

As Introduced

**130th General Assembly
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S. B. No. 215

Senator Skindell

Cosponsors: Senators Cafaro, Turner, Kearney

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A B I L L

To amend sections 1710.01, 1710.02, and 1710.06 of 1
the Revised Code to authorize the creation of a 2
special improvement district to facilitate Lake 3
Erie shoreline improvement. 4

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

Section 1. That sections 1710.01, 1710.02, and 1710.06 of the 5
Revised Code be amended to read as follows: 6

Sec. 1710.01. As used in this chapter: 7

(A) "Special improvement district" means a special 8
improvement district organized under this chapter. 9

(B) "Church" means a fellowship of believers, congregation, 10
society, corporation, convention, or association that is formed 11
primarily or exclusively for religious purposes and that is not 12
formed for the private profit of any person. 13

(C) "Church property" means property that is described as 14
being exempt from taxation under division (A)(2) of section 15
5709.07 of the Revised Code and that the county auditor has 16
entered on the exempt list compiled under section 5713.07 of the 17
Revised Code. 18

(D) "Municipal executive" means the mayor, city manager, or other chief executive officer of the municipal corporation in which a special improvement district is located.

(E) "Participating political subdivision" means the municipal corporation or township, or each of the municipal corporations or townships, that has territory within the boundaries of a special improvement district created under this chapter.

(F) "Legislative authority of a participating political subdivision" means, with reference to a township, the board of township trustees.

(G) "Public improvement" means the planning, design, construction, reconstruction, enlargement, or alteration of any facility or improvement, including the acquisition of land, for which a special assessment may be levied under Chapter 727. of the Revised Code, and includes any special energy improvement project or shoreline improvement project.

(H) "Public service" means any service that can be provided by a municipal corporation or any service for which a special assessment may be levied under Chapter 727. of the Revised Code.

(I) "Special energy improvement project" means any property, device, structure, or equipment necessary for the acquisition, installation, equipping, and improvement of any real or personal property used for the purpose of creating a solar photovoltaic project, a solar thermal energy project, a geothermal energy project, a customer-generated energy project, or an energy efficiency improvement, whether such real or personal property is publicly or privately owned.

(J) "Existing qualified nonprofit corporation" means a nonprofit corporation that existed before the creation of the corresponding district under this chapter, that is composed of members located within or adjacent to the district, that has

established a police department under section 1702.80 of the Revised Code, and that is organized for purposes that include acquisition of real property within an area specified by its articles for the subsequent transfer of such property to its members exclusively for charitable, scientific, literary, or educational purposes, or holding and maintaining and leasing such property; planning for and assisting in the development of its members; providing for the relief of the poor and distressed or underprivileged in the area and adjacent areas; combating community deterioration and lessening the burdens of government; providing or assisting others in providing housing for low- or moderate-income persons; and assisting its members by the provision of public safety and security services, parking facilities, transit service, landscaping, and parks.

(K) "Energy efficiency improvement" means energy efficiency technologies, products, and activities that reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy and that are or will be permanently fixed to real property.

(L) "Customer-generated energy project" means a wind, biomass, or gasification facility for the production of electricity that meets either of the following requirements:

(1) The facility is designed to have a generating capacity of two hundred fifty kilowatts of electricity or less.

(2) The facility is:

(a) Designed to have a generating capacity of more than two hundred fifty kilowatts of electricity;

(b) Operated in parallel with electric transmission and distribution facilities serving the real property at the site of the customer-generated energy project;

(c) Intended primarily to offset part or all of the facility

owner's requirements for electricity at the site of the 81
customer-generated energy project and is located on the facility 82
owner's real property; and 83

(d) Not producing energy for direct sale by the facility 84
owner to the public. 85

(M) "Reduction in demand" means a change in customer behavior 86
or a change in customer-owned or operated assets that reduces or 87
has the capability to reduce the demand for electricity as a 88
result of price signals or other incentives. 89

(N) "Electric distribution utility" and "mercantile customer" 90
have the same meanings as in section 4928.01 of the Revised Code. 91

(O) "Shoreline improvement project" means acquiring, 92
constructing, installing, equipping, improving, maintaining, or 93
repairing real or tangible personal property necessary or useful 94
for making improvements to abate erosion along the Lake Erie 95
shoreline. 96

Sec. 1710.02. (A) A special improvement district may be 97
created within the boundaries of any one municipal corporation, 98
any one township, or any combination of contiguous municipal 99
corporations and townships for the purpose of developing and 100
implementing plans for public improvements and public services 101
that benefit the district. A district may be created by petition 102
of the owners of real property within the proposed district, or by 103
an existing qualified nonprofit corporation. If the district is 104
created by an existing qualified nonprofit corporation, the 105
purposes for which the district is created may be supplemental to 106
the other purposes for which the corporation is organized. All 107
territory in a special improvement district shall be contiguous; 108
except that the territory in a special improvement district may be 109
noncontiguous if at least one special energy improvement project 110
or shoreline improvement project is designated for each parcel of 111

real property included within the special improvement district. 112
Additional territory may be added to a special improvement 113
district created under this chapter for the purpose of developing 114
and implementing plans for special energy improvement projects or 115
shoreline improvement projects if at least one special energy 116
improvement project or shoreline improvement project, 117
respectively, is designated for each parcel of real property 118
included within such additional territory and the addition of 119
territory is authorized by the initial plan proposed under 120
division (F) of this section or a plan adopted by the board of 121
directors of the special improvement district under section 122
1710.06 of the Revised Code. 123

The district shall be governed by the board of trustees of a 124
nonprofit corporation. This board shall be known as the board of 125
directors of the special improvement district. No special 126
improvement district shall include any church property, or 127
property of the federal or state government or a county, township, 128
or municipal corporation, unless the church or the county, 129
township, or municipal corporation specifically requests in 130
writing that the property be included within the district, or 131
unless the church is a member of the existing qualified nonprofit 132
corporation creating the district at the time the district is 133
created. A special improvement district created to implement a 134
shoreline improvement project may include property held by the 135
state in trust for the people. More than one district may be 136
created within a participating political subdivision, but no real 137
property may be included within more than one district unless the 138
owner of the property files a written consent with the clerk of 139
the legislative authority, the township fiscal officer, or the 140
village clerk, as appropriate. The area of each district shall be 141
contiguous; except that the area of a special improvement district 142
may be noncontiguous if all parcels of real property included 143
within such area contain at least one special energy improvement 144

thereon or shoreline improvement. 145

(B) Except as provided in division (C) of this section, a 146
district created under this chapter is not a political 147
subdivision. A district created under this chapter shall be 148
considered a public agency under section 102.01 and a public 149
authority under section 4115.03 of the Revised Code. Each member 150
of the board of directors of a district, each member's designee or 151
proxy, and each officer and employee of a district shall be 152
considered a public official or employee under section 102.01 of 153
the Revised Code and a public official and public servant under 154
section 2921.42 of the Revised Code. Districts created under this 155
chapter are not subject to sections 121.81 to 121.83 of the 156
Revised Code. Districts created under this chapter are subject to 157
sections 121.22 and 121.23 of the Revised Code. 158

(C) Each district created under this chapter shall be 159
considered a political subdivision for purposes of section 4905.34 160
of the Revised Code. 161

Membership on the board of directors of the district shall 162
not be considered as holding a public office. Directors and their 163
designees shall be entitled to the immunities provided by Chapter 164
1702. and to the same immunity as an employee under division 165
(A)(6) of section 2744.03 of the Revised Code, except that 166
directors and their designees shall not be entitled to the 167
indemnification provided in section 2744.07 of the Revised Code 168
unless the director or designee is an employee or official of a 169
participating political subdivision of the district and is acting 170
within the scope of the director's or designee's employment or 171
official responsibilities. 172

District officers and district members and directors and 173
their designees or proxies shall not be required to file a 174
statement with the Ohio ethics commission under section 102.02 of 175
the Revised Code. All records of the district shall be treated as 176

public records under section 149.43 of the Revised Code, except 177
that records of organizations contracting with a district shall 178
not be considered to be public records under section 149.43 or 179
section 149.431 of the Revised Code solely by reason of any 180
contract with a district. 181

(D) Except as otherwise provided in this section, the 182
nonprofit corporation that governs a district shall be organized 183
in the manner described in Chapter 1702. of the Revised Code. 184
Except in the case of a district created by an existing qualified 185
nonprofit corporation, the corporation's articles of incorporation 186
are required to be approved, as provided in division (E) of this 187
section, by resolution of the legislative authority of each 188
participating political subdivision of the district. A copy of 189
that resolution shall be filed along with the articles of 190
incorporation in the secretary of state's office. 191

In addition to meeting the requirements for articles of 192
incorporation set forth in Chapter 1702. of the Revised Code, the 193
articles of incorporation for the nonprofit corporation governing 194
a district formed under this chapter shall provide all the 195
following: 196

(1) The name for the district, which shall include the name 197
of each participating political subdivision of the district; 198

(2) A description of the territory within the district, which 199
may be all or part of each participating political subdivision. 200
The description shall be specific enough to enable real property 201
owners to determine if their property is located within the 202
district. 203

(3) A description of the procedure by which the articles of 204
incorporation may be amended. The procedure shall include 205
receiving approval of the amendment, by resolution, from the 206
legislative authority of each participating political subdivision 207

and filing the approved amendment and resolution with the secretary of state.

(4) The reasons for creating the district, plus an explanation of how the district will be conducive to the public health, safety, peace, convenience, and welfare of the district.

(E) The articles of incorporation for a nonprofit corporation governing a district created under this chapter and amendments to them shall be submitted to the municipal executive, if any, and the legislative authority of each municipal corporation or township in which the proposed district is to be located. Except in the case of a district created by an existing qualified nonprofit corporation, the articles or amendments shall be accompanied by a petition signed either by the owners of at least sixty per cent of the front footage of all real property located in the proposed district that abuts upon any street, alley, public road, place, boulevard, parkway, park entrance, easement, or other existing public improvement within the proposed district, excluding church property or property owned by the state, county, township, municipal, or federal government, unless a church, county, township, or municipal corporation has specifically requested in writing that the property be included in the district, or by the owners of at least seventy-five per cent of the area of all real property located within the proposed district, excluding church property or property owned by the state, county, township, municipal, or federal government, unless a church, county, township, or municipal corporation has specifically requested in writing that the property be included in the district. Pursuant to Section 20 of Article VIII, Ohio Constitution, the petition required under this division may be for the purpose of developing and implementing plans for special energy improvement projects or shoreline improvement projects, and, in such case, is determined to be in furtherance of the

purposes set forth in Section 2o of Article VIII, Ohio 240
Constitution. If a special improvement district is being created 241
under this chapter for the purpose of developing and implementing 242
plans for special energy improvement projects or shoreline 243
improvement projects, the petition required under this division 244
shall be signed by one hundred per cent of the owners of the area 245
of all real property located within the proposed special 246
improvement district, at least one special energy improvement 247
project or shoreline improvement project shall be designated for 248
each parcel of real property within the special improvement 249
district, and the special improvement district may include any 250
number of parcels of real property as determined by the 251
legislative authority of each participating political subdivision 252
in which the proposed special improvement district is to be 253
located. For purposes of determining compliance with these 254
requirements, the area of the district, or the front footage and 255
ownership of property, shall be as shown in the most current 256
records available at the county recorder's office and the county 257
engineer's office sixty days prior to the date on which the 258
petition is filed. 259

Each municipal corporation or township with which the 260
petition is filed has sixty days to approve or disapprove, by 261
resolution, the petition, including the articles of incorporation. 262
In the case of a district created by an existing qualified 263
nonprofit corporation, each municipal corporation or township has 264
sixty days to approve or disapprove the creation of the district 265
after the corporation submits the articles of incorporation or 266
amendments thereto. This chapter does not prohibit or restrict the 267
rights of municipal corporations under Article XVIII of the Ohio 268
Constitution or the right of the municipal legislative authority 269
to impose reasonable conditions in a resolution of approval. The 270
acquisition, installation, equipping, and improvement of a special 271
energy improvement project under this chapter shall not supersede 272

any local zoning, environmental, or similar law or regulation. In addition, all activities associated with a shoreline improvement project that is implemented under this chapter shall comply with all applicable local zoning requirements, all local, state, and federal environmental laws and regulations, and all applicable requirements established in Chapter 1506. of the Revised Code and rules adopted under it.

(F) Persons proposing creation and operation of the district may propose an initial plan for public services or public improvements that benefit all or any part of the district. Any initial plan shall be submitted as part of the petition proposing creation of the district or, in the case of a district created by an existing qualified nonprofit corporation, shall be submitted with the articles of incorporation or amendments thereto.

An initial plan may include provisions for the following:

(1) Creation and operation of the district and of the nonprofit corporation to govern the district under this chapter;

(2) Hiring employees and professional services;

(3) Contracting for insurance;

(4) Purchasing or leasing office space and office equipment;

(5) Other actions necessary initially to form, operate, or organize the district and the nonprofit corporation to govern the district;

(6) A plan for public improvements or public services that benefit all or part of the district, which plan shall comply with the requirements of division (A) of section 1710.06 of the Revised Code and may include, but is not limited to, any of the permissive provisions described in the fourth sentence of that division or listed in divisions (A)(1) to (7) of that section;

(7) If the special improvement district is being created

under this chapter for the purpose of developing and implementing 303
plans for special energy improvement projects or shoreline 304
improvement projects, provision for the addition of territory to 305
the special improvement district. 306

After the initial plan is approved by all municipal 307
corporations and townships to which it is submitted for approval 308
and the district is created, each participating subdivision shall 309
levy a special assessment within its boundaries to pay for the 310
costs of the initial plan. The levy shall be for no more than ten 311
years from the date of the approval of the initial plan; except 312
that if the proceeds of the levy are to be used to pay the costs 313
of a special energy improvement project or shoreline improvement 314
project, the levy of a special assessment shall be for no more 315
than thirty years from the date of approval of the initial plan. 316
In the event that additional territory is added to a special 317
improvement district, the special assessment to be levied with 318
respect to such additional territory shall commence not earlier 319
than the date such territory is added and shall be for no more 320
than thirty years from such date. For purposes of levying an 321
assessment for this initial plan, the services or improvements 322
included in the initial plan shall be deemed a special benefit to 323
property owners within the district. 324

(G) Each nonprofit corporation governing a district under 325
this chapter may do the following: 326

(1) Exercise all powers of nonprofit corporations granted 327
under Chapter 1702. of the Revised Code that do not conflict with 328
this chapter; 329

(2) Develop, adopt, revise, implement, and repeal plans for 330
public improvements and public services for all or any part of the 331
district; 332

(3) Contract with any person, political subdivision as 333

defined in section 2744.01 of the Revised Code, or state agency as 334
defined in section 1.60 of the Revised Code to develop and 335
implement plans for public improvements or public services within 336
the district; 337

(4) Contract and pay for insurance for the district and for 338
directors, officers, agents, contractors, employees, or members of 339
the district for any consequences of the implementation of any 340
plan adopted by the district or any actions of the district. 341

The board of directors of a special improvement district may, 342
acting as agent and on behalf of a participating political 343
subdivision, sell, transfer, lease, or convey any special energy 344
improvement project owned by the participating political 345
subdivision upon a determination by the legislative authority 346
thereof that the project is not required to be owned exclusively 347
by the participating political subdivision for its purposes, for 348
uses determined by the legislative authority thereof as those that 349
will promote the welfare of the people of such participating 350
political subdivision; ~~to~~ improve the quality of life and the 351
general and economic well-being of the people of the participating 352
political subdivision; better ensure the public health, safety, 353
and welfare; protect water and other natural resources; provide 354
for the conservation and preservation of natural and open areas 355
and farmlands, including by making urban areas more desirable or 356
suitable for development and revitalization; control, prevent, 357
minimize, clean up, or mediate certain contamination of or 358
pollution from lands in the state and water contamination or 359
pollution; or provide for safe and natural areas and resources. 360
The legislative authority of each participating political 361
subdivision shall specify the consideration for such sale, 362
transfer, lease, or conveyance and any other terms thereof. Any 363
determinations made by a legislative authority of a participating 364
political subdivision under this division shall be conclusive. 365

Any sale, transfer, lease, or conveyance of a special energy improvement project by a participating political subdivision or the board of directors of the special improvement district may be made without advertising, receipt of bids, or other competitive bidding procedures applicable to the participating political subdivision or the special improvement district under Chapter 153. or 735. or section 1710.11 of the Revised Code or other representative provisions of the Revised Code.

Sec. 1710.06. (A) The board of directors of a special improvement district may develop and adopt one or more written plans for public improvements or public services that benefit all or any part of the district. Each plan shall set forth the specific public improvements or public services that are to be provided, identify the area in which they will be provided, and specify the method of assessment to be used. Each plan for public improvements or public services shall indicate the period of time the assessments are to be levied for the improvements and services and, if public services are included in the plan, the period of time the services are to remain in effect. Plans for public improvements may include the planning, design, construction, reconstruction, enlargement, or alteration of any public improvements and the acquisition of land for the improvements. Plans for public improvements or public services may also include, but are not limited to, provisions for the following:

(1) Creating and operating the district and the nonprofit corporation under this chapter, including hiring employees and professional services, contracting for insurance, and purchasing or leasing office space and office equipment and other requirements of the district;

(2) Planning, designing, and implementing a public improvements or public services plan, including hiring

architectural, engineering, legal, appraisal, insurance,	397
consulting, energy auditing, and planning services, and, for	398
public services, managing, protecting, and maintaining public and	399
private facilities, including public improvements;	400
(3) Conducting court proceedings to carry out this chapter;	401
(4) Paying damages resulting from the provision of public	402
improvements or public services and implementing the plans;	403
(5) Paying the costs of issuing, paying interest on, and	404
redeeming notes and bonds issued for funding public improvements	405
and public services plans;	406
(6) Sale, lease, lease with an option to purchase, conveyance	407
of other interests in, or other contracts for the acquisition,	408
construction, maintenance, repair, furnishing, equipping,	409
operation, or improvement of any special energy improvement	410
project by the special improvement district, between a	411
participating political subdivision and the special improvement	412
district, and between the special improvement district and any	413
owner of real property in the special improvement district on	414
which a special energy improvement project has been acquired,	415
installed, equipped, or improved; and	416
(7) Aggregating the renewable energy credits generated by one	417
or more special energy improvement projects within a special	418
improvement district, upon the consent of the owners of the	419
credits and for the purpose of negotiating and completing the sale	420
of such credits.	421
(B) Once the board of directors of the special improvement	422
district adopts a plan, it shall submit the plan to the	423
legislative authority of each participating political subdivision	424
and the municipal executive of each municipal corporation in which	425
the district is located, if any. The legislative authorities and	426
municipal executives shall review the plan and, within sixty days	427

after receiving it, may submit their comments and recommendations 428
about it to the district. After reviewing these comments and 429
recommendations, the board of directors may amend the plan. It may 430
then submit the plan, amended or otherwise, in the form of a 431
petition to members of the district whose property may be assessed 432
for the plan. Once the petition is signed by those members who own 433
at least sixty per cent of the front footage of property that is 434
to be assessed and that abuts upon a street, alley, public road, 435
place, boulevard, parkway, park entrance, easement, or other 436
public improvement, or those members who own at least seventy-five 437
per cent of the area to be assessed for the improvement or 438
service, the petition may be submitted to each legislative 439
authority for approval. If the special improvement district was 440
created for the purpose of developing and implementing plans for 441
special energy improvement projects or shoreline improvement 442
projects, the petition required under this division shall be 443
signed by one hundred per cent of the owners of the area of all 444
real property located within the area to be assessed for the 445
special energy improvement project or shoreline improvement 446
project. 447

Each legislative authority shall, by resolution, approve or 448
reject the petition within sixty days after receiving it. If the 449
petition is approved by the legislative authority of each 450
participating political subdivision, the plan contained in the 451
petition shall be effective at the earliest date on which a 452
nonemergency resolution of the legislative authority with the 453
latest effective date may become effective. A plan may not be 454
resubmitted to the legislative authorities and municipal 455
executives more than three times in any twelve-month period. 456

(C) Each participating political subdivision shall levy, by 457
special assessment upon specially benefited property located 458
within the district, the costs of any public improvements or 459

public services plan contained in a petition approved by the 460
participating political subdivisions under this section or 461
division (F) of section 1710.02 of the Revised Code. The levy 462
shall be made in accordance with the procedures set forth in 463
Chapter 727. of the Revised Code, except that: 464

(1) The assessment for each improvements or services plan may 465
be levied by any one or any combination of the methods of 466
assessment listed in section 727.01 of the Revised Code, provided 467
that the assessment is uniformly applied. 468

(2) For the purpose of levying an assessment, the board of 469
directors may combine one or more improvements or services plans 470
or parts of plans and levy a single assessment against specially 471
benefited property. 472

(3) For purposes of special assessments levied by a township 473
pursuant to this chapter, references in Chapter 727. of the 474
Revised Code to the municipal corporation shall be deemed to refer 475
to the township, and references to the legislative authority of 476
the municipal corporation shall be deemed to refer to the board of 477
township trustees. 478

Church property or property owned by a political subdivision, 479
including any participating political subdivision in which a 480
special improvement district is located, shall be included in and 481
be subject to special assessments made pursuant to a plan adopted 482
under this section or division (F) of section 1710.02 of the 483
Revised Code, if the church or political subdivision has 484
specifically requested in writing that its property be included 485
within the special improvement district and the church or 486
political subdivision is a member of the district or, in the case 487
of a district created by an existing qualified nonprofit 488
corporation, if the church is a member of the corporation. 489

(D) All rights and privileges of property owners who are 490

assessed under Chapter 727. of the Revised Code shall be granted 491
to property owners assessed under this chapter, including those 492
rights and privileges specified in sections 727.15 to 727.17 and 493
727.18 to 727.22 of the Revised Code and the right to notice of 494
the resolution of necessity and the filing of the estimated 495
assessment under section 727.13 of the Revised Code. Property 496
owners assessed for public services under this chapter shall have 497
the same rights and privileges as property owners assessed for 498
public improvements under this chapter. 499

Section 2. That existing sections 1710.01, 1710.02, and 500
1710.06 of the Revised Code are hereby repealed. 501