



Eric Vendel

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 218**

125th General Assembly  
(As Introduced)

**Reps. Grendell, Martin, Young, Callender, Kilbane, Redfern, Jerse**

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### **BILL SUMMARY**

#### **Coastal management program**

- Revises the definitions of "coastal management program" and "coastal area."
- Eliminates the requirement that the Director of Natural Resources identify Lake Erie coastal erosion areas, the Director's authority to adopt rules governing the erection, construction, and redevelopment of permanent structures in Lake Erie coastal erosion areas, and the requirement that a person obtain a permit prior to construction of a permanent structure in such areas.
- Revises the definition of "coastal management program document," and requires the Director to notify by mail any persons who would be directly affected by changes to the state's coastal management program document or to rules governing the coastal management program.
- Eliminates the requirement that the Director determine whether a project or activity directly affecting the coastal area of Lake Erie that is proposed by or subject to the approval of any state agency is consistent with the policies in the coastal management program document.
- Revises the purposes for which the Director may award coastal management assistance grants.
- Specifies that an appeal made under the Coastal Management Law must be heard in the court of common pleas of the county in which the appellant resides.

### **Determination of shoreline property boundaries and rights of littoral owners**

- States that the state's ownership of the land portion of Lake Erie and its shoreline extends only to and below the natural low water mark and that all lands above that mark belong to littoral owners.
- Defines "natural low water mark" to mean the lowest level of Lake Erie averaged over a one-month period from historical record.
- Specifies that the loss of a littoral owner's lands by avulsion or by artificially influenced erosion does not alter the boundary of the littoral owner's property that is established under the bill or by deed.
- Specifies by definition that littoral owners have the right to make reasonable use of the submerged lands and waters fronting their land, including construction of piers, fills, backwalls, or wharves, below the natural low water mark, for accessing and using the waters of Lake Erie for navigation, fishing, recreation, or other purposes, including launching and storing watercraft, wharfing out to navigable waters, and consumptive use of the water, and to own additional lands created by natural accretion or reliction, to restore lands lost to avulsion or artificially induced erosion, and to protect lands from erosion.

### **Submerged lands leases and permits**

- For purposes of the submerged lands leases and permits program, revises the definition of "territory" to mean the waters and lands presently underlying the waters of Lake Erie and the lands formerly underlying the waters of Lake Erie and now artificially filled between the natural low water mark shoreline or legally deeded lakeward property boundary of a littoral owner and the harbor line or the line of commercial navigation where no harbor line has been established rather than between the natural shoreline and the international boundary line with Canada as in current law.
- Creates an exception to current law requiring a person who wants to develop or improve the waters of Lake Erie or lands underlying it to enter into a submerged land lease or permit with the Department of Natural Resources by exempting a person who is exercising the person's littoral rights, but states that the exception does not interfere with certain powers

and duties conferred upon and delegated to municipal corporations and the United States Army Corp of Engineers.

- Allows a person who has entered into a lease or been issued a permit under existing law and who is exempt from the lease and permit requirements under the bill to request the state to terminate the lease or permit, and states that the person is released from all obligations under the lease or permit on the date of the termination request.
- Requires all of the rentals received from leases and permits to be paid to the appropriate municipal corporation, county, or port authority and to be used only to maintain, improve, or add to improvements in aid of navigation, water commerce, or public access to the waters of Lake Erie rather than requiring 50% of the rentals to be retained by the Department for administration purposes and the coastal management assistance grant program and 50% to be paid to the appropriate municipal corporation, county, or port authority as under current law.
- Entitles persons having littoral rights to just compensation for the taking of structures, facilities, buildings, improvements, or uses erected or placed upon the territory by any governmental authority having the power of eminent domain.
- Specifies that nothing in a lease entered into or a permit issued prior to the bill's effective date can be construed as determining the boundary between a littoral owner's title to real property and the state's ownership of the waters of Lake Erie and the soil beneath and their contents.

**Erosion control structure permits**

- Requires a person to submit an application for an erosion control structure permit to, rather than obtain a permit from as in current law, the Chief of the Division of Water in the Department of Natural Resources before constructing a beach, groin, or other structure to control erosion, wave action, or inundation along Lake Erie.
- Eliminates the nonrefundable application or reapplication fee for an erosion control structure permit.
- Specifies that a state permit for the construction of an erosion control structure is not required for that construction if the United States Army

Corps of Engineers has issued a permit for the construction and a copy has been submitted to the Chief or if a person is exercising the person's littoral rights.

- Requires the Chief, upon receipt of an application for an erosion control structure permit, to notify owners of littoral property that is adjacent to the proposed area of construction.
- Specifies that an appeal made under the Shore Erosion Law must be heard in the court of common pleas of the county in which the appellant resides and that the appellant is not required to appeal to the Director of Natural Resources before appealing to the court of common pleas.
- Specifies that the maximum allowable fine for a violation of the Shore Erosion Law is \$500, rather than \$1,000, and eliminates a provision stating that each day of violation of that Law constitutes a separate offense.
- Specifies that the maximum allowable fine for violating existing statutes governing the construction of a dam, dike, or levee is \$500, rather than \$1,000, and eliminates a provision stating that each day of violation of those statutes constitutes a separate offense.

#### **Permit and Lease Fund**

- Eliminates the Permit and Lease Fund, and requires that money derived from the granting of permits and leases for the removal of minerals from and under Lake Erie be credited to the General Revenue Fund instead of the Permit and Lease Fund.

#### **Coastal Resources Advisory Council**

- Requires the Governor, rather than the Director of Natural Resources, to appoint the members of the Coastal Resources Advisory Council, and requires at least seven members to be permanent residents of the coastal area.

#### **Miscellaneous**

- Makes other miscellaneous, including conforming, changes to the laws governing coastal management and the control of shore erosion along Lake Erie.



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## CONTENT AND OPERATION

### *Coastal management program*

#### *Definitions of "coastal management program" and "coastal area"*

Current law designates the Department of Natural Resources as the lead agency for the development and implementation of a coastal management program (sec. 1506.02). "Coastal management program" currently means the comprehensive action of the state and its political subdivisions cooperatively to preserve, protect, develop, restore, or enhance the resources of the coastal area (see below) and to ensure wise use of the land and water resources of the coastal area, giving attention to natural, cultural, historic, and aesthetic values; agricultural, recreation, energy, and economic needs; and the national interest. The bill eliminates from the definition the ensuring of the wise use of the land and water resources of the coastal area and adds that the program is to give attention to the interest of residential private property owners in the coastal area. Under current law, "coastal management program" includes the establishment of

objectives, policies, standards, and criteria concerning, without limitation, protection of air, water, wildlife, rare and endangered species, wetlands and natural areas, and other natural resources in the coastal area; management of coastal development and redevelopment; preservation and restoration of historic, cultural, and aesthetic coastal features; and public access to the coastal area for recreation purposes. The bill eliminates from the definition the establishment of objectives, policies, standards, and criteria concerning management of coastal development and redevelopment. In addition, the bill refines the definition by adding that public access is only to the public portion of the coastal area for recreation purposes. (Sec. 1506.01(B).)

Current law defines "coastal area" as the waters of Lake Erie, the islands in the lake, and the lands under and adjacent to the lake, including transitional areas, wetlands, and beaches, and states that the coastal area extends in Lake Erie to the international boundary line between the United States and Canada and landward only to the extent necessary to include shorelands, the uses of which have a direct and significant impact on coastal waters as determined by the Director of Natural Resources. The bill retains the first portion of the definition, but eliminates the provision under which the coastal area extends landward to include certain shorelands, thus stating, in the second portion of the definition, only that the coastal area extends in Lake Erie to the international boundary line between the United States and Canada. (Sec. 1506.01(A).)

### **Coastal erosion areas**

Existing law requires the Director to identify Lake Erie coastal erosion areas and to establish certain requirements governing permanent structures within those areas. The bill eliminates the requirement that the Director identify coastal erosion areas and all statutory provisions regarding them as follows.

First, current law defines "coastal erosion area" to mean any territory included in Lake Erie coastal erosion areas identified by the Director. The bill eliminates the definition. (Sec. 1506.01(I).) Under current law, at least once every ten years, the Director must 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. A person who has received notice 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 cannot sell or transfer any interest in that property unless the person first provides written notice to the purchaser that the property is included in a Lake Erie coastal erosion area. The bill eliminates all of those requirements concerning coastal erosion areas. (Sec. 1506.06.)

Similarly, current law requires the Director to adopt rules governing the erection, construction, and redevelopment of permanent structures in Lake Erie coastal erosion areas. The rules must include a requirement that any person who intends to erect, construct, or redevelop any permanent structure within a coastal erosion area obtain a permit from the Director. Likewise, the Coastal Management Law prohibits anyone from erecting, constructing, or redeveloping a permanent structure without a permit and establishes a fine of \$100 to \$500 for failure to obtain a permit. The bill eliminates the Director's authority to adopt such rules and the requirement that a person obtain a permit prior to construction of a permanent structure in such an area. (Secs. 1506.07(A) and (B) and 1506.99.) Currently, anyone who violates a condition of a coastal erosion permit is subject to a fine of \$100 to \$500 and a civil penalty of not more than \$5,000. The bill eliminates the fine and penalty. (Secs. 1506.09(C) and 1506.99.)

Current law creates an exception to the permit requirement within the territory of a county or municipal corporation that has adopted and is enforcing a Lake Erie coastal erosion area resolution or ordinance within its zoning or building regulations if the resolution or ordinance has been reviewed by the Director and meets or exceeds the statutory standards governing the issuance of a permit (sec. 1506.07(D)). A board of county commissioners may include in its building code regulations for that purpose and may adopt building regulations that are more stringent in Lake Erie coastal erosion areas in order to prevent or reduce the hazard resulting from erosion along Lake Erie (sec. 307.37). The bill eliminates these provisions as well as all other statutory references to coastal erosion areas, including the authority for a prosecuting attorney of a county or city director of law of a municipal corporation to bring a civil action against anyone who has violated a coastal erosion area resolution or ordinance (secs. 1506.08, 1506.09, 1521.24, 1521.26, and 6121.01).

### **Coastal management program document**

For purposes of the coastal management program, current law requires the Director to develop and adopt the coastal management program document (sec. 1506.02(A)(1)). "Coastal management program document" currently means a comprehensive statement consisting of, without limitation, text, maps, and illustrations that is adopted by the Director in accordance with the Coastal Management Law, describes the objectives, policies, standards, and criteria of the coastal management program for guiding public and private uses of lands and waters in the coastal area, lists the governmental agencies, including, without limitation, state agencies, involved in implementing the coastal management program, describes their applicable policies and programs, and cites the statutes and rules under which they may adopt and implement those policies and programs. The bill eliminates private uses of lands and water from the definition. (Sec.

1506.01(C).) Current law allows the Director to amend the document, provided that, prior to making changes in it, the Director notifies by mail those persons who submitted comments and recommendations concerning the original document and appropriate agencies of the state and its political subdivisions. The Director may hold at least one public hearing on the proposed changes. The bill eliminates the provision that requires the Director to notify by mail those persons who submitted comments and recommendations concerning the original document and instead requires the Director to notify those persons who would be affected by changes to the document. In addition, the bill requires, rather than allows, the Director to hold at least one public hearing on the proposed changes. (Sec. 1506.02(A)(1).)

**Notice to persons directly affected by proposed rules governing the program**

Under existing law, the Director must adopt and may amend or rescind rules in accordance with the Administrative Procedure Act for the implementation, administration, and enforcement of the coastal management program and other provisions of the Coastal Management Law. Before the adoption, amendment, or rescission of rules, the Director must maintain a list of interested public and private organizations and mail notice of any proposed rule, amendment, or rescission to them at least 30 days before any public hearing on the proposal; mail a copy of each proposed rule, amendment, or rescission to any person who requests a copy within five days after receipt of the request; and consult with appropriate statewide organizations and units of local government that would be affected by the proposal. The bill also requires the Director to mail a copy to any person who would be directly affected by the proposed rule, amendment, or rescission. In addition, current law states that although the Director is expected to discharge those duties diligently, failure to mail any notice or copy or to so consult with any person is not jurisdictional and cannot be construed to invalidate any proceeding or action of the Director. The bill eliminates this provision. (Sec. 1506.02(A)(3).)

**Consistency of projects with the coastal management program document**

Current law states that no project or activity directly affecting the coastal area that is proposed by or subject to the approval of any state agency can be implemented or approved until the Director has determined that it is consistent with the policies in the coastal management program document. The bill eliminates the requirement. (Sec. 1506.03.)

**Coastal management assistance grant program**

Current law requires the Director to establish a coastal management assistance grant program. Grants may be used for all of the following purposes, some of which are revised or eliminated by the bill:

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

(2) The protection and preservation of wetlands, beaches, fish and wildlife habitats, minerals, natural areas, prime agricultural land, endangered plant and animal species, or other significant natural coastal resources, revised in part by the bill to include only public, rather than all, beaches;

(3) The management of shoreline development to prevent loss of life and property in coastal flood hazard areas and coastal erosion areas, to set priorities for water-dependent energy, commercial, industrial, agricultural, and recreational uses, or to identify environmentally acceptable sites for dredge spoil disposal, revised by the bill to specify instead only the setting of priorities for water-dependent energy, commercial, industrial, agricultural, and recreational uses, or identifying environmentally acceptable sites for dredge spoil disposal;

(4) Increasing public access to Lake Erie and other public places in the coastal area;

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

(6) Improving the predictability and efficiency of governmental decision making related to coastal area management;

(7) Adopting, administering, and enforcing zoning ordinances or resolutions relating to coastal flood hazard areas or coastal erosion areas, revised by the bill to specify instead developing model zoning ordinances or resolutions relating to coastal flood hazard areas and providing them to local governments;

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

(9) Other purposes approved by the Director, eliminated by the bill. (Sec. 1506.02(C).)

### **Appeals**

Existing law allows any person who is adversely affected by the final identification of a Lake Erie coastal erosion area or any other final administrative act of the Director under the Coastal Management Law or who receives denial of a permit application under that Law, within 30 days after the identification, act, or denial, to appeal it in accordance with the Administrative Procedure Act. The bill instead allows any person who is affected by any final administrative act of the Director under the Coastal Management Law, within 30 days after the act, to

appeal it in accordance with the Administrative Procedure Act, except that the appeal must be made to the court of common pleas of the county in which the appellant resides. (Sec. 1506.08.)

**Determination of shoreline property boundaries and rights of littoral owners**

Current law declares that the waters of Lake Erie consisting of the territory within the boundaries of the state, extending from the southerly shore of Lake Erie to the international boundary line between the United States and Canada, together with the soil beneath and their contents, belong to the state as proprietor in trust for the people of the state for the public uses to which they may be adapted. The law subjects that ownership to the powers of the United States government, to the public rights of navigation, water commerce, and fishery, and to the property rights of littoral owners, including the right to make reasonable use of the waters in front of or flowing passed their lands. The bill first revises those boundaries by declaring that the waters of Lake Erie consisting of the territory within the boundaries of the state, extending from the natural low water mark of the southerly shore of Lake Erie to the international boundary line between the United States and Canada, together with the soil beneath and their contents, belong to the state. (Sec. 1506.10(B).) The bill defines "natural low water mark" to mean the lowest water level of Lake Erie averaged over a one-month period from historical record (sec. 1506.01(I)). Additionally, the bill subjects state ownership to the powers of the United States government, to the public rights of navigation, water commerce, and fishery, and to the littoral rights of littoral owners (sec. 1506.10(B)).

Under existing law, any artificial encroachments by public or private littoral owners, which interfere with the free flow of commerce in navigable channels, whether in the form of wharves, piers, fills, or otherwise, beyond the natural shoreline of those waters, not expressly authorized by the General Assembly cannot be considered as having prejudiced the rights of the public in that domain. The bill instead provides that the state's proprietorship of the land portion of the territory discussed above can extend only to and below the natural low water mark. All lands above the natural low water mark belong to littoral owners. The loss of a littoral owner's lands by avulsion or by artificially influenced erosion cannot alter the boundary of the littoral owner's property that is established under law or by deed.<sup>1</sup> Further, under the bill, any artificial encroachments by public or private littoral owners, which interfere with the free flow of commerce in navigable channels, whether in the form of wharves, piers, fills, or otherwise, beyond the natural low water mark, not expressly authorized by

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<sup>1</sup> *Merriam Webster's Collegiate Dictionary, Tenth Edition, defines "avulsion" in part as a sudden cutting off of land by flood, currents, or change in course of a body of water, especially one separating land from one person's property and joining it to another's.*

the General Assembly cannot be considered as having prejudiced the rights of the public in that domain. Finally, current law states that these provisions do not limit the right of the state to control, improve, or place aids to navigation in the other navigable waters of the state or the territory formerly covered thereby. The bill removes the word "formerly" from this statement. (Sec. 1506.10(B).)

The bill defines "littoral rights" to mean the rights of littoral owners to make reasonable use of the submerged lands and waters fronting their lands, including the construction of such things as piers, fills, backwalls, or wharves, below the natural low water mark, for the purpose of accessing and using the waters of Lake Erie for navigation, fishing, recreation, or other purposes, including, but not limited to, launching and storing watercraft, wharfing out to navigable waters, and consumptive use of the water. "Littoral rights" includes the right to own additional lands created by natural accretion or reliction, the right to restore lands lost to avulsion or artificially induced erosion, and the right to protect lands from erosion.<sup>2</sup> (Sec. 1506.10(A).)

### **Submerged lands leases and permits**

Under existing law, upon application of any person who wants to develop or improve part of the territory (see below), whenever the state acting through the Director determines that any part of the territory can be developed and improved or the waters of the territory used as specified in the application without impairment of the public right of navigation, water commerce, and fishery, the Director may lease all or any part of the state's interest in it to the applicant or issue a permit for that purpose (sec. 1506.11(B)). "Territory" currently means the waters and the lands presently underlying the waters of Lake Erie and the lands formerly underlying the waters of Lake Erie and now artificially filled, between the natural shoreline and the international boundary line with Canada. The bill revises the definition of "territory" to mean the waters and the lands presently underlying the waters of Lake Erie and the lands formerly underlying the waters of Lake Erie and now artificially filled, between the natural low water mark shoreline or legally deeded lakeward property boundary of a littoral owner and the harbor line or the line of commercial navigation where no harbor line has been established. (Sec. 1506.11(A).)

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<sup>2</sup> *Merriam Webster's Collegiate Dictionary, Tenth Edition, defines "accretion" in part as the increase of land by the action of natural forces and "reliction" in part as the gradual recession of water leaving land permanently uncovered.*

### **Exception for person exercising littoral rights**

The bill creates an exception to the statutory requirement that a person enter into a submerged land lease with or obtain a permit from the Director in order to develop or improve part of the territory. The bill provides that no lease or permit is required for the use of territory when the person is exercising the person's littoral rights. However, the exception to the lease or permit requirement does not interfere with the powers and duties conferred upon and delegated to municipal corporations under the Sale or Lease of Property Law or the powers and duties conferred upon and delegated to the United States Army Corp of Engineers pursuant to the Rivers and Harbors Appropriation Act of 1899. (Sec. 1506.11(B)(2).)

Further, the bill requires the Director, not later than 60 days after its effective date, to provide notice by certified mail to all persons who have entered into a lease with the state or who have been issued a permit prior to the bill's effective date of the right to make a request to terminate any lease or permit if it is not required under the bill's provisions. On and after the bill's effective date, a littoral owner may request the state to terminate any such lease or permit if it is no longer required under the conditions established by the bill. On the date of the termination request, the lessee or permit holder is released from all obligations under the lease or permit. In addition, on and after the bill's effective date, a littoral owner may request the state to amend the lease or permit and any associated fees to include only territory within which uses are required to have a lease or permit. Upon receipt of a request to terminate or amend a lease or permit, the Director promptly must comply with and take all steps that are necessary to implement the request in a timely manner. (Section 3.)

Under current law, if the Director finds that a lease may be entered into with the applicant or a permit may be issued to the applicant, the Director must determine the consideration to be paid by the applicant. The consideration must exclude the value of the littoral rights of the owner of land fronting on Lake Erie and improvements made or paid for by the owner of land fronting on Lake Erie or that owner's predecessors in title. The bill eliminates the exclusion of the value of the littoral rights of the owner of land and improvements made or paid for by the owner or that owner's predecessors in title in determining the consideration. (Sec. 1506.11(C).)

### **Lake Erie Submerged Lands Fund**

Existing law requires rentals received under a lease or permit to be paid into the state treasury to the credit of the Lake Erie Submerged Lands Fund. Of the rentals, 50% must be retained by the Department of Natural Resources for administration of the leases and permit program and for the coastal management



assistance grant program, and 50% must be paid to the appropriate municipal corporation, county, or port authority. The bill requires all of the rentals to be paid to the appropriate municipal corporation, county, or port authority and to be used only to maintain, improve, or add to improvements in aid in navigation, water commerce, or public access to the water of Lake Erie. (Sec. 1506.11(C).)

### **Takings**

Current law entitles persons having secured a lease or a permit to just compensation for the taking of structures, facilities, buildings, improvements, or uses erected or placed upon the territory by any governmental authority having the power of eminent domain. The bill adds that persons having littoral rights are entitled to just compensation for such takings. (Sec. 1506.11(E).)

### **Miscellaneous**

The bill specifies that nothing in a lease entered into or a permit issued prior to the bill's effective date can be construed as determining the boundary between a littoral owner's title to real property and the state's ownership of the waters of Lake Erie and the soil beneath and their contents (sec. 1506.11(H)).

### **Erosion control structure permits**

Current law prohibits a person from constructing a beach, groin, or other structure to control erosion, wave action, or inundation along or near the Ohio shoreline of Lake Erie without first obtaining a shore structure permit from the Chief of the Division of Water in the Department of Natural Resources. The application for a shore structure permit must include detailed plans and specifications prepared by a registered professional engineer. An applicant must provide appropriate evidence of compliance with any applicable provisions of the Division of Water Law, the Division of Geological Survey Law, and the Coastal Management Law as determined by the Chief. Each application or reapplication for a permit must be accompanied by a non-refundable fee as the Chief prescribes by rule. In addition, the Chief must limit the period during which a construction permit is valid and must establish reapplication requirements governing a construction permit that expires before construction is completed. The Chief must adopt rules as are necessary for the administration, implementation, and enforcement of these provisions. (Sec. 1521.22.)

The bill revises these provisions by requiring a person to submit an application for an erosion control structure permit to the Chief before constructing a beach, groin, or other structure to control erosion, wave action, or inundation along or near the Ohio shoreline of Lake Erie. The application must include detailed plans and specifications. The bill eliminates the requirement that the

plans and specifications be prepared by a registered professional engineer as well as the nonrefundable application or reapplication fee for a permit. In addition, the bill eliminates the requirement that an applicant provide appropriate evidence of compliance with any applicable provisions of the above laws as determined by the Chief. Further, an erosion control structure permit is not required if a permit for the construction is issued by the United States Army Corp of Engineers pursuant to the Rivers and Harbors Appropriation Act of 1899 and a copy of the permit is submitted to the Chief. The bill also specifies that these provisions cannot be construed to require an erosion control structure permit for the construction of a structure by a person who is exercising the person's littoral rights. (Sec. 1521.22.)

Upon receipt of an application, the Chief must notify owners of littoral real property that is adjacent to the proposed area of construction. The notice must be in writing, state that an application has been filed, and summarize the proposed construction that is the subject of the application. In addition, the bill eliminates the requirements that the Chief adopt necessary rules, limit the period during which a permit is valid, and establish reapplication requirements governing a permit that expires before construction is completed. (Sec. 1521.22.)

### **Appeals**

The bill authorizes any person who is adversely affected by any final administrative act of the Chief of the Division of Water under the Shore Erosion Law to appeal it directly to a court of common pleas. The appeal must be made in accordance with the Administrative Procedure Act, except that the appellant is not required to exhaust all administrative remedies by appealing to the Director of Natural Resources before appealing to the court of common pleas and the appeal must be made to the court of common pleas of the county in which the appellant resides. (Sec. 1521.31.)

### **Fines**

Current law specifies that whoever violates the Shore Erosion Law must be fined not less than \$100 nor more than \$1,000 for each offense. Each day of violation constitutes a separate offense. The bill reduces the maximum allowable fine to \$500, rather than \$1,000. In addition, the bill eliminates the provision stating that each day of violation of that Law constitutes a separate offense. (Sec. 1521.99(C).)

Similarly, current law specifies that whoever violates the statutes governing the construction of a dam, dike, or levee must be fined not less than \$100 nor more than \$1,000 for each offense. Each day of violation constitutes a separate offense. The bill reduces the maximum allowable fine to \$500, rather than \$1,000. In

addition, the bill eliminates the provision stating that each day of violation of those statutes constitutes a separate offense. (Sec. 1521.99(B).)

### **Permit and Lease Fund**

Existing law requires all money derived from the granting of permits and leases for the removal of minerals from and under Lake Erie and from applications for shore structure permits to be paid into the state treasury to the credit of the Permit and Lease Fund. Relevant fines also must be paid into that Fund. The Fund must be administered by the Department of Natural Resources for the protection of Lake Erie shores and waters; investigation and control of erosion; the planning, development, and construction of facilities for recreational use of Lake Erie; implementation of erosion control structure permitting; preparation of the state shore erosion plan; and state administration of Lake Erie coastal erosion areas (see above). The bill eliminates the Permit and Lease Fund, the requirement that money from applications for shore structure permits and relevant fines be paid into the Fund, and the purposes for which the money in the Fund must be used. It then requires that the money derived from the granting of permits and leases for the removal of minerals from and under Lake Erie and relevant fines be paid into the state treasury to the credit of the General Revenue Fund. (Sec. 1521.23.)

### **Coastal Resources Advisory Council**

Current law creates the Coastal Resources Advisory Council consisting of 19 members who are appointed by the Director of Natural Resources. The Council must advise the Director in implementation of the coastal management program; recommend to the Director policies and legislation that are necessary to preserve, protect, develop, and restore or enhance the state's coastal resources; review and make recommendations to the Director on the development of policies, plans, and programs for long-term comprehensive coastal resource management; and recommend to the Director ways to enhance cooperation among governmental agencies having an interest in coastal management and to encourage wise use and protection of the state's coastal resources. The bill retains the Council, but requires the Governor, rather than the Director, to appoint its members.<sup>3</sup> In addition, the bill requires that at least seven members of the Council be permanent residents of the coastal area. Finally, the bill exempts the Council from sunset review. (Sec. 1506.12.)

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<sup>3</sup> *The change in the appointing authority of the Council technically constitutes the creation of a new council. However, the bill does not provide for the transition to a new council.*

**Miscellaneous**

Current law authorizes the state, acting through the Chief of the Division of Water, to enter into agreements with counties, townships, municipal corporations, park boards, and conservancy districts, other political subdivisions, or any state departments or divisions for the purpose of constructing and maintaining projects to control erosion along the Ohio shoreline of Lake Erie and in any rivers and bays that are connected with Lake Erie and any other watercourses that flow into Lake Erie. The bill adds that the Chief may enter into agreements with such entities for projects to correct erosion in addition to control erosion as in current law. (Sec. 1521.24.)

Current law authorizes the Chief, in discharging the Chief's duties under the Shore Erosion Law, to temporarily call to the Chief's assistance any engineers or other employees in any state department, or in The Ohio State University or other state-financed educational institutions, for the purpose of devising the most effective and economical methods of controlling shore erosion and damage from it and controlling the inundation of improved property by the waters of Lake Erie and its bays and associated inlets. The bill instead authorizes the Chief to request such assistance for the purpose of devising the most effective and economical methods of controlling shore erosion and inundation along the shorelines of Lake Erie, its bays, and associated inlets. (Sec. 1521.21.)

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	06-10-03	p. 563

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