



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Joe McDaniels

### **Sub. S.B. 51**

132nd General Assembly

(As Reported by S. Energy and Natural Resources)

**Sens.** Skindell and Eklund, Thomas, Schiavoni, Williams, Hite, O'Brien, LaRose

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### **BILL SUMMARY**

- Adds Lake Erie shoreline improvement projects to the list of public improvements that may be financed by a special improvement district (SID).
  - Allows a SID created for shoreline improvement purposes to extend into the territory of Lake Erie, but exempts the state from any special assessment levied against the territory.
  - Allows a SID created for shoreline improvement to include noncontiguous parcels.
  - Authorizes the levy of a special assessment within a SID created for shoreline improvement for up to 30 years.
  - Explicitly requires SIDs created for shoreline improvement to comply with all applicable zoning, environmental, and coastal management laws and rules.
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### **CONTENT AND OPERATION**

The bill expands the scope of public improvements that may be funded and completed by a special improvement district (SID) to include shoreline improvement projects along Lake Erie. The bill also includes several special provisions pertaining to SIDs that perform shoreline improvements: allowing inclusion of state-owned land held in the public trust and noncontiguous parcels, allowing the addition of new territory if at least one shoreline improvement will be completed on each added parcel, allowing the levy of a special assessment for up to 30 years, and explicitly requiring compliance with zoning, environmental, and coastal management laws and rules.

#### **Special improvement districts**

A SID is an economic development tool that may be used to facilitate the development and implementation of public services within a defined district located

within one or more municipal corporations or townships. The improvements and services are funded through a special assessment levied against property in the district. The SID is administered by the board of directors of a nonprofit corporation that is either created for the purpose of governing the district or meets other criteria prescribed by state law.

SIDs are generally created on the initiative of property owners through a petition process. If the petition creating the SID includes plans for one or more special energy improvement projects, it must be signed by 100% of the property owners within the proposed district. Otherwise, the petition need only be signed by the owners of 75% of the property located within the district or 60% of the front footage of such property. In either case, the petition is not effective until it is approved by each township or municipal corporation in which the district is to be located.

## **Purposes**

The bill adds Lake Erie shoreline improvement projects to the list of public improvements that may be funded and completed by a SID. Specifically the bill allows for the acquisition, construction, installation, equipment, improvement, maintenance, or repair of property that abates erosion along the Lake Erie shoreline.<sup>1</sup> Under continuing law, the board of directors of a SID may acquire land, or may plan, design, construct, reconstruct, enlarge, or alter any facility or improvement, as long as the activity is one for which municipal corporations may levy special assessments. A board may also undertake special energy improvement projects such as installing solar, geothermal, or energy efficiency improvements.<sup>2</sup>

## **Petition**

As with SIDs that include plans for special energy improvement projects, the petition creating a shoreline improvement SID must be signed by 100% of the property owners within the district. However, the bill creates a special exception if the owner's property is part of a planned community or a condominium development. In that case, the owner is deemed to have signed the petition if the petition is approved through an alternative process – such as a vote of the owners association – described in the bylaws, declarations, covenants, and restrictions governing the planned community or condominium development. This exception applies only to shoreline improvement SIDs.<sup>3</sup>

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<sup>1</sup> R.C. 1710.01(O).

<sup>2</sup> R.C. 1710.01(G) and (I).

<sup>3</sup> R.C. 1710.02(E) and (H) and 1710.06(B).



## Territory

Under current law, a SID may not include publicly owned property unless the state or subdivision that owns the property consents in writing to its inclusion in the district. The bill explicitly allows shoreline improvement projects funded by a SID to extend into the territory of Lake Erie – the waters of which, extending to its natural shoreline, are held by the state in trust for the people. The bill specifies that, even if portions of Lake Erie are included in a SID, the state remains exempt from any special assessment levied therein.<sup>4</sup>

The bill also permits the shoreline SIDs to include noncontiguous parcels so long as a SID-funded project is designated for each noncontiguous parcel. Also, territory may be added if a SID-funded project is designated for each added parcel and if the addition of territory is authorized by the initial SID plan that was adopted by the petitioning land owners and approved by the participating municipal corporations and townships. This contrasts with continuing law governing most other SIDs (except for energy improvement SIDs), which generally requires that all parcels in a SID be contiguous and does not permit the initial plan to provide for territory to be added.<sup>5</sup>

## Special assessment period

Public improvements undertaken by a SID are funded through a special assessment charged against property in the district by each participating municipal corporation and township. Generally, the duration of SID special assessments is limited to ten years (although, subsequent plans for services and improvements may be adopted – and assessments levied – if they are approved by the participating political subdivisions and by the same proportion of property owners required to adopt the initial SID development plan).

Under the bill, if the proceeds of the special assessment are to be used for shoreline improvement projects, the duration of the levy may be for up to 30 years. Continuing law authorizes the same extended assessment period if the proceeds are to be used for special energy improvement projects.<sup>6</sup>

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<sup>4</sup> R.C. 1710.02(A). See also, R.C. 1506.10, not in the bill, and *State ex rel. Merrill v. Ohio Dep't of Natural Res.*, 130 Ohio St.3d 30 (2011).

<sup>5</sup> R.C. 1710.02(A).

<sup>6</sup> R.C. 1710.02(F).



## Compliance with other laws and rules

The bill explicitly requires that all activities associated with a shoreline improvement project comply with zoning, environmental, and coastal management laws and rules. The requirement references laws and rules created at the federal, state, and local level.<sup>7</sup>

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### HISTORY

ACTION	DATE
Introduced	02-14-17
Reported, S. Energy and Natural Resources	06-27-18

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<sup>7</sup> R.C. 1710.02(E).

