

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: H.B. 47 DATE: March 27, 2007

STATUS: As Introduced SPONSOR: Rep. Gibbs

LOCAL IMPACT STATEMENT REQUIRED: Yes — Corrected after initial revenue

CONTENTS: To revise the membership of the board of directors of a conservancy district, to require the board of directors to perform certain functions under the Conservancy Districts Law, to prohibit the levying of an assessment by a certain conservancy district on real property not directly benefited from the assessment, and to make other changes concerning the levying of an assessment

State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
Department of Natural Resources – Various Funds			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

- The Department of Natural Resources (DNR) advises conservancy districts in the areas of water conservation and flood control. DNR also serves as a contact point for districts seeking financial assistance as well as citizen information about conservancy districts. DNR may experience increased advisory and financial assistance requests from the Muskingum Watershed Conservancy District (MWCD). Any increased costs are expected to be minimal.



Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2007	FY 2008	FUTURE YEARS
Conservancy Districts			
Revenues	Potential loss in millions of revenues that may have otherwise been received	Potential loss in millions of revenues that may have otherwise been received	Potential loss in millions of revenues that may have otherwise been received
Expenditures	Potential increase in administrative costs due to new board structure	Potential increase in administrative costs due to new board structure	Potential increase in administrative costs due to new board structure
County Courts of Common Pleas			
Revenues	Minimal gain in filing fee revenue	Minimal gain in filing fee revenue	Minimal gain in filing fee revenue
Expenditures	Potential increase to hear actions filed regarding benefited property, assessments, etc.	Potential increase to hear actions filed regarding benefited property, assessments, etc.	Potential increase to hear actions filed regarding benefited property, assessments, etc.

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- ***Conservancy districts.*** Since the bill limits the levying of a specific district's assessment to real property that directly benefits from the assessment, such a district could experience a potential loss in revenues that may have otherwise been received by levying an assessment on *all* allowable properties in the district. This would apply to both general assessments and maintenance assessments. The actual amount of such a loss is unknown.
- Conservancy districts may also experience added administrative costs due to changes in board structure and the transfer of certain responsibilities from the conservancy court to the board of directors. Based on the language in the bill, the only conservancy district likely to be affected is the Muskingum Watershed Conservancy District.
- ***County courts.*** County courts of common pleas may experience additional costs associated with hearing cases related to persons or public corporations considering itself injured by any act performed by the board of directors of a conservancy district. Depending on the number of cases brought forth, which could potentially be significant, county courts may experience administrative expenses. Any costs are likely to be offset by court fees. Any additional court fee revenue is not likely, but if collected, revenues are not expected to exceed minimal.

Detailed Fiscal Analysis

Background

Conservancy districts are political subdivisions that typically span several counties for the primary purpose of flood control within a watershed. Most districts include several reservoirs and dams that work as a controlled network. Conservancy districts also regulate stream channels and stream flow, reclaim or fill wet and overflowed lands, provide water supply, provide for sewage disposal, and control erosion. According to the Department of Natural Resources (DNR), 57 conservancy districts were created in the state – of this amount roughly 19 are currently active, 23 are inactive, 5 have merged with another, and 10 have been dissolved.

Each district is governed by a conservancy court made up of one common pleas court judge from each of the counties in the district. The court has the power to exercise jurisdiction over the district, including the appointment of the board of directors, which oversees the operations of the district. Most districts also have a board of appraisers that approves the methodology for determining assessments of the district based on the relative benefits or damages to property owners. The board also makes recommendations to the board of directors on property sales and acquisitions.

Funding for a district's responsibilities are usually from fees and revenues generated from parks and recreational facilities, land leases, timber production, resort revenues, and mineral production. Conservancy districts are also authorized to levy property assessments for maintenance and improvements within the district.

The bill and its fiscal effects

The bill makes several changes to the governing and operations of a conservancy district consisting of all or parts of more than 16 counties. Based on the number and make-up of all conservancy districts in the state, the bill appears to only impact the Muskingum Watershed Conservancy District (MWCD).

The bill makes the following changes and has the associated fiscal effects.

Board structure. This bill makes changes to the appointment of members of the board of directors to require the appointment be made by the presidents of the board of county commissioners rather than by the district court; increases the number of board members; and modifies board vacancies, appointments, and reappointments. These provisions may result in minimal administrative expenditure increases to MWCD.

Assumption of conservancy court duties by the board of directors. Under current law, a conservancy court has several functions such as hearing petitions, approving appointments, approving the district's official plan, reviewing appraisals, confirming levies, and many other administrative functions. Under the bill, the board of directors of MWCD will take on some of these functions such as

approval of the district plan and the appointment of the board of appraisers. This change may result in a minimal increase in expenditures.

Compensation. Also under the bill, the board of directors of the district will determine the board members' compensation. Currently, compensation for board members is determined by the conservancy court. MWCD states that board members receive \$50 per meeting with meetings held once or twice a month. It is possible that this compensation level may increase or decrease with the board of directors determining their own compensation levels, and thus the fiscal impact of this change is unknown.

Court costs. The bill allows a person or public corporation within the boundaries of MWCD to file an action in the appropriate county court of common pleas if someone considers itself (1) injured by any act performed by the district's board of directors performing the functions of the conservancy court, or (2) appeals the levying of an assessment. Depending on the number of cases brought forth, which could potentially be significant, county courts may experience additional administrative costs and added workload. Court filing fees will likely offset the majority of these costs. Overall, any additional expenditures and any additional court revenues are not likely to exceed minimal. A minimal effect on revenues or expenditures means an estimated change of less than \$100,000 per year for all affected courts.

Department of Natural Resources. DNR assists conservancy districts in water conservation and flood control. DNR also serves as a contact point for districts seeking financial assistance as well as citizen information about conservancy districts. DNR may experience increased advisory and financial assistance requests from MWCD; however, these costs are not estimated to exceed minimal.

Assessments. The bill specifies that a district made up of more than 16 counties, cannot levy an assessment (general assessments or maintenance assessments) on real property that does not or will not directly benefit from the improvement for which the assessment is to be levied. Property owners that are currently exempt from taxation may request that the levy be imposed on their property. Overall, these provisions may result in a potential loss in millions in revenues to the MWCD that may have otherwise been received by levying an assessment on all allowable properties in the district. This would apply to both general assessments and maintenance assessments. However, the actual amount of such a loss is unknown and will depend on the amount of persons or entities exempt from the assessment.

MWCD plan. Based on information from MWCD, the district plans to impose a 20-year levy that would generate \$270 million for a maintenance plan for improvement of water quality and flood reduction in the watershed. The assessment would be on roughly 500,000 parcels of property both residential and commercial. Based on the provisions in the bill, the \$270 million may be reduced due to certain properties being excluded from the assessment because they may not directly benefit from the assessment.

If the number of parcels subject to the assessment is reduced it is unknown how the district will fund its planned maintenance needs. Considering the estimated amount of annual revenue from the assessment is \$12.5 million, based on 500,000 parcels charged an *average rate* of \$25 per parcel, reducing the number of parcels by 100,000 would result in annual assessment revenue of \$10 million, or a loss of \$2.5 million compared to the original plan. Decreasing the number of parcels even further

would result in a greater loss. However, the number of parcels that may be exempt from the assessment is unknown.

Assuming MWCD experiences any level of revenue loss and still intends to pursue the proposed maintenance plan, it is possible that: (1) other fees for parks, resorts, or other recreational facilities the district operates may be increased over time to cover the district's maintenance expenses, (2) the planned maintenance schedule may be extended 30 to 50 years out instead of 20, (3) the board of directors may increase the original per parcel assessment rate¹ on the nonexempt parcels to generate enough revenue to support the original maintenance plan, or (4) MWCD may have limited cash flows to pay back a \$4 million loan to the Ohio Water Development Authority for assistance in generating the overall maintenance plan. This may result in MWCD using existing assets rather than assessment revenues to pay back the loan. Considering all these possibilities, LSC cannot estimate with certainty if any, all, or combination of them may actually occur.

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¹ The plan calls for a per parcel rate of \$12 for residential and agriculture property; for business as it may pay upwards of \$100 per parcel.