  
execute all instruments necessary or incidental to the performance 1521  
of its duties and the execution of its powers under this chapter 1522  
in accordance with the following requirements: 1523

(1) When the cost under any such contract or agreement, other 1524  
than compensation for personal services, involves an expenditure 1525  
of more than twenty-five thousand dollars, the authority shall 1526  
make a written contract with the lowest responsive and responsible 1527  
bidder, in accordance with section 9.312 of the Revised Code, 1528  
after advertisement for not less than two consecutive weeks in a 1529  
newspaper of general circulation in Franklin county, and in other 1530  
publications that the authority determines, which shall state the 1531  
general character of the work and the general character of the 1532  
materials to be furnished, the place where plans and 1533  
specifications therefor may be examined, and the time and place of 1534  
receiving bids, provided that a contract or lease for the 1535  
operation of a water development project constructed and owned by 1536  
the authority or an agreement for cooperation in the acquisition 1537  
or construction of a water development project pursuant to section 1538  
6121.13 of the Revised Code or any contract for the construction 1539  
of a water development project that is to be leased by the 1540  
authority to, and operated by, persons who are not governmental 1541  
agencies and the cost of the project is to be amortized 1542  
exclusively from rentals or other charges paid to the authority by 1543  
persons who are not governmental agencies is not subject to the 1544  
foregoing requirements and the authority may enter into such a 1545  
contract or lease or such an agreement pursuant to negotiation and 1546  
upon terms and conditions and for the period that it finds to be 1547  
reasonable and proper in the circumstances and in the best 1548  
interests of proper operation or of efficient acquisition or 1549  
construction of the project. 1550

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

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

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

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

(M) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and other consultants and independent contractors that are necessary in its judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable solely from the proceeds of water development revenue bonds or notes issued under this chapter, from revenues, or from funds appropriated for that purpose by the general assembly.

(N) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction of any water development project or for research and development with respect to waste water or water management facilities, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be

held, used, and applied only for the purposes for which the grants	1582
and contributions are made;	1583
(O) Engage in research and development with respect to waste	1584
water or water management facilities;	1585
(P) Purchase fire and extended coverage and liability	1586
insurance for any water development project and for the principal	1587
office and suboffices of the authority, insurance protecting the	1588
authority and its officers and employees against liability for	1589
damage to property or injury to or death of persons arising from	1590
its operations, and any other insurance the authority may agree to	1591
provide under any resolution authorizing its water development	1592
revenue bonds or in any trust agreement securing the same;	1593
(Q) Charge, alter, and collect rentals and other charges for	1594
the use or services of any water development project as provided	1595
in section 6121.13 of the Revised Code;	1596
(R) Provide coverage for its employees under Chapters 145.,	1597
4123., and 4141. of the Revised Code;	1598
(S) Assist in the implementation and administration of the	1599
drinking water assistance fund and program created in section	1600
6109.22 of the Revised Code and the water pollution control loan	1601
fund and program created in section 6111.036 of the Revised Code,	1602
including, without limitation, performing or providing fiscal	1603
management for the funds and investing and disbursing moneys in	1604
the funds, and enter into all necessary and appropriate agreements	1605
with the director of environmental protection for those purposes;	1606
(T) Issue water development revenue bonds and notes of the	1607
state in principal amounts that are necessary for the purpose of	1608
raising moneys for the sole benefit of the water pollution control	1609
loan fund created in section 6111.036 of the Revised Code,	1610
including moneys to meet the requirement for providing matching	1611
moneys under division (D) of that section. The bonds and notes may	1612

be secured by appropriate trust agreements and repaid from moneys 1613  
credited to the fund from payments of principal and interest on 1614  
loans made from the fund, as provided in division (F) of section 1615  
6111.036 of the Revised Code. 1616

(U) Issue water development revenue bonds and notes of the 1617  
state in principal amounts that are necessary for the purpose of 1618  
raising moneys for the sole benefit of the drinking water 1619  
assistance fund created in section 6109.22 of the Revised Code, 1620  
including moneys to meet the requirement for providing matching 1621  
moneys under divisions (B) and (F) of that section. The bonds and 1622  
notes may be secured by appropriate trust agreements and repaid 1623  
from moneys credited to the fund from payments of principal and 1624  
interest on loans made from the fund, as provided in division (F) 1625  
of section 6109.22 of the Revised Code. 1626

(V) Make loans to and enter into agreements with boards of 1627  
county commissioners for the purposes of section ~~1521.26~~ 1506.44 1628  
of the Revised Code and adopt rules establishing requirements and 1629  
procedures for making the loans and entering into the agreements; 1630

(W) Do all acts necessary or proper to carry out the powers 1631  
expressly granted in this chapter. 1632

Any instrument by which real property is acquired pursuant to 1633  
this section shall identify the agency of the state that has the 1634  
use and benefit of the real property as specified in section 1635  
5301.012 of the Revised Code. 1636

**Section 2.** That existing sections 317.08, 1501.01, 1504.02, 1637  
1506.01, 1506.02, 1506.06, 1506.08, 1506.10, 1506.11, 1506.12, 1638  
1521.01, 1521.20, 1521.21, 1521.22, 1521.23, 1521.24, 1521.25, 1639  
1521.26, 1521.27, 1521.28, 1521.29, 1521.30, 1521.99, and 6121.04 1640  
and section 1506.37 of the Revised Code are hereby repealed. 1641

**Section 3.** (A) As used in this section, "territory" has the 1642

same meaning as in section 1506.11 of the Revised Code, as amended 1643  
by this act. 1644

(B) Section 1506.11 of the Revised Code, as amended by this 1645  
act, requires a lease for the development or improvement of a part 1646  
of the territory primarily for purposes other than the exercise of 1647  
littoral rights. Not later than sixty days after the effective 1648  
date of this act, the Director of Natural Resources shall provide 1649  
notice by certified mail of the right to make a request to 1650  
terminate a lease to all persons who have entered into a lease 1651  
with the state under section 1506.11 of the Revised Code, as it 1652  
existed prior to its amendment by this act, if the development or 1653  
improvement for which the lease was entered into was primarily for 1654  
the exercise of littoral rights. Beginning one hundred twenty days 1655  
after receipt of the notification, a littoral owner may request 1656  
the state to terminate any such lease. On the date of the 1657  
termination request, the lease is terminated, and the lessee is 1658  
released from all obligations under it. 1659

On and after the effective date of this act, a littoral owner 1660  
may request the state to amend a lease that was entered into with 1661  
the state under section 1506.11 of the Revised Code, as it existed 1662  
prior to its amendment by this act, and any associated fees to 1663  
include only territory that was developed or improved primarily 1664  
for purposes other than the exercise of littoral rights. 1665

Upon receipt of a request to terminate or amend a lease under 1666  
this section, the state, acting through the Director, promptly 1667  
shall comply with and take all steps that are necessary to 1668  
implement the request in a timely manner. 1669

**Section 4.** On the effective date of this section, the Coastal 1670  
Resources Advisory Council created in section 1506.12 of the 1671  
Revised Code, as that section existed prior to its amendment by 1672  
this act, is abolished, and all of its assets, liabilities, 1673

equipment, and records, irrespective of form or medium, are 1674  
transferred to the Lake Erie Coastal Advisory Council that is 1675  
created in section 1506.12 of the Revised Code as amended by this 1676  
act. Former members of the Coastal Resources Advisory Council may 1677  
be appointed to the Lake Erie Coastal Advisory Council if the 1678  
Governor so chooses. 1679