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*Jill Rowland*

***Bill Analysis***  
*Legislative Service Commission*

## **H.B. 394**

126th General Assembly  
(As Introduced)

**Reps. Sayre, Hartnett, Garrison, Healy, Boccieri, Williams**

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### **BILL SUMMARY**

- Revises the procedure for amending the official plan of a conservancy district by expanding the scope of information that the district's board of directors must file with the proposed alterations or additions and requiring the board to provide public notice and hold a public hearing regarding them.
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### **CONTENT AND OPERATION**

#### **Background concerning conservancy districts**

Under current law, any area or areas situated in one or more counties may be organized as a conservancy district in accordance with procedures and requirements established in the Conservancy Districts Law for any of the following purposes: preventing floods; regulating stream channels by changing, widening, and deepening the stream channels; reclaiming or filling wet and overflowed lands; providing for irrigation where it may be needed; regulating the flow of streams and conserving their waters; diverting or in whole or in part eliminating watercourses; providing a water supply for domestic, industrial, and public use; providing for the collection and disposal of sewage and other liquid wastes produced within the district; or arresting erosion along the Ohio shoreline of Lake Erie (sec. 6101.04, not in the bill). Current law specifies that after a conservancy district is organized, its board of directors must prepare an official plan for the improvements for which the district was created (sec. 6101.13, not in the bill). After the official plan is approved, the board of appraisers of the conservancy district must appraise the benefits and damages of every kind to all real property within or without the district that will result from the organization of the district and the execution of its official plan (sec. 6101.28, not in the bill). Current law then requires the board of appraisers to prepare a report of its findings that is known as the conservancy appraisal record and that must be filed with the

court that has jurisdiction in matters involving the conservancy district (sec. 6101.31, not in the bill).

**Alteration in or addition to official plan of conservancy district**

Under current law, the board of directors of a conservancy district may, at any time after the conservancy appraisal record is filed, when necessary to fulfill the objects for which the district was created, alter or add to the official plan by amendment. The alterations or additions may be alterations in or additions to improvements previously provided for in the official plan or may consist of new works or improvements for the accomplishment of the purposes for which the district was created that were not previously provided for in the official plan. (Sec. 6101.39(A).)

The bill revises the procedure for amending the plan by first eliminating current law specifying that when such alterations or additions are formally approved by the board and by the court and are filed with the secretary of the conservancy district, they become part of the official plan for all purposes of the Conservancy Districts Law. Instead, the bill requires proposed alterations in or additions to the official plan of the district to be filed with the court that has jurisdiction over matters involving the district. It states that all proposed alterations in or additions to the plan must be presumed to be material changes unless otherwise determined by the court. However, the bill retains current law specifying that if the alterations or additions in the judgment of the court neither materially modify the general character of the work, nor materially increase resulting damage for which the board is not able to make amicable settlement, no action other than a resolution of the board is necessary for the approval of the alterations or additions. (Sec. 6101.39(A).)

The bill then specifies that unless the court determines that the proposed alterations in or additions to the official plan of the district do not materially modify the general character of the work, or do not materially modify the resulting damages or materially reduce the benefits for which the board of directors is not able to make amicable settlement, or do not materially increase the benefits, the board must do all of the following:

(1) Include with the filing of the proposed alterations or additions any maps, profiles, plans, and other data and descriptions that are necessary to identify properly the location and character of the work that is the subject of the alterations or additions and of the property benefited, taken, or damaged. Further, the board must include estimates of the cost of any work associated with the alterations or additions, including the proportion of the total cost to be assessed within the district, a classification of the sources of funds to be used in making the alterations

or additions, and the extent of participation, if any, by other political subdivisions regarding the alterations or additions;

(2) Not later than seven days after filing the alterations or additions and the information specified in item (1), above, give notice of the proposed alterations in or additions to the official plan of the district and notice of the public hearing required in item (5), below, by publication in a newspaper of general circulation in each county in which the alterations or additions are proposed or in which property would be benefited, damaged, or taken by the execution of the alterations or additions;

(3) File a copy of the proposed alterations in or additions to the plan and a copy of the notification of the public hearing in the office of the clerk of the court of common pleas of each county in which notice is published under item (2), above. The clerk of court must post the notification of the public hearing in a conspicuous location. Copies of the proposed alterations or additions must be available for inspection by all persons, political subdivisions, and state agencies for not less than 90 days prior to final approval of the alterations or additions;

(4) Make copies of the proposed alterations or additions available to any interested party. The board may charge for the copies only an amount that is equal to the cost of their production; and

(5) Not later than 14 days after filing the alterations or additions and the information specified in item (1), above, conduct a hearing at a reasonable time and place. The board must allow all members of the public who wish to testify in a peaceful manner to speak at the hearing and must allow for the filing of written objections to the proposed alterations in or additions to the official plan of the district. (Sec. 6101.39(B).)

The bill retains current law providing that if the proposed alterations or additions materially modify the general character of the work, or materially modify the resulting damages or materially reduce the benefits for which the board is not able to make amicable settlement, or materially increase the benefits in such a manner as to require a new appraisal, the court must direct the board of appraisers of the conservancy district to appraise the property to be taken, benefited, or damaged by the proposed alterations or additions (sec. 6101.39(C)).

The bill specifies that after the hearing conducted under item (5), above, and the time period for inspection of copies of the proposed alterations or additions has passed as specified in item (3), above, and after the completion of the actions of the board of appraisers that are discussed above, the board of directors may adopt the alterations in or additions to the official plan of the district. When the alterations or additions are formally approved by the board and

by the court and are filed with the secretary of the conservancy district, they become part of the official plan of the district for all purposes of the Conservancy Districts Law. (Sec. 6101.39(D).)

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## **HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	10-19-05	p. 1739

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