



H.B. 599

126th General Assembly
(As Introduced)

Reps. Sayre, Gibbs, Fende, Yuko, Hartnett, Bocchieri, Perry, J. Stewart, Hood, Garrison, Oelslager, Book, Cassell

BILL SUMMARY

- Prohibits the board of directors of a conservancy district from levying in the future either a "benefits assessment" or a "maintenance assessment" on land that is owned by a school district, volunteer fire department, or church or on a political subdivision located in the district.

CONTENT AND OPERATION

Current law

In general

A conservancy district is a distinct political subdivision of the state invested with certain statutory powers and privileges. Any area or areas in one or more counties may be organized as a conservancy district for purposes of preventing floods, regulating stream channels by changing, widening, or deepening them, reclaiming or filling wet and overflowed lands, providing necessary irrigation, regulating the flow of and conserving streams, diverting or eliminating in whole or in part watercourses, providing a water supply for domestic, industrial, and public use, providing for sewage and other liquid waste collection and disposal, and arresting Lake Erie shore line erosion in the state. (R.C. 6101.03(F) and 6101.04--not in the bill). (See **COMMENT 1**.) The Conservancy District Law contains provisions pertaining to the levying of *an assessment* on real property within a conservancy district under prescribed circumstances (R.C. 6101.48 and 6101.53).

Execution of official plan "benefits assessment"

The board of directors of a conservancy district must levy on all real property and on all public corporations (see **COMMENT 2**), upon which *benefits have been appraised* in a court of common pleas-approved "conservancy appraisal record," an assessment of the portion of those benefits that the board finds to be

necessary to pay (1) the cost of the execution of the district's official plan (see **COMMENT 3**), including superintendence of construction and administration, plus (2) one-ninth of that total for contingencies. This assessment must be apportioned to and levied on each tract of real property and each public corporation in the conservancy district in proportion to, and not in excess of, the appraised benefits; specified interest must be added to the assessment. After the assessment is levied, the board of directors must obtain court of common pleas confirmation of it. Following the court's issuance of a confirmation order and transmittal of the order to each affected political subdivision, the board of directors may issue anticipatory notes (up to 90% of the assessment). At that juncture, the conservancy district's "conservancy assessment record" containing specified information must be prepared, signed, certified, and placed on file in the district's office. (R.C. 6101.48.) (See **COMMENT 4**.)

Conservancy maintenance assessment

The board of directors of a conservancy district annually (no later than September 1) may levy an assessment known as a *conservancy maintenance assessment* upon each tract of land and each public corporation within the district for any of the following purposes and upon substantial completion of the described improvements: (1) to maintain, operate, and preserve the reservoirs, ditches, drains, dams, levies, canals, sewers, pumping stations, treatment and disposal works, or other properties or improvements of the district, (2) to strengthen, repair, and restore the latter as necessary, and (3) to defray the current expenses of the district. The assessment cannot be made with respect to works and improvements acquired or constructed for the purpose of providing a water supply for domestic, industrial, and public use within the district, when the water supply can be metered or measured when furnished to persons or public corporations. (R.C. 6101.53.)

The conservancy maintenance assessment must be apportioned upon the basis of the total appraisal of benefits accruing for original and subsequent construction, cannot exceed 1% of the total appraisal of benefits in any one year unless the court of common pleas authorizes an assessment of a larger percentage, cannot be less than \$2, and must be certified in a specified manner to the county auditor of each county in which lands of the district are located in the "conservancy assessment record." The auditor must certify the conservancy maintenance assessment to the county treasurer in a prescribed manner, and the treasurer must demand and collect the maintenance assessment. The maintenance assessment is in addition to any benefits assessment that has been or can be levied. (R.C. 6101.53.)

Changes proposed by the bill

The bill provides that, on and after its effective date, the board of directors of a conservancy district *cannot levy* either a "benefits assessment" as described above or a "maintenance assessment" as described above (1) on land that is owned by a school district, a volunteer fire department, or a church or (2) on a political subdivision located in the district (R.C. 6101.48(B) and 6101.53(B)). (See **COMMENT 5.**)

COMMENT

1. The board of directors of a conservancy district may do any of the following (among others) to accomplish the district's purposes (R.C. 6101.15--not in the bill):

- Clean out, straighten, widen, alter, deepen, or change the course or terminus of any, or fill up any abandoned or altered, ditch, drain, sewer, river, watercourse, pond, lake, creek, or natural or artificial stream;
- Construct, acquire, operate, and maintain various works and improvements considered necessary to accomplish the district's purposes;
- Afforest lands the district owns;
- Install improvements on lands the district owns or controls for the proper maintenance of the lands, or for the purpose of preventing or minimizing damage to the district's works and improvements;
- Construct connections to the district's works for the delivery of a water supply from the works or for the delivery of sewage and other liquid wastes to the works;
- Construct or enlarge any bridges that may be needed in or out of the district;
- Construct or elevate roadways and streets;
- Remove or change the location of any fence, building, railroad, canal, or other structure or improvement located in or out of the district;

- Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease, use, and sell real and personal property, and any easement, riparian right, etc. for certain purposes.

2. As used in the Conservancy District Law, a "public corporation" or "political subdivision" means counties, townships, municipal corporations, school districts, road districts, ditch districts, park districts, levee districts, and all other governmental entities vested with the power to levy assessments or taxes (R.C. 6101.01(C)--not in the bill).

3. A conservancy district is created pursuant to a statutory procedure involving the filing of a petition for organization with and the granting of the petition by order of a specified court of common pleas (R.C. 6101.07 to 6101.09--not in the bill). Upon its qualification or as soon thereafter as practicable, the district's board of directors must prepare a plan for the part or parts of the improvements for which the district was created. The plan generally must be filed with the Ohio Environmental Protection Agency within two years from the date of the order establishing the district and is subject to prescribed requirements and limitations. The OEPA may approve or reject in a prescribed manner any provisions of the plan relating to the supplying of water for domestic, industrial, and public use or to the collection and disposal of sewage and other liquid wastes. Upon the plan's completion and approval by the OEPA, the board of directors must give specified notice of the completion by publication and must file a copy of the plan in the office of the clerk of the court of common pleas of each county in which improvements are proposed, or in which property would be benefited, damaged, or taken by the execution of the plan. Copies also must be available for inspection by all interested persons, public corporations, and agencies of the state government. After a specified hearing procedure (at which objections to the plan must be considered), the board of directors must adopt the plan with or without modifications as the "official plan of the district." Further objections to the official plan and associated judicial proceedings may occur thereafter, and ultimately, after the hearing of those objections, the court of common pleas must decide whether to approve, reject, or refer back the official plan. (R.C. 6101.13--not in the bill.)

The board of directors has the full power and authority to devise, prepare for, execute, maintain, and operate all works or improvements necessary or desirable to complete, maintain, operate, and protect the official plan as it finally develops (R.C. 6101.13).

4. At the time of making its order organizing a conservancy district or at any suitable time thereafter, the court of common pleas must appoint three appraisers to constitute the *board of appraisers* of the conservancy district. That board must appraise the lands or other property within and outside the district to

be acquired for rights of way, reservoirs, and other works of the district, and must appraise all benefits and damages accruing to all lands within or outside the district and all benefits accruing to public corporations as entities by reason of the execution of the official plan. (R.C. 6101.27--not in the bill.)

The board of appraisers must appraise the benefits of every kind to all real property within or without the conservancy district that will result from the district's organization and the execution of its official plan. The board also must appraise the damages sustained and the value of the land and other property necessary to be taken by the district for which settlement has not been made by the district's board of directors. And, the board of appraisers must appraise the benefits and damages accruing to municipal corporations, counties, townships, and other public corporations, as political entities, and to the state. (R.C. 6101.28--not in the bill.)

The report of the board of appraisers' findings, known as the *conservancy appraisal record*, must be confirmed by the court of common pleas in accordance with a specified notice and hearing procedure (R.C. 6101.31 to 6101.37--not in the bill).

5. A "church" is defined for the bill's purposes as a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person (R.C. 6109.21(D)(1)--not in the bill).

HISTORY

ACTION	DATE
Introduced	05-18-06

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