



Richard Bloedel

*Final Analysis*  
*Legislative Service Commission*

## **Sub. H.B. 385**

124th General Assembly

(As Passed by the General Assembly)

(excluding transfers of funds and other appropriations provisions)

**Reps. Blasdel, Carey, Grendell, Faber, Gilb, Schmidt, Widowfield, Evans, Webster, Barrett, Seitz, Setzer, Calvert, Niehaus, Lendrum, Flowers, Carano, Sferra, Fedor, Woodard, Collier, Barnes, Britton, Patton, Latell, Key, Coates**

**Effective date:** \*

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### **ACT SUMMARY**

- Eliminates the criterion under which Clean Ohio natural resources and parks and recreation projects for open space and related development must emphasize the inclusion of pedestrian or bicycle linkages to other open spaces.
- Eliminates the requirement that a park district or other similar park authority obtain approval for a proposed project from the affected local governments in order to submit an application to a natural resources assistance council for a Clean Ohio natural resources and parks and recreation grant, and instead requires such an applicant to consult with the local governments.
- Requires that for any easement purchased with matching grant money from the Clean Ohio Agricultural Easement Fund, the Director of Agriculture be named as a grantee on the instrument conveying the easement.
- Authorizes the Director of Agriculture to share agricultural easement monitoring and enforcement responsibilities with the local government or

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\* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

charitable organization that received a matching grant to purchase the easement.

- Provides that Clean Ohio Conservation Fund appropriations for the 2000-2002 biennium must be released by the Director of Budget and Management at the request of the Public Works Commission.
- Creates a revolving loan fund in the state treasury to receive payments of principal and interest on loans made from the Clean Ohio Revitalization Fund.

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## **CONTENT AND OPERATION**

### **Clean Ohio Conservation Fund grants**

(Section 3)

Am. Sub. H.B. 3 of the 124th General Assembly created the Clean Ohio Conservation Fund, which is used to make grants for projects that provide open space or protect and enhance riparian corridors and watersheds. Revenue for the fund is provided through the issuance of general obligation bonds under Section 2o of Article VIII of the Ohio Constitution. The grant program is administered by the Ohio Public Works Commission, and grant recipients are chosen by natural resources assistance councils in each of the state's 19 public works integrating committee districts.

The act states that, notwithstanding the section of the Revised Code governing the release of money for capital projects, appropriations from the Clean Ohio Conservation Fund for the 2000-2002 biennium are to be released upon presentation of a request to do so by the Public Works Commission to the Director of Budget and Management.

### **Criteria to be emphasized by Clean Ohio natural resources and parks and recreation projects**

(R.C. 164.22)

For purposes of review and approval or disapproval of grant applications by natural resources assistance councils for Clean Ohio natural resources and parks and recreation projects, the projects must provide for open space acquisition and related development or protect and enhance riparian corridors or watersheds. Projects proposed for open space acquisition and related development also must emphasize specified criteria. One of the criteria was the inclusion of pedestrian or

bicycle linkages to other open space preserves and population centers. The act eliminates that criterion.

**Requirements governing park districts applying for Clean Ohio natural resources and parks and recreation grants**

(R.C. 164.23)

Formerly a park district or other similar park authority, prior to submitting an application for a Clean Ohio natural resources and parks and recreation grant, had to submit a copy of the application to the legislative authority of each county, township, and municipal corporation in which the proposed project was located. The park district or other similar park authority, in accordance with specified procedures, then had to obtain approval for the proposed project from each of those local governments in order to submit the application to a natural resources assistance council. The act eliminates the requirement that a park district or similar park authority obtain approval from the affected local governments and instead requires such an applicant to consult with the legislative authority of each affected county, township, and municipal corporation before submitting its application.

**Background: Clean Ohio Agricultural Easement Fund**

Am. Sub. H.B. 3 provided that a portion of the revenue from general obligation bonds issued under Section 20 of Article VIII of the Ohio Constitution be allocated to the Clean Ohio Agricultural Easement Fund. The fund is used to purchase easement rights to land under terms that require that the land will be used predominantly for agricultural purposes. The Director of Agriculture can make matching grants from the fund to municipal corporations, counties, townships, and nonprofit charitable organizations to purchase agricultural easements.

**State a coholder of matching grant easements**

(R.C. 901.22)

The act provides that for any easement purchased with matching grant money from the Clean Ohio Agricultural Easement Fund, the Director of Agriculture must be named as a grantee on the instrument conveying the easement. The municipal corporation, county, township, or charitable organization that receives the grant also must be named as a grantee.

### **Sharing of enforcement responsibilities**

(R.C. 5301.691)

A local government or charitable organization that receives matching grant money from the Clean Ohio Agricultural Easement Fund to purchase an agricultural easement is required to visit the land annually to monitor that it is not being developed in violation of the terms of the easement. Department of Agriculture rules prescribe corrective enforcement actions the local government or charitable organization must take to enforce the terms of the easement if such development is occurring.

The act allows the Director of Agriculture to agree to share the monitoring and enforcement responsibilities with the local government or charitable organization.

### **Clean Ohio Revitalization Fund and Clean Ohio Revitalization**

#### **Revolving Loan Fund**

(R.C. 122.657 and 122.658)

Section 20 of Article VIII of the Ohio Constitution also authorizes the state to issue bonds that are not general obligations, for the purpose of paying costs of brownfield cleanup or remediation projects and certain other public health projects. Debt service on the bonds is paid with nontax revenue, including a portion of the state's profits from liquor sales. Am. Sub. H.B. 3 created the Clean Ohio Revitalization Fund, into which proceeds of the bonds are deposited. Under the Clean Ohio Revitalization Fund program, a grant or loan for a project can be made to a municipal corporation, county, township, port authority, or conservancy district, or to a park district or private organization (nonprofit or for-profit) that has entered into a project agreement with a municipal corporation, county, township, port authority, or conservancy district.

Prior law provided that payments of principal and interest on loans made from the Clean Ohio Revitalization Fund were deposited back in the fund. The act requires instead that such loan repayments are to be deposited in the Clean Ohio Revitalization Revolving Loan Fund, which it creates in the state treasury. Money that accrues in the revolving loan fund is to be used to make new loans for the same purposes and subject to the same policies, requirements, criteria, and application procedures as loans made from the Clean Ohio Revitalization Fund.

Principal and interest payments on loans made from the revolving loan fund are to be deposited in the revolving loan fund, as are its investment earnings.



### **References to related sections of bond law**

(R.C. 151.01)

The Capital Facilities Bonds and Obligations Law consisted of eight sections of the Revised Code. Am. Sub. H.B. 3 added a ninth section to deal with general obligations issued to pay costs of conservation projects under Section 2o of Article VIII of the Ohio Constitution. This ninth section (R.C. 151.09) was inadvertently not referred to in the provision of law that deems that pledged excises, taxes, and revenues are levied and collected to provide for the payment of debt service and financing costs for the bonds. The act rectifies the omission by referring to the ninth section.

Am. Sub. H.B. 3 also enacted a section of law (R.C. 151.40) to deal with obligations issued to pay costs of revitalization projects under Section 2o of Article VIII of the Ohio Constitution. In this case the Capital Facilities Bonds and Obligations Law failed to require the Office of Budget and Management, if the bond service fund for the bonds had insufficient money in it to meet all debt service payments when due, to transfer a sufficient amount of pledged revenue to the bond service fund as provided for in R.C. 151.40. The act rectifies the omission by referring to the revenues pledged in R.C. 151.40; the act does not add to or subtract from the existing list of pledged revenue.

### **Clean Ohio Council**

(R.C. 122.651)

Am. Sub. H.B. 3 established the Clean Ohio Council consisting of (1) the Director of Development and the Director of Environmental Protection or their designees, (2) the Director of the Ohio Public Works Commission, (3) one senator and one representative from the majority party and one senator and one representative from the minority party, and (4) seven members appointed by the Governor. The members serve without compensation for attending Council meetings. The act provides that they are to receive their actual and necessary traveling and other expenses incurred in the performance of their official duties in accordance with the rules of the Office of Budget and Management.

Am. Sub. H.B. 3 stated that serving as a member of the Council does not constitute the holding of a public office. The act adds, however, that members of the Council are to be deemed to be public officials or officers for the purposes of (1) the law that gives officers and employees immunity in any civil action for damage or injury caused in the performance of their duties unless their actions were manifestly outside the scope of their employment or unless they were done with malicious purpose, in bad faith, or in a wanton or reckless manner, (2) the

Ohio Ethics Law, and (3) the Offenses Against Justice and Public Administration Law. The act also specifically requires members of the Council to file their financial disclosure statements on the form prescribed by the Ethics Commission and prohibits them from knowingly failing to file or from filing a false ethics disclosure statement.

Am. Sub. H.B. 3 stated that a member appointed by the Governor must not have a conflict of interest with the person's position on the Council. The act declares, however, that persons appointed by the Governor to represent the interests of counties, persons appointed to represent the interests of townships, and persons appointed to represent the interests of municipal corporations do not have a conflict of interest by virtue of their service in these positions. Am. Sub. H.B. 3 defined a "conflict of interest" as the taking of any action that violates the Ohio Ethics Law or the Offenses Against Justice and Public Administration Law. The act provides, instead, that a "conflict of interest" means "the taking of any action as a member of the council that affects a public agency the person serves as an officer or employee."

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-02-01	p. 866
Reported, H. Finance & Appropriations	10-16-01	pp. 925-926
Passed House (99-0)	10-17-01	pp. 937-938
Reported, S. Finance & Financial Institutions	01-23-02	pp. 1342-1343
Passed Senate (31-2)	01-23-02	pp. 1345-1346
Concurrence (98-0)	01-29-02	p. 1308

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