

# Fiscal Note & Local Impact Statement

127<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
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BILL: **H.B. 323** DATE: **October 23, 2007**  
 STATUS: **As Introduced** SPONSOR: **Rep. Gibbs**  
 LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**  
 CONTENTS: **To revise the Fences Law**

## State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
<b>Department of Natural Resources – Various Funds</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase for constructing preferred partition fences	Potential increase for constructing preferred partition fences	Potential increase for constructing preferred partition fences

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

- The bill requires all fields and enclosures in which livestock are kept or placed and that are bordered by a division line between adjoining properties of different owners to be enclosed by a "preferred partition fence" as defined in the bill. In instances where no such fence exists, the Department of Natural Resources will be required to pay the costs associated with fence construction and maintenance.

## Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
<b>Counties</b>			
Revenues	Potential gain in fine revenue from new court cases	Potential gain in fine revenue from new court cases	Potential gain in fine revenue from new court cases
Expenditures	Potential minimal increase in filing costs; potential increase for constructing preferred partition fences; potential increase to county courts for new cases	Potential minimal increase in filing costs; potential increase for constructing preferred partition fences potential increase to county courts for new cases	Potential minimal increase in filing costs; potential increase for constructing preferred partition fences potential increase to county courts for new cases
<b>Other local governments and conservancy districts</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase for constructing preferred partition fences	Potential increase for constructing preferred partition fences	Potential increase for constructing preferred partition fences



Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Requires all fields and enclosures in which livestock are kept or placed and that are bordered by a division line between adjoining properties of different owners to be enclosed by a preferred partition fence. In instances where no such fence exists, the affected political subdivision will be required to pay the costs associated with fence construction and maintenance.
- Permits property owners to file affidavits to county recorder offices detailing the costs of building and maintaining a partition fence. County recorders are required to keep such filings in the "partition fence record." These additional filings may result in some minimal cost increases for county recorders.
- Permits property owners seeking reimbursement for partition fence building costs to seek remedy in a county court of common pleas. These new cases may result in additional court costs to counties.
- Creates criminal penalties for any person interfering with the awarding of a partition fence contract, or interfering, threatening, or causing harm to any individual attempting to build or maintain a partition fence. These new criminal offenses may result in additional costs to county courts, as well as some fine revenues.

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## ***Detailed Fiscal Analysis***

### **Overview**

The bill revises the Fences Law, including establishing requirements for "preferred partition fences," requirements regarding the construction and maintenance of existing or previously existing partition fences, and requirements regarding the construction and maintenance of new partition fences, and changing requirements and procedures with respect to the assignment of responsibility by a board of township trustees for constructing and maintaining partition fences. Please consult the LSC bill analysis for detailed explanations of the changes in the Fences Law.

### **Fiscal impact**

#### **Preferred partition fences**

The bill requires all fields and enclosures in which livestock are kept or placed and that are bordered by a division line between adjoining properties of different owners to be enclosed by a preferred partition fence, essentially a wire fence that meets certain specifications explained in the bill. This requirement would apply to the Department of Natural Resources, conservancy districts organized under the Conservancy District Law, and political subdivisions with a real property interest in recreational trails. Presumably, most of these areas already have fencing, and therefore, additional costs for any such fences would be minimal.

#### **Construction and maintenance of partition fences**

The bill requires that if a partition fence exists between adjoining properties, the owners of the adjoining properties must maintain the fence in good repair in equitable shares. If a new fence is built, the owners must do so in equitable shares unless they enter into an agreement as specified in the bill. This agreement must be filed with the county recorder.

If a partition fence does not exist between two properties, and there is no evidence that any such fence previously existed, and an owner wishes to build a partition fence, that owner must bear the costs. That owner may file an affidavit with the county recorder for any costs incurred for building that fence, and the annual costs of maintenance. Current law requires county recorders to maintain a book known as a "partition fence record." County recorders are required under the bill to keep all of the above-mentioned affidavits and property owner agreements in this book. This requirement may result in some additional costs to county recorders for keeping and maintaining these additional records. However, these costs are likely minimal.

If an owner that did not assist in bearing the costs of building and maintaining such a partition fence subsequently uses the fence to keep livestock enclosed on the property within 30 years after the fence was built, the owner that built the fence may file a claim for reimbursement of 50% of the total

cost of building and maintaining the fence, provided that an affidavit has been filed as in the paragraph above. If an owner of the adjoining property fails to pay the claim for reimbursement, the owner that built and maintained the fence may file a claim in a county court of common pleas to recover that 50% of costs. This provision could potentially increase county court costs if more cases result from these provisions of the bill. However, the number of cases resulting from these provisions is unknown, but likely to be minimal.

**Penalties**

Under the bill, a person that obstructs or interferes with anyone who is lawfully engaged in the construction or maintenance of a partition fence or with a member of a board of township trustees who is awarding a contract for the construction or maintenance of a partition fence is guilty of a third-degree misdemeanor. If, in committing the offense, the violator threatened physical harm to the person building or maintaining a partition fence, the violator is guilty of a second-degree misdemeanor. If, in committing the offense, the violator caused physical harm to the person building or maintaining a partition fence, the violator is guilty of a first-degree misdemeanor. If, in committing the offense, the violator caused serious physical harm to the person building or maintaining a partition fence, the violator is guilty of a fifth-degree felony. Any new cases resulting from the above provisions could potentially result in increased county court costs, as well as fine revenue from such cases.

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