

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: S.B. 93 DATE: April 1, 1998
STATUS: As Introduced SPONSOR: Sen. Latta
LOCAL IMPACT STATEMENT REQUIRED: Yes
CONTENTS: Lake Erie shoreline -- define regarding Sandusky Bay

State Fiscal Highlights

STATE FUND	FY 1998	FY 1999	FUTURE YEARS
Submerged Lands Fund 697			
Revenues	- 0 -	Loss of approximately \$100,000 or more	Loss of approximately \$100,000 or more
Expenditures	- 0 -	- 0 -	- 0 -

- This bill redefines territories, which will result in a decrease in the number of leases for the submerged lands program. This will result in a revenue loss to ODNR Submerged Lands Fund 697.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
City of Sandusky, City of Marblehead, and Ottawa County			
Revenues	- 0 -	Varying losses totaling \$100,000 or more	Varying losses totaling \$100,000 or more
Expenditures	- 0 -	Saving of \$13,000	Saving of \$13,000

- Local authorities (counties, municipalities, or port authorities) receive half of the revenues that are collected from the submerged lands leasing program. Because this bill redefines territories, resulting in a decrease in the number of leases under the submerged lands leasing program, the local authorities in Sandusky Bay will experience a loss of revenue. Collectively, the loss is expected to be approximately \$100,000 or more each year.
- The City of Sandusky operates Battery Park Marina for profit. It will be exempted from the leasing requirements of the submerged lands program and will experience a saving of \$13,000 each year. This is the only publicly operated development or improvement that is operated for profit in the Sandusky Bay area.



Detailed Fiscal Analysis

Current law for Submerged Lands Leasing

Under current law, "territory" is defined as the waters and lands previously underlying the waters of Lake Erie and now artificially filled, between the natural shoreline and the international boundary line with Canada. If a person wants to develop or improve any part of the territory, either a permit or a lease must be secured with ODNR under their submerged land program. Permits are used for temporary projects that will require a short period of time with minimal impact. An example of a project that would require a permit is the removal of a large rock from the shore. To date, no permits have ever been issued. Leases are much more common and are used when the projects are more permanent and require a longer length of time. Examples of leased projects include docks, walls, fill, or riprap shore protection.

The cost of a lease varies, depending on how much land (per square foot) will be affected, and the type of improvement or development that the applicant proposes. On average, a lease will cost less than \$5000 each year. In addition, there are special circumstances that will lower the cost of the lease. If the requested development or improvement is from a local authority (municipality, county, or port authority), and the requested use will not be used for the purposes of making a profit, then the lease is only \$1 per year. Also, fill that existed prior to 1989 is only \$0.01 per square foot.

Revenue from submerged land leases generates approximately \$400,000 per year. The Sandusky Bay area alone, consisting of the City of Sandusky, the City of Marblehead, and Ottawa County, accounts for over half of the annual revenue, or \$200,000 each year. One half of the revenue obtained from each lease is deposited in the ODNR Submerged Lands Fund 697. The other half of the revenue from each lease is given to the local authority (municipality, county, or port authority). Between January 1, 1997 and January 1, 1998, there were 75 new leases established. Since January 1, 1998 there have been at least 50 new leases.

New Exemptions

This bill codifies current case law holding that Sandusky Bay is a part of the territory of Lake Erie. *Thomas v. Sanders* (1979), 65 Ohio App. 2d 5. This bill also redefines "territory" for the purposes of private improvements or developments obtaining leases or permits from ODNR. This bill clarifies the definition for territory by defining the natural shoreline as existing beyond and as not including any of the following:

1. Water lots platted in 1818 and 1849, and located within the municipal corporation of Sandusky;
2. Lands formerly underlying the waters of Lake Erie that were artificially filled in prior to June 8, 1979;
3. Structures that were in existence on June 8, 1979, whether or not they required the placing of fill upon the submerged lands of Lake Erie. These include, but are not limited to, rubble mound docks or walks, rock filled timber crib docks or walls, steel

sheet pile walls, revetments, riprap shore protection, unattached breakwalls, precast concrete modular structures, floating docks, and permanently attached docks;

4. The waters and submerged lands of Lake Erie that are within, enclosed within, or under any structure described in (3) above.

These provisions in this bill are expected to exempt a significant portion of the total leases that ODNR receives, because the leases in the Sandusky Bay area account for over half of the total leases. ODNR estimates that this bill will decrease the total number of leases by at least half, which will decrease the total revenue from leases by approximately \$200,000 each year. This will decrease the revenue into ODNR Submerged Lands Fund 697 by \$100,000 each year, and the local authorities will collectively decrease their annual revenue by \$100,000 as well.

These provisions will result in a saving for one publicly owned marina that is used to generate a profit in the Sandusky Bay area. The Battery Park Marina, operated by the City of Sandusky, will no longer be required to pay \$13,000 for their lease. This is the only publicly operated development or improvement that is used to generate revenue in the Sandusky Bay area. Other publicly owned developments or improvements in Sandusky Bay are not operated for the purposes of making a profit, so they only pay \$1 each year under current law and the effect of this bill will be negligible.

□ *LBO staff: Erica Burnett, Budget/Policy Analyst*

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