



# Ohio Legislative Service Commission

## Bill Analysis

Wendy H. Gridley

### **S.B. 29**

128th General Assembly  
(As Introduced)

**Sens.** Roberts, D. Miller

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## **BILL SUMMARY**

- Authorizes a board of county commissioners, or a joint board of county commissioners, to use certain ditch maintenance procedures to maintain soil and water conservation district improvements.
- Allows a board of county commissioners to adjust the permanent base of a ditch improvement that is used for maintenance fund assessments.

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## **CONTENT AND OPERATION**

### **Soil and water conservation district improvements**

Current law requires a board of county commissioners, or a joint board if one has been appointed, to maintain the works of improvement constructed by the board for a soil and water conservation district. The board may contract with or authorize the supervisors or joint board of supervisors of a soil and water conservation district to perform maintenance on the works of improvement. The bill authorizes the board of county commissioners or joint board to use procedures and requirements governing assessments, maintenance and cleaning, and inspections that are established in the Ditch Maintenance Fund Law in order to maintain soil and water conservation district works of improvement. Examples of these provisions include authorizing an owner who performs maintenance on a portion of a drainage improvement to petition for a reduced maintenance assessment (R.C. 6137.08) and authorizing the levy of an additional repair assessment to rectify damage caused to a drainage improvement by the negligent act of an owner (R.C. 6137.10). (R.C. 1515.29.)

## Ditch maintenance fund assessments

Under current law, a board of county commissioners is required to establish and maintain a fund for the repair, upkeep, and permanent maintenance of each ditch or other drainage improvement constructed under the Single County Ditch Law. (R.C. Chapter 6131.) After six annual maintenance fund assessments have been made on owners benefiting from an improvement that was constructed under that Law, a board of county commissioners must review the permanent base for maintenance fund assessment. (The permanent base is the original schedule of benefit assessments, determined using the original cost of constructing the improvement.) Upon this review, the board may increase or decrease the benefit apportionments of each of the owners in accordance with changes in benefits that have occurred during the previous six years. (R.C. 6137.11, not in the bill.) A board of county commissioners has no authority to increase the original estimated construction cost of a ditch to account for inflation, to the amount the ditch would cost to construct now. (2004 Op. Att'y Gen. No. 2004-035.)

The bill allows the board, at the six-year review, to request the county engineer to estimate the construction cost of the improvement as if that improvement were to be constructed at the time of the permanent base review. If the board, by resolution, approves the estimate as the construction cost of the improvement in lieu of the original construction cost of the improvement, the estimate of construction cost must be the permanent base that is used to calculate maintenance fund assessments for owners who benefit from the improvement. The approved estimate of construction cost must serve as the permanent base for purposes of the Ditch Maintenance Fund Law until such time as it is revised in accordance with the bill.<sup>1</sup> (R.C. 6137.112.)

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## HISTORY

ACTION	DATE
Introduced	02-10-09

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<sup>1</sup> One such purpose served by increasing the estimated construction cost is to mitigate the effects of inflation by allowing for a greater unencumbered balance under R.C. 6137.03, which may be inadequate under current law for the continued maintenance of older ditch improvements that are based on a significantly lower original construction cost.