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Bill Analysis

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This analysis is presented in table format. It summarizes how the bill differs from current law. It addresses only the topics on which current law and the bill differ substantively. It does not list topics on which the law and the bill are substantively the same.

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SOIL AND WATER CONSERVATION DISTRICT WATER IMPROVEMENTS

Under current law, as part of its duties and responsibilities, a soil and water conservation district has the power to oversee the construction, maintenance, and operation of improvements for natural resource conservation and development and flood prevention, and the conservation, development, and disposal of water within the district. There is a specific process for proposing and approving an improvement. That process includes:

1. The filing of a petition for the improvement by a property owner with the board of supervisors of the district;
2. A scheduled view of the proposed improvement;
3. The preparation of a preliminary report by the board of supervisors regarding the proposed improvement;
4. A hearing by the board of supervisors on the proposed improvement;
5. Estimates of the costs of the improvement and benefits to property owners;
6. After approval by the board of supervisors, a project survey and design for the improvement;
7. A schedule of damages, costs, and assessments;
8. A hearing by the board of county commissioners;
9. Approval or disapproval by the board of county commissioners; and
10. Imposition of assessments and execution of the improvement.¹

¹ R.C. Chapter 940.

The bill retains the basic process structure for approving and implementing an improvement. However, it makes numerous changes to the specifics of that process and structure. Below is a discussion of the changes to the process and structure made by the bill.

Filing of petition

Current law	H.B. 340
Filing of petition with board of soil and water conservation district	
<p>Authorizes an owner of land (hereafter owner) that is located in a soil and water conservation district to file a petition with the board of supervisors of the district requesting the construction of a conservation work of improvement (<i>R.C. 940.19</i>).</p>	<p>Same, but also requires the owner, prior to filing a petition for the improvement (hereafter petition), to consult with the district to discuss the proposed drainage improvement; and to determine the proper forms and procedures for filing the petition (<i>R.C. 940.19(A)</i>).</p>
Petition – information included	
<p>No provision.</p>	<p>Requires a petition to include all of the following:</p> <ol style="list-style-type: none"> 1. A statement of the nature of the work for which the petition is filed, including removing obstructions from a ditch; 2. A description, including location, of the course and termini of the proposed improvement; 3. A statement that the construction of the improvement is necessary and will benefit the petitioner; and 4. A statement that all costs of engineering, construction, and future maintenance will be assessed to the benefiting parcels of land (<i>R.C. 940.19(B)</i>).
Notification of petition rejection	
<p>If a board of supervisors rejects a petition, requires the board to notify the petitioner of the reasons for the rejection (<i>R.C. 940.19</i>).</p>	<p>Same, but requires the board to notify the petitioner in writing (<i>R.C. 940.19(D)(2)</i>).</p>

View of proposed improvement

Current law	H.B. 340
View of proposed improvement	
Requires the date for a view of the proposed improvement to be between 25 and 90 days after the date on which the petition was filed (<i>R.C. 940.19</i>).	Instead, requires the date for a view of the proposed improvement to be between 30 and 90 days after the date on which the petition was accepted (<i>R.C. 940.19(E)(1)</i>).
Notice of the view	
Requires the board of supervisors, at least 20 days prior to the date established for the view, to send the notice of the view to the owners within the area to be benefited by the proposed improvement, the board of county commissioners, and the county engineer (<i>R.C. 940.20(A)</i>).	Same, but requires the notice to be sent 21 days prior to the view (<i>R.C. 940.20(A)</i>).
Contents of notice	
No provision.	Requires the board to ensure that the notice of the view contains all of the following: <ol style="list-style-type: none"> 1. The date, time, and location for the view and the subsequent hearing; 2. A description of the proposed improvement and its location as stated in the petition, a map indicating the location of the proposed improvement or information on where to access the map, and an explanation of how to obtain additional information or ask questions about the proposed improvement; 3. A statement that all costs of engineering, construction, and future maintenance will be assessed to the benefiting parcels of land; 4. A statement that an owner may file, at least 21 days after the date of the view, an amendment to the original petition that expands the length of the proposed improvement, provided that the amendment does not expand the area to be benefited by the proposed improvement; 5. A statement that any owner receiving the notice may comment on the proposed improvement in writing before or in person at the hearing on the petition (see "Hearing on proposed improvement by board of supervisors,"

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	below); and 6. The address at which to file an amendment to the petition or submit written comments on the proposed improvement (<i>R.C. 940.20(A)</i>).
The view	
<p>On the date of the view, requires the board to do all of the following:</p> <ol style="list-style-type: none"> 1. Meet at a designated location near the proposed improvement; 2. Hear proof of the need for the proposed improvement offered by any owner that is affected by it; and 3. View the area in which the proposed improvement is to be constructed (<i>R.C. 940.21</i>). 	<p>Instead, on the date of the view, requires the board <i>or its designee</i> to do all of the following:</p> <ol style="list-style-type: none"> 1. Present an overview of the proposed improvement; 2. In the presentation, use methods and means that the board determines will adequately inform those attending about the proposed improvement's location and the drainage issues intended to be addressed by the proposed improvement; and 3. Upon the request made at the view of a board member or of an owner in the area to be benefited by the proposed improvement, recess the view and reconvene at a site along the proposed improvement for the purpose of gaining additional information about the drainage issue intended to be addressed by the proposed improvement (<i>R.C. 940.21(B)</i>).

Hearing on proposed improvement by board of supervisors

Current law	H.B. 340
Establishment of hearing of proposed improvement	
<p>Requires the board of supervisors to hold a hearing on the proposed improvement not later than 90 days after the date of the view (<i>R.C. 940.19</i>).</p>	<p>Instead, requires the board to hold the hearing <i>between 30 and 90 days</i> after the date of the view (<i>R.C. 940.19(E)(2)</i>).</p>
Hearing – objections	
<p>Prior to the hearing on a proposed improvement, authorizes owners affected by the proposed improvement to file objections to the improvement with the board (<i>R.C. 940.23</i>).</p>	<p>No provision.</p>

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Adjournment of hearing – subsequent review	
<p>If modifications or alternatives to a proposed improvement are proposed or discussed at the hearing on the improvement, does both of the following:</p> <ol style="list-style-type: none"> 1. Authorizes the board to adjourn the hearing for a period of time that is necessary to conduct a subsequent view of the proposed improvement in light of the proposed changes; 2. If it appears that a subsequent view is necessary, requires the board to establish a date, time, and location for it and to notify, in the same manner, the same persons that were required to be notified of the first view. (<i>R.C. 940.24.</i>) 	<p>Instead, authorizes the board to recess and continue the hearing on subsequent days as may be reasonable to consider additional information about the proposed improvement, but does not require another view (<i>R.C. 940.23(B)</i>).</p>
Hearing – vote of the board	
<p>Authorizes the board, at the conclusion of the hearing on a proposed improvement, to approve the petition for the improvement (<i>R.C. 940.25, repealed</i>).</p>	<p>Same, but specifically requires the board to vote and requires the board, in making its decision, to take into consideration all of the following:</p> <ol style="list-style-type: none"> 1. The petition; 2. The preliminary report; 3. Comments on the proposed improvement; and 4. The protection of environmentally significant areas when those areas could be adversely affected by the construction of the proposed improvement and, if necessary, alternative plans providing for that protection and for construction of the proposed improvement (<i>R.C. 940.23(C)</i>).
Reasons for board to proceed with proposed improvement	
<p>Allows the board to approve the petition if the board:</p> <ol style="list-style-type: none"> 1. Is reasonably certain that the cost of the proposed improvement will be less than the benefits from it; 2. Finds that the improvement is necessary; 3. Finds that the improvement will be conducive to the public welfare; 4. Finds that the improvement will improve water management and development in the county in which the district is located to the advantage of 	<p>Similar, but no longer requires the board to consider (4) and (5) (<i>R.C. 940.23(D)</i>).</p>

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lands located in it; 5. Finds that the improvement will aid lands in the area by promoting the economical, industrial, environmental, or social development of the area (<i>R.C. 940.25, repealed</i>).	
Establishment of date for completion of plans and specifications	
Upon approval of the petition, requires the board to establish a date by which the board must complete plans and specifications for the improvement together with estimates of damages from and costs for it (see “ Plans for constructing proposed improvement and “Schedule of estimate of damages, construction, and assessments,” below).	No provision.
Specifies that the date established must allow as much time as is necessary for the preparation of the plans, specifications, and estimates.	No provision.
Authorizes the board to extend the completion date if necessary. (<i>R.C. 940.25, repealed.</i>)	No provision.

Plans for constructing proposed improvement

Current law	H.B. 340
Maps of proposed improvement area	
Requires the board of supervisors or its designee to prepare maps showing the location of the land that is proposed to be assessed by a board of county commissioners (see “ Levying of assessments,” below) (<i>R.C. 940.26</i>).	No provision.
Plans – erosion and sediment control	
For a proposed improvement that is a ditch or other similar structure for the disposal of water, requires the board’s plans for constructing the improvement to include erosion and sediment control by a sod or seeded strip, except where suitable vegetative cover exists.	Same, but also allows other erosion and sediment controls if suitable vegetative cover is not present.

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<p>Requires each sod or seeded strip to be between four and 15 feet wide.</p> <p>Requires sod or seeded strips in excess of four feet to be removed from the taxable valuation of property. (<i>R.C. 940.26.</i>)</p>	<p>Instead, requires the sod or seeded strip to be between ten and 15 feet wide.</p> <p>Instead, specifies that the county auditor must remove the total acreage of sod or seeded strips or other such controls from taxable valuation of property. (<i>R.C. 940.24(C)(2).</i>)</p>
Removal or adjustment of structures in construction	
<p>Requires the board or its designee to make note of all structures that will be removed or adjusted in constructing the improvement (<i>R.C. 940.26.</i>)</p>	<p>Instead, requires the board or its designee to include in the plans an <i>analysis</i> of all structures that will be removed or adjusted in constructing the improvement (<i>R.C. 940.24(D).</i>)</p>

Schedule of estimate of damages, construction, and assessments

Current law	H.B. 340
Schedule of damages	
<p>Requires the board of supervisors or its designee, as part of the estimate of the total cost of constructing a proposed improvement, to prepare a schedule of damages of the value of land or other property that must be taken and the damages to be sustained by an owner as a result of the construction and subsequent maintenance of the improvement (<i>R.C. 940.27, repealed</i>).</p>	<p>Same, but requires only the board to prepare the schedule of damages, thus does not allow the board to appoint a designee to prepare it (<i>R.C. 940.25(A).</i>)</p>
Total estimate of construction costs	
<p>Requires the board of supervisors or its designee to make an estimate of the total cost of the proposed improvement, including construction costs, estimated costs of damages to owners, and any expenses incurred in the investigations and notifications related to the proposed improvement (<i>R.C. 940.26 and 940.28, repealed</i>).</p>	<p>Same, but also includes any expenses incurred in consulting services (<i>R.C. 940.26(C).</i>)</p>

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Schedule of estimated assessments	
<p>Requires a board of county commissioners or its designee, after the board's approval of construction of a proposed improvement, to prepare a schedule of estimated assessments on property within the area that is to be benefited by the improvement (<i>R.C. 940.30, repealed</i>).</p>	<p>Instead, <i>requires the board of supervisors of a soil and water conservation district or its designee to prepare the schedule of assessments (R.C. 940.27(A)).</i></p>
<p>Requires the board of county commissioners or its designee, in determining the estimated assessment on a parcel of land, to use information concerning the proposed improvement that was submitted to the board of supervisors (the information includes plans for the proposed improvement, including surveys, maps, and specifications, together with schedules of damages, cost estimates, and any related reports that the supervisors or their designee prepared) (<i>R.C. 940.30, repealed</i>).</p>	<p>Similar, but also requires the board of supervisors or its designee, in determining the estimated assessment on a parcel of land, to consider, and incorporate when applicable, the following factors in the calculations:</p> <ol style="list-style-type: none"> 1. Acreage of the parcel; 2. Volume of water produced by the parcel; 3. Distance of the parcel from the proposed improvement; 4. Percentage of the proposed improvement to be used by the parcel; 5. The construction of works that are determined to solely benefit the particular parcel; 6. Soil types of the parcel; 7. The county auditor's land value or current agricultural use value, if applicable, of the parcel; 8. Existing drainage infrastructure that can be incorporated into the proposed improvement and associated cost savings; 9. Any other factors pertinent to the proposed improvement and the watershed that will be affected by the proposed improvement; and 10. Any benefits as defined in the law governing single county ditches (<i>R.C. 940.27(B)(2)</i>).

Hearing of board of county commissioners

Current law	H.B. 340
Approval by board of county commissioners	
<p>Requires the board of county commissioners, after receiving from the board of supervisors an approved proposed improvement with supporting</p>	<p>Same, but specifically requires a hearing, does not specify a deadline for approval or disapproval of the improvement, and requires the board of</p>

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documentation, to approve or disapprove the improvement within 60 days of receipt (presumably at a hearing) <i>(R.C. 940.29)</i> .	county commissioners to establish the date, time, and location of the hearing <i>(R.C. 940.31(A))</i> .
Notice of hearing	
No provision.	Requires the clerk of the board of county commissioners, at least 21 days before the hearing, to do both of the following: <ol style="list-style-type: none"> 1. Send a written notice of the hearing by certified mail to all owners that are adjacent to the proposed improvement; 2. Send the notice by certified or first class mail to all other owners within the area to be benefited by the proposed improvement, the board of supervisors of the appropriate soil and water conservation district, and the county engineer.
No provision.	Requires the clerk to include all of the following in the notice: <ol style="list-style-type: none"> 1. The date, time, and location of the hearing; 2. A description of any easement on the owner's property that is necessary for purposes of the improvement; 3. An owner's estimated assessment; 4. A statement that an owner may file comments on the proposed improvement and exceptions to the estimated assessment in writing before the hearing or in person at the hearing; and 5. The address at which to submit written comments on the proposed improvement and exceptions to the estimated assessment <i>(R.C. 940.29(B))</i>.
Required elements of hearing and hearing continuation	
No provision.	Requires the board of county commissioners, on the date established for the hearing, to conduct the hearing by doing both of the following: <ol style="list-style-type: none"> 1. Presenting the project design, construction plans, schedule of damages, cost estimates, and estimated assessments for the proposed improvement as submitted by the board of supervisors of the applicable soil and water conservation district;

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<p>No provision.</p>	<p>2. Hearing any comments offered by any owner regarding the estimated assessments and proposed improvement (<i>R.C. 940.30(A)</i>).</p> <p>Authorizes the board, if necessary, to adjourn and continue the hearing on subsequent days as may be reasonable to:</p> <ol style="list-style-type: none"> 1. Consider additional information about the proposed improvement; 2. Make changes that will better accomplish the purpose and object of the proposed improvement; <p>or</p> <ol style="list-style-type: none"> 3. Allow all interested owners to have an opportunity to comment on the proposed improvement (<i>R.C. 940.30(B)</i>).
Board of county commissioners – vote	
<p>Requires the board, when considering whether to approve or disapprove construction of an improvement, to consider all of the following:</p> <ol style="list-style-type: none"> 1. The cost of location and construction; 2. The compensation for land or other property that must be taken; 3. The benefits to the public welfare; 4. The benefits to land, public corporations, and the state needing the improvement; 5. In the case of an improvement involving the drainage of water, the effect on land below the improvement that may be caused by constructing the improvement and the sufficiency or insufficiency of the outlet that receives flow from the improvement; and 6. Any other proper matter that will assist the board in approving or disapproving construction of the improvement (<i>R.C. 940.29 (A) to (F)</i>). 	<p>Instead, authorizes the board to approve the petition if the board is reasonably certain that:</p> <ol style="list-style-type: none"> 1. The benefits of the proposed improvement outweigh the costs; 2. The proposed improvement is necessary; 3. The proposed improvement will be conducive to the public welfare; 4. The proposed route and mode of construction of the improvement will improve water management and development in the county in which the district is located to the advantage of lands located in it; and 5. The proposed improvement will aid lands in the area by promoting the economic, environmental, or social development of the area (<i>R.C. 940.31(B)</i>).
Duties of the county engineer	
<p>Requires the county engineer, if the board approves construction of an improvement, to file with the county recorder both of the following:</p> <ol style="list-style-type: none"> 1. A property plat showing the general location of the improvement; and 2. A statement describing the dimensions of any 	<p>Instead, requires the county engineer, if the board approves a petition, to file with the county recorder a property plat showing all of the following:</p> <ol style="list-style-type: none"> 1. Owners of record and parcel numbers along the improvement;

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<p>permanent easement that is necessary for maintenance of the improvement (<i>R.C. 940.29</i>).</p> <p>No provision.</p>	<p>2. The location of the improvement; and</p> <p>3. The width of any permanent easement that is necessary for maintenance of the improvement (<i>R.C. 940.31(D)</i>).</p> <p>Additionally, authorizes the county engineer to do both of the following:</p> <p>1. Include the permanent easement in the county's geographic information systems or other mapping system, if available; and</p> <p>2. File with the county recorder an affidavit listing the owners of record and parcel numbers subject to the permanent easement and note the affidavit in the property plat (<i>R.C. 940.31(D)(1) and (2)</i>).</p>
Board of supervisors – revision after disapproval	
<p>No provision.</p>	<p>If a board of county commissioners does not approve a petition for a proposed improvement, authorizes the applicable board of supervisors to revise and submit the revision to the board of county commissioners for reconsideration of the petition (<i>R.C. 940.31(F)</i>).</p>

Levying of assessments

Current law	H.B. 340
Levying of assessments – adoption of resolution	
<p>Authorizes the board of county commissioners, after receipt of an approved proposed improvement with supporting documentation from the board of supervisors of a soil and water conservation district, to adopt a resolution levying on the property within the area to be benefited by an improvement an assessment at a uniform or varied rate (assessment based on the benefit to the area as certified by the board of supervisors) (<i>R.C. 940.33(A)</i>).</p> <p>No provision.</p>	<p>Instead, <i>requires</i> the board, if the board approves a petition, to levy the assessment.</p> <p>Requires the board of county commissioners, in adopting a resolution, to take into consideration the estimated assessments prepared by the board of supervisors (see above). (<i>R.C. 940.32(A)</i>.)</p>

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Assessments – consideration	
<p>Requires the board of county commissioners to direct the person or authority preparing assessments to give:</p> <ol style="list-style-type: none"> 1. Primary consideration, in determining a parcel's estimated assessments relating to the disposal of water, to the potential increase in productivity that the parcel may experience as a result of the improvement; and 2. Consideration to the amount of water disposed of, the location of the property relative to the project, the value of the project to the watershed, and benefits (<i>R.C. 940.33(A)</i>). 	No provision.
Assessments – public entities	
<p>Requires the part of the assessment that is found to benefit state, county, or township roads or highways or municipal streets to be assessed against the state, county, township, or municipal corporation, respectively, payable from motor vehicle revenues.</p>	No provision.
<p>Requires the part of the assessment that is found to benefit property owned by any public corporation, any political subdivision of the state, or the state to be assessed against the public corporation, the political subdivision, or the state and payable out of the general funds or motor vehicle revenues of the corporation, political subdivision, or state, except as otherwise provided by law. (<i>R.C. 940.33(A)</i>.)</p>	No provision.
Assessments – exemptions	
<p>States that any land owned and managed by the Department of Natural Resources for certain purposes is exempt from assessments if the Director of Natural Resources determines that the land derives no benefit from the improvement.</p>	No provision, thus it appears that the Department-owned land is not exempt from assessment.
<p>Establishes requirements and procedures for:</p> <ol style="list-style-type: none"> 1. Making a determination by the Director; 2. Notification of the board of county commissioners of that determination; and 	No provision.

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<p>3. Appeal by the board of that determination. (<i>R.C. 940.33(C).</i>)</p>	
Filing of objections – notice	
<p>After an owner files an objection to an assessment, requires the board to proceed, within 30 days of the filing of an objection, to hold a final hearing on the objections by fixing a date and giving notice by first class mail to the objectors at the address provided in filing the objection.</p> <p>If any mailed notice is returned undelivered, requires the board to give due notice to the objectors in a newspaper of general circulation in the project area or as provided in the general laws governing notice of publication for political subdivisions, stating the time, place, and purpose of the hearing. (<i>R.C. 940.33(D)(2).</i>)</p>	<p>Same, but also requires the clerk of the board, at least 14 days prior to the hearing date, to notify each owner who filed an exception of the date and time of the owner’s exception hearing (hearings may be combined if multiple owners file objections) (<i>R.C. 940.32(D)</i>).</p> <p>No provision, thus it appears the board is no longer required to give notice via a newspaper of general circulation.</p>
Final schedule of assessments – notice	
<p>No provision.</p>	<p>If the board amends the final schedule of estimated assessments after hearing exceptions, requires the clerk of the board to send by certified or first class mail a written notice of the revised final schedule of estimated assessments to all owners within the area to be benefited by the improvement.</p>
<p>No provision.</p>	<p>Requires the notice to contain both of the following:</p> <ol style="list-style-type: none"> 1. The amount of the final estimated assessment for the owner’s property; 2. A statement that an owner may appeal the final estimated assessment to the applicable court of common pleas within 21 days of the notice of final estimated assessment. (<i>R.C. 940.32(D)(1) and (2).</i>)
Assessments – appeal	
<p>Authorizes any owner whose objection is not allowed to appeal within 30 days to the court of common pleas of the county in which the property is located (<i>R.C. 940.33(D)(3)</i>).</p>	<p>Instead, authorizes an appeal within 21 days of the notice of final estimated assessment (<i>R.C. 940.32(D)(2)</i>).</p>

Lead county

Current law	H.B. 340
Lead county	
No provision.	Defines “lead county,” for purposes of the law governing joint boards of soil and water conservation districts and joint boards of county commissioners, as the county in which the majority of the initial length of a proposed improvement would be located, as set forth in a petition, when the proposed improvement would be located in two or more counties (<i>R.C. 940.01(O)</i>).

Joint board of supervisors

Current law	H.B. 340
Formation	
<p>Authorizes the board of supervisors of two or more adjoining soil and water conservation districts, with approval of the Ohio Soil and Water Conservation Commission, to form a joint board of supervisors for the purpose of construction, maintenance, and operation of a work of improvement located or to be located in the districts (<i>R.C. 940.18, repealed</i>).</p> <p>If the number of members on a joint board would be even, requires an additional supervisor to be designated from the district in which it appears that the highest amount of taxes or assessment for benefits for the improvement is to be made (<i>R.C. 940.18, repealed</i>).</p>	<p>Instead, on receiving a petition for a proposed improvement that would be located in two or more adjoining districts, <i>requires</i> the board of supervisors of the adjoining districts, with the approval of the Commission, to create a joint board (<i>R.C. 940.34(A)</i>).</p> <p>Instead, in such a case, requires an additional member to be designated from the lead county (<i>R.C. 940.34(A)</i>).</p>
Duties and responsibilities	

Authorizes a joint board of supervisors to exercise the same powers given to a single board of a soil and water conservation district (*R.C. 940.18, repealed*).

Same, but adds the following conditions to that authority:

1. For purposes of making a preliminary determination to accept or reject a petition, requires the joint board to make the determination within 60 days of the approval of the creation of the joint board; and

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	<p>2. For purposes of a petition, requires the joint board to do both of the following:</p> <ul style="list-style-type: none"> --Send the petition and accompanying information to the board of county commissioners of the lead county; and --Send notification of the need for the creation of a joint board of county commissioners (see below) to the board of county commissioners of each county in the area to be benefited by the proposed improvement (<i>R.C. 940.34(B)</i>).
Administrative officers	
<p>Requires the joint board of supervisors to designate the clerk of courts of one of the counties as clerk of the joint board; and requires the county auditor and county treasurer of one of the counties represented by a joint board of county commissioners, as designated by the joint board, to become ex officio fiscal agents of all the participating counties (<i>R.C. 940.31 and 940.32</i>).</p>	<p>On the creation of a joint board of supervisors, requires the elected officials in the lead county, including the engineer, recorder, auditor, prosecutor, treasurer, judges, and clerk of the board of county commissioners, to serve as the administrative officers for the joint board of supervisors (<i>R.C. 940.34(C)</i>).</p>
<p>No provision.</p>	<p>States that the prosecuting attorney of a lead county that is represented on a joint board of supervisors is the legal advisor of the joint board in all civil actions brought by or against the joint board.</p>
<p>No provision.</p>	<p>Requires the prosecuting attorney to conduct all such actions in the prosecuting attorney's official capacity and authorizes the joint board to employ other attorneys as may be necessary or desirable in the operations of the joint board. (<i>R.C. 940.13(B)</i>).</p>

Joint board of county commissioners

Current law	H.B. 340
Formation	
<p>States that the boards of county commissioners of all the counties containing any of the territory included in the project area, if all of those boards have approved construction of an improvement,</p>	<p>Similar, and specifies that if a proposed improvement would affect more than one county, requires the board of county commissioners from each of the counties that would be affected by the</p>

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<p>are a joint board of county commissioners (<i>R.C. 940.31</i>).</p> <p>No provision.</p>	<p>proposed improvement to meet on a date fixed by the clerk of the board of county commissioners of the lead county.</p> <p>Requires the boards to meet in the lead county to organize a joint board of county commissioners. (<i>R.C. 940.35(A)</i>.)</p>
Apportionment of costs	
<p>Authorizes the joint board of county commissioners to agree to apportion any cost of the improvement, or expenses incurred in connection with the improvement, not paid by assessments or taxes levied for the improvement, or funds other than county funds, among the participating counties (<i>R.C. 940.31</i>).</p>	<p>No provision.</p>
Responsibilities of the clerk	
<p>No provision.</p>	<p>Requires the clerk of the board of county commissioners of the lead county to do all of the following:</p> <ol style="list-style-type: none"> 1. Act as clerk and administrator of the joint board; 2. Enter the findings of the joint board in the journal of the board of county commissioners of the lead county; 3. Make the final record of the improvement in the lead county; 4. Provide copies of all proceedings to the clerks of the boards of all affected counties (<i>R.C. 940.35(C)</i>).
Director of Agriculture membership	
<p>No provision.</p>	<p>Requires the Director of Agriculture to be an ex officio member of the joint board and authorizes the Director to participate, in person or through a designated representative, in deliberations and proceedings of the joint board.</p> <p>Specifies all of the following regarding the Director's participation on the joint board:</p> <ol style="list-style-type: none"> 1. The Director has no vote on any proceedings of the joint board except in the case of a tie for or against an improvement; 2. If the Director or the Director's designee is not

Current law	H.B. 340
	<p>present at the proceeding, the Director must review the proceedings and cast the deciding vote within 30 days of the proceeding. (A failure to cast a vote for or against the improvement within 30 days constitutes an affirmative vote for the improvement);</p> <p>3. The clerk must record the final resolution of the tie. <i>(R.C. 940.35(E).)</i></p>

Appeals

Current law	H.B. 340
Appeals	
<p>As stated above, allows an owner to appeal the amount of an assessment to the court of common pleas of the county in which the property is located (see “Levying of assessments,” above).</p> <p>No provision.</p>	<p>Allows any affected owner to appeal to the appropriate court of common pleas any action or determination of a board of supervisors, joint board of supervisors, board of county commissioners, or joint board of county commissioners.</p> <p>Requires the affected owner to make the appeal within 30 days of the date of the action or determination and authorizes the appeal to be based on any of the following questions:</p> <ol style="list-style-type: none"> 1. Is the improvement necessary? 2. Will the improvement be conducive to the public welfare? 3. Is the cost of the improvement greater than the benefits conferred? 4. Is the route, termini, or mode of construction the best to accomplish the purpose of the improvement? 5. Are the assessments levied according to benefits? 6. Is the award for compensation or damages just? <p><i>(R.C. 940.38.)</i></p>

Video conferences and teleconferences

Current law	H.B. 340
Video conferences and teleconferences	
No provision.	Allows a board of supervisors or joint board of supervisors, when practicable, to conduct meetings by video conference or, if video conference is not available, by teleconference.
No provision.	Requires the board or joint board to make provisions for public attendance at any location involved in a meeting conducted by video conference or teleconference.
No provision.	Specifies that the board's or joint board's main office or board room is the primary meeting location for the video conference or teleconference, and subjects the meetings to the Public Meetings Law.
No provision.	Before convening a meeting, requires designated staff to send a copy of meeting-related documents to each board or joint board member.
No provision.	Requires the minutes of each meeting to specify who was in attendance and in what manner the meeting was conducted – teleconference, videoconference, or in-person.
No provision.	Requires any vote taken in a meeting held by teleconference that is not unanimous to be recorded as a roll call vote.
No provision.	States that nothing in the Public Meetings Law prohibits a board or joint board from conducting a meeting in a manner as authorized above. (R.C. 940.39.)

SINGLE COUNTY DRAINAGE IMPROVEMENTS

Current law establishes a process by which a county may allow for the construction of a drainage improvement if a petition is made to the board of county commissioners and the board finds all of the following:

1. The proposed improvement is necessary for disposal or removal of surplus water, for controlled drainage of any land, for irrigation, for storage of water to regulate stream flow or to prevent the overflow of any land in the county, or for water conservation;
2. The proposed improvement's construction will be conducive to the public welfare; and
3. The cost of the proposed improvement will be less than the benefits conferred by its construction.²

The board must make those findings through a process, which includes:

- Accepting petitions filed by landowners for a proposed drainage improvement;
- Ensuring proper recordkeeping regarding the proposed improvement;
- Providing proper notice, and viewing the proposed improvement;
- Holding hearings regarding the proposed improvement;
- Voting on whether to approve the petition;
- Ordering assessments to pay for the improvement; and
- The hearing of appeals regarding the process in the court of common pleas.³

The bill retains the basic process structure for approving and implementing a drainage improvement. However, it makes numerous changes to the specifics of that process and structure. Below is a discussion of the changes to the process and structure made by the bill.

Terminology

Current law	H.B. 340
Terminology	
Uses the term "ditch" to describe a drainage improvement.	Changes the term "ditch" to "drainage improvement" throughout the law governing those drainage improvements (<i>Chapter 6131</i>).

² R.C. 6131.02.

³ R.C. Chapter 6131.

Filing and amending a petition

Current law	H.B.340
Filing of petition with board of county commissioners	
<p>Authorizes an owner to file a petition with the clerk of the board of county commissioners requesting the construction of an improvement (<i>R.C. 6131.04</i>).</p>	<p>Same, but also requires the owner, prior to filing a petition, to consult with the appropriate county engineer to discuss the proposed drainage improvement and to determine the proper forms and procedures for filing the petition (<i>R.C. 6131.04(A)</i>).</p>
Petition – information included	
<p>Requires a petition to include, in part, a list of the names and addresses, where known, of all the owners of the land that the petitioner or the county engineer claims will be benefited or damaged by the construction of the proposed improvement (<i>R.C. 6131.04</i>).</p>	<p>Clarifies that the future benefits or damages resulting from the proposed improvements are determined by the county engineer (<i>R.C. 6131.04(B)(5)</i>).</p>
Bonding requirements	
<p>Requires a petitioner to file, with the petition, a bond of \$500 plus an additional \$2 for each parcel of land in excess of 200 benefited parcels (<i>R.C. 6131.06</i>).</p>	<p>Increases the bond requirement to \$1,500 plus an additional \$5 for each parcel of land in excess of 200 benefited parcels (<i>R.C. 6131.06(A)</i>).</p>
<p>Specifies that the bond is credited to the General Drainage Improvement Fund to pay the cost of notices, plus any other incidental expenses, excluding the costs incurred by the county engineer in making the engineer’s preliminary reports if the petition is not granted or if the petition is dismissed (<i>R.C. 6131.06</i>).</p>	<p>Instead, provides that the bond may also be credited to a special fund created for the proposed improvement, and specifies that the money must be used to pay for all costs associated in preparing for the view and first hearing if the petition is not granted or if the petition is dismissed (<i>R.C. 6131.06(B)</i>).</p>
<p>Specifies that if the board of county commissioners, by resolution entered on its journal, finds that any land owned by the county or any highway under its supervision is in need of drainage and the drainage will also specially benefit other land, the board does not need to post bond for the improvement in the court of common pleas (<i>R.C. 6131.62</i>).</p>	<p>No provision (<i>repealed</i>).</p>

Current law	H.B.340
Amending a petition	
<p>Allows a benefiting owner to file a written application for an amendment to a petition with the clerk of the board of county commissioners, provided the board allows the amendment application (<i>R.C. 6131.05</i>).</p>	<p>States that a benefiting owner may file an amendment to a petition only with regard to expanding the length of the proposed improvement, provided that the amendment does not expand the area to be benefited by the proposed improvement (<i>R.C. 6131.05(A)</i>).</p>
<p>No provision.</p>	<p>States that if a benefiting owner seeks to expand the area to be benefited or the number of parcels to be benefited, the owner must file a new petition (<i>R.C. 6131.05(A)</i>).</p>
<p>No provision.</p>	<p>Specifies that the amendment must be filed within 21 days after the date of the view (<i>R.C. 6131.05(A)</i>).</p>
<p>Permits a benefiting owner to also amend a petition while the proceedings are pending on appeal in the court of common pleas (<i>R.C. 6131.05</i>).</p>	<p>No provision.</p>
Comments to petition	
<p>Allows an owner who has not joined in the petition and who is in favor of the petition to file an application with the board of county commissioners requesting that the improvement be granted, and to include with the application the owner's reasons (<i>R.C. 6131.08</i>).</p>	<p>Instead, allows such an owner to comment on the petition with the board (<i>R.C. 6131.08</i>).</p>
<p>Allows an owner who has not joined in a petition and who is not in favor of the petition to file remonstrances against the granting of the improvement, and to include with the application reasons for not wanting the petition to be granted (<i>R.C. 6131.08</i>).</p>	<p>Same as above.</p>
<p>No provision.</p>	<p>Specifies that comments may be made in person at the public hearings on the petition or filed in writing with the clerk of the board of county commissioners (<i>R.C. 6131.08</i>).</p>

Current law	H.B.340
Proposed improvement recordkeeping	
<p>Requires the board of county commissioners to maintain a permanent file containing a record of the petition that includes all of the following:</p> <ol style="list-style-type: none"> 1. Applications and remonstrances filed; 2. Orders made by the board; 3. Preliminary estimates and preliminary report of the county engineer; 4. Reports of review by the Director of Natural Resources, the Director of Transportation, and the directors of any conservancy district; 5. Reports of the engineer as to the construction of the improvement; and 6. Any other matter that is proper for the record (<i>R.C. 6131.57</i>). <p>Also, requires the county engineer to maintain a permanent file for the proposed improvement containing all records described above (<i>R.C. 6131.57</i>).</p> <p>Requires the county engineer to prepare a preliminary estimate of the cost of the proposed improvement and file that estimate at the first hearing on the improvement, as a guide to the board of county commissioners and the petitioners (<i>R.C. 6131.09</i>).</p> <p>Requires the clerk of the board of county commissioners, after the final hearing on the petition, or after the final judgment, order, or decree has been rendered after any appeal, to file with the county engineer all maps, profiles, and plans of the improvement, which is to be filed</p>	<p>Instead, requires the clerk of the board to maintain a file for the proposed improvement containing a record of the petition that includes all of the following:</p> <ol style="list-style-type: none"> 1. Amendments; 2. Comments; 3. Notices; 4. Proceedings; 5. Resolutions; 6. Orders; and 7. Any other record regarding the proposed improvement that is filed with the board (<i>R.C. 6131.061(A)</i>). <p>Requires the county engineer to maintain a file for the improvement that contains all of the following:</p> <ol style="list-style-type: none"> 1. A record of the petition; 2. Amendments to the petition; 3. All reports, estimates, surveys, maps, plans, drawings, schedules, and other documents prepared for the proposed improvement by the engineer or the engineer's designee; and 4. Any reports of the Director of Natural Resources, the Director of Transportation, and directors of any conservancy districts (<i>R.C. 6131.061(B)</i>). <p>Similar, but requires the county engineer to prepare the preliminary report on the proposed improvement on receipt of notice of the filing of the improvement from the board (<i>R.C. 6131.09(A)</i>).</p> <p>Requires the clerk of the board of county commissioners to instead file or transfer the records required to be kept (see above) to the county engineer, which the county engineer must maintain as a permanent project file, together with an annual record of maintenance and repairs</p>

Current law	H.B.340
together with an annual record of maintenance and repair (<i>R.C. 6131.57</i>).	for the improvement (<i>R.C. 6131.061(C)</i>).

Notice and view of the proposed improvement

Current law	H.B. 340
Establishing view date	
Requires the date for a view of the proposed improvement to take place between 25 and 90 days after the date on which the petition was filed (<i>R.C. 6131.07</i>).	Instead, requires the view to occur between 30 and 120 days after the petition's filing (<i>R.C. 6131.07(B)(1)</i>).

Notice of improvement	
Requires the clerk of the board of county commissioners, at least 20 days prior to the view, to send a written notice to the owners named in the petition and of legal record (<i>R.C. 6131.07</i>).	Similar, but requires the clerk to send the notice 21 days prior to the view (<i>R.C. 6131.07(C)</i>).
<p>Requires the clerk to include all of the following in the notice:</p> <ol style="list-style-type: none"> 1. The pendency, substance, and prayer of the petition; 2. A statement that all costs of engineering, construction, and future maintenance will be assessed to the benefiting parcels of land; and 3. The date, time, and location for the view and first hearing (<i>R.C. 6131.07</i>). 	<p>Same, but also requires the clerk to include the following in the notice:</p> <ol style="list-style-type: none"> 1. A description of the proposed improvement and its location as stated in the petition, a map indicating the location of the proposed improvement or information on where to access the map, and an explanation of how to access additional information or ask questions about the proposed improvement; 2. A statement that the owner may file, not more than 21 days after the view date, an amendment to the petition that expands the length of the proposed improvement, provided that the amendment does not expand the area to be benefited by the proposed improvement; 3. A statement that an owner receiving the notice may comment on the proposed improvement in writing before or in person at the public hearings on the petition; and 4. The address at which to file an amendment to the petition or submit written comments on the proposed amendment or the petition (<i>R.C. 6131.07(C)(2) to (6)</i>).

Current law	H.B. 340
Requires the clerk to send notice by first class mail or certified mail, return receipt requested to all owners (<i>R.C. 6137.07</i>).	Instead, requires the clerk to send notice by certified mail to all owners that are adjacent to the proposed improvement, and to all other owners by first class or certified mail (<i>R.C. 6137.07(D)</i>).
The view	
<p>On the date of the view, requires the board and the county engineer to do both of the following:</p> <ol style="list-style-type: none"> 1. Meet at the designated place near the proposed improvement; and 2. Go over and along the line of the proposed improvement and each branch, lateral, or spur mentioned in the petition (<i>R.C. 6131.10</i>). <p>Authorizes the county engineer to adjourn the view from day to day, or a longer period, until the view is complete (<i>R.C. 6131.10</i>).</p> <p>Allows additional views regarding proposed changes to routes, branches, or spurs (<i>R.C. 6131.10</i>).</p>	<p>Instead, on the date of the view, requires the county engineer or a designated representative to do both of the following:</p> <ol style="list-style-type: none"> 1. Present an overview of the proposed improvement; and 2. In that presentation, use methods and means that the board determines will adequately inform those attending the view about the proposed improvement's location and the drainage issues intended to be addressed by the proposed improvement (<i>R.C. 6131.10(A)</i>). <p>Specifies that when a request is made by a commissioner or an owner in the area to be benefited by the proposed improvement, the board of county commissioners must recess the view and reconvene at a site along the proposed improvement for the purpose of gaining additional information about the drainage issue intended to be addressed by the proposed improvement (<i>R.C. 6131.10(B)</i>).</p> <p>No provision.</p>

First hearing on proposed improvement

Current law	H.B. 340
Establishment of hearing of proposed improvement	
Requires the board of county commissioners to hold the first hearing on the proposed improvement between 10 and 90 days after the date of the view (<i>R.C. 6131.07</i>).	Instead requires the first hearing to occur between 30 and 90 days after the view (<i>R.C. 6131.07(B)(2)</i>).

Current law	H.B. 340
First hearing	
<p>At the first hearing, requires the board of county commissioners to:</p> <ol style="list-style-type: none"> 1. Hear the preliminary report; 2. Hear evidence for or against the granting of the improvement, or for or against any laterals, branches, spurs, or change of route, course, termini, or manner of construction; and 3. Adjourn the hearing from day to day, or for a longer time so all interested owners may be heard (<i>R.C. 6131.10</i>). 	<p>Same, but also allows the board to adjourn to consider additional information (<i>R.C. 6131.101(B)</i>).</p>
First hearing – vote	
<p>Authorizes the board of county commissioners to approve the petition if the board finds all of the following:</p> <ol style="list-style-type: none"> 1. That a proposed improvement is necessary; 2. That the proposed improvement is conducive to the public welfare; and 3. That it is reasonably certain the cost will be less than the benefits (<i>R.C. 6131.12</i>). <p>In granting the petition, requires the board to ensure that the route of the improvement be located so as to avoid running the improvement diagonally across property and, where practicable, follow property lines, section lines, and lines of public highways (<i>R.C. 6131.12</i>).</p>	<p>Generally the same, but requires the board to take into consideration the petition, the preliminary report, and comments on the proposed improvement (<i>R.C. 6131.101(C) and 6131.12(A)</i>).</p> <p>Instead, requires the county engineer, as part of the survey and design of the improvement, to prepare specifications for the improvement's route that avoids running the improvement diagonally across property and to follow property lines, section lines, and lines of public highways (<i>R.C. 6131.14(E)(1)</i>).</p>

County engineer's duties prior to the final hearing

Current law	H.B. 340
County engineer's duties – general	
<p>Requires the county engineer, when preparing for the improvement, to do the following:</p> <ol style="list-style-type: none"> 1. Make the necessary surveys; 2. Prepare plans for structures; 3. Create maps showing the location of the land 	<p>Similar, but requires the county engineer to prepare construction drawings of the improvement and removes the requirement to make profiles showing the cuttings and gradient (<i>R.C. 6131.14(B)(4)</i>).</p>

Current law	H.B. 340
<p>proposed to be assessed;</p> <p>4. Make profiles showing the cuttings and gradient; and</p> <p>5. Prepare an estimate of the cost of the improvement (<i>R.C. 6131.14</i>).</p> <p>Requires the engineer to recommend the maintenance district in which the improvement is to be placed (<i>R.C. 6131.14</i>).</p> <p>No provision.</p>	<p>Instead, authorizes the engineer to recommend the maintenance district (<i>R.C. 6131.14(B)(5)</i>).</p> <p>Requires the engineer to prepare a schedule of damages that includes both of the following:</p> <ol style="list-style-type: none"> 1. An estimate of the value of land or other property necessary to be acquired through purchase or voluntary transfer or appropriated, and a description of that land or other property; and 2. An estimate of the total damages to be sustained by owners as a result of the construction and subsequent maintenance of a proposed improvement, along with the name and address of each owner that is alleged to be damaged, the amount of each owner's estimated damages, and an explanation of each owner's injury (<i>R.C. 6131.14(B)(6)</i>).
<p>Requires the engineer to specify a width of temporary easement for construction purposes that include spreading and leveling of spoil banks (<i>R.C. 6131.14</i>).</p>	<p>Same, but adds that the temporary easement cannot be more than 75 feet from the top of the bank (<i>R.C. 6131.14(E)(2)</i>).</p>
<p>Requires the engineer to do all of the following:</p> <ol style="list-style-type: none"> 1. Set proper construction stakes and note the intersection of the line of the improvement with the apparent land boundaries of separate owners, township and county lines, natural landmarks, road crossings, or other lines or marks; 2. Take and note any necessary levels off the line of the improvement to determine the area of the land subject to drainage; and 3. Establish, at intervals of not less than one in each mile, in the most practicable permanent form, and in locations where destruction or disturbance is improbable, bench marks from 	<p>Removes these specific provisions, but retains language that requires the engineer to make a plan of the work proposed to be done that shows the grade, the depth, the excavating to be done, the location of the permanent bench marks and their actual elevation based on the most recent U.S. Geological Survey data above or below the base elevation used, and any other data that the engineer believes will aid in retracing lines, levels, or other features of the improvement (<i>R.C. 6131.14(C)</i>).</p>

Current law	H.B. 340
<p>which the original levels of the improvement can be established (<i>R.C. 6131.14</i>).</p> <p>Requires the engineer to prepare specifications for the construction of the improvement that provides for erosion and sediment control through the establishment of a sod or seeded strip between four and 15 feet wide (<i>R.C. 6131.14</i>).</p> <p>Requires the engineer to make estimates of the cost of excavating and of the cost of material and authorizes the engineer to divide the construction of the improvement into construction areas as considered expedient (<i>R.C. 6131.14</i>).</p> <p>No provision.</p>	<p>Same, but requires the sod or seeded strip width to be between ten and 15 feet wide (<i>R.C. 6131.14(E)(3)</i>).</p> <p>Removes this requirement (<i>R.C. 6131.14(F)</i>).</p> <p>Authorizes the county engineer to include any permanent easement in the county's GIS mapping system, and to file a list of landowners affected by the easement with the county recorder (<i>R.C. 6131.14(J)</i>).</p>
County engineer's duties – assessments	
<p>Requires the county engineer to prepare a schedule of assessments and when determining the estimated drainage assessments for a parcel, give primary consideration to the potential increase in productivity that the parcel may experience as a result of the improvement and give consideration to the quantity of drainage contributed, the relative location of the property to the project, the portion of the project through which the drainage from the parcel flows, the value of the project to the watershed, and benefits of the improvement (<i>R.C. 6131.15</i>).</p>	<p>Requires the county engineer to prepare a schedule of assessments, but instead requires the engineer, when calculating each estimated assessment, to use the information compiled in the engineer's estimate of the cost of the improvement and the schedule of damages and to consider the following factors:</p> <ol style="list-style-type: none"> 1. Acreage of a parcel; 2. Volume of water produced by a parcel; 3. Remoteness of the parcel to the improvement; 4. Percentage of the improvement used by the parcel; 5. Work determined to benefit that particular parcel only and not the remainder of the parcels in the watershed; 6. Soils; 7. County auditor's land value or current agricultural use value; 8. Existing drainage infrastructure that can be incorporated into the improvement and associated cost savings;

Current law	H.B. 340
	<p>9. Any other factors pertinent to that particular petition and watershed; and</p> <p>10. Any benefits of the improvement (<i>R.C. 6131.15(B)</i>).</p>

Final hearing

Current law	H.B.340
Notice of final hearing	
<p>Requires the clerk of the board of county commissioners to immediately give notice, by certified mail, return receipt requested, or by first class mail to all owners whose names appear in the county engineer's schedules of assessments and damages (<i>R.C. 6131.16</i>).</p>	<p>Generally the same, but requires the clerk to provide notice, at least 21 days prior to the final hearing, by certified mail to all owners who are adjacent to the proposed improvement, and by certified or first class mail, to all others in the area to be benefited (<i>R.C. 6131.16(B)</i>).</p>
Filing damages prior to hearing	
<p>Allows an owner to file an exception to the county engineer's schedule of assessments or a claim for damages or compensation on or before the date of the final hearing in the proceedings to construct the improvement (<i>R.C. 6131.17</i>).</p>	<p>Same, except requires the owner to file the exception not less than 5 days before the final hearing (<i>R.C. 6131.17</i>).</p>
Compensation and damages	
<p>Specifies that when the board of county commissioners determines damages at the final hearing, the board should also determine the <i>fair</i> value of any land or any other property to be taken for the proposed improvement (<i>R.C. 6131.19</i>).</p>	<p>Same, but requires the board to determine the value (not fair value) of land or other property taken for the proposed improvement (<i>R.C. 6131.19(B)</i>).</p>
<p>Requires the board of county commissioners, when determining the amount of damages that an owner is entitled, to enter its findings in its journal and authorize the county auditor to issue warrants upon the county treasurer to claimants for the appropriate amounts before any work on the proposed improvement is done (<i>R.C. 6131.19</i>).</p>	<p>Instead, specifies that if the board awards additional compensation to any owner at the final hearing, the board must order the county engineer to prepare new assessments for the proposed improvement and the clerk of the board must notify all owners of the new assessments (<i>R.C. 6131.19(C)</i>).</p>
<p>Specifies the following in regards to claims for compensation or damages:</p>	<p>Repeals these provisions (however, Ohio law dictates that the prosecuting attorney represent the county and the Attorney General represent the</p>

Current law	H.B.340
<p>1. In all matters where the rights of the county are affected, the prosecuting attorney represents the county; and</p> <p>2. In all matters where the rights of the state of Ohio are affected, the Attorney General represents the state (<i>R.C. 6131.18</i>).</p>	<p>state in these types of claims) (<i>R.C. 109.361 and 309.09</i>).</p>
Ordering assessments	
<p>Specifies that once the board of county commissioners determines the assessment amount for a proposed improvement, the board must order the county engineer to receive bids – the county engineer must receive the bids within 25 days after receiving the order (<i>R.C. 6131.22</i>).</p>	<p>Increases the time from 25 days to 30 days by which the county engineer must receive bids (<i>R.C. 6131.22(C)(1)</i>).</p>

Appeals process

Current law	H.B. 340
Appealing board's order to court	
<p>Specifies that an affected owner may appeal to the court of common pleas within 21 days of the date that any order was issued by the board of county commissioners regarding an improvement (<i>R.C. 6131.25</i>).</p>	<p>Increases the time that an affected owner has to appeal the board's order to 30 days from the date that the order was issued (<i>R.C. 6131.25(A)</i>).</p>
Appeal proceedings style	
<p>Requires the proceedings on appeal in the court of common pleas to be styled as follows:</p> <p>“In the matter of the appeal in county ditch or improvement No . . . , petitioned for by . . .” (<i>R.C. 6131.27</i>).</p>	<p>No provision. (<i>R.C. 6131.27</i>).</p>
Bonding	
<p>Requires a landowner to do all of the following when appealing a drainage improvement hearing decision:</p> <ol style="list-style-type: none"> 1. File an appeal bond of at least \$500, plus the sum of \$2 for each parcel of land in excess of 200 benefited parcels; 2. Pay all costs on appeal if the hearing decision is 	<p>No provision (repealed).</p>

Current law	H.B. 340
<p>sustained;</p> <p>3. File a statement of the decision or order appealed from and of the claims of the owner in ordinary and concise language; and</p> <p>4. Pay all necessary filing fees and other related documents as the court may require (<i>R.C. 6131.26</i>).</p>	
Separate filings by multiple owners	
<p>Authorizes several owners to appeal the orders in the same improvement and file separate bonds and separate statements stating the matters appealed (<i>R.C. 6131.28</i>).</p>	<p>Same, but removes the requirement that the owners file separate bonds and separate statements stating the matters appealed (<i>R.C. 6131.28</i>).</p>
Appeals hearing	
<p>Specifies that the appeals hearing is conducted in the same manner as are other civil hearings (<i>R.C. 6131.30</i>).</p>	<p>Removes this specification (however, the appeals process will still be conducted in accordance with Ohio law and Ohio Rules of Civil Procedure).</p>
Board of arbitrators	
<p>Authorizes the court of common pleas to appoint a board of arbitrators to assume the duties of the judge in the appeals hearing (<i>R.C. 6131.30</i>).</p>	<p>No provision.</p>
Jury trial	
<p>Includes specific procedures regarding a trial by jury (<i>R.C. 6131.32, 6131.33, and 6131.34</i>).</p>	<p>Removes the specific procedures; retains the right to a jury trial and Ohio Rules of Civil Procedure, as well as relevant provisions of Ohio law, apply (<i>R.C. 6131.32 and 6131.33</i>).</p>

Civil action

Current law	H.B. 340
Contractor failing to complete contract	
<p>If a contractor is not performing or completing improvement work according to the contract, requires the board of county commissioners to give the contractor notice in writing of a hearing on the matter at least 10 days before that hearing and, if after the hearing the contractor is found to</p>	<p>Repeals these procedures; however, Ohio law still provides for remedies for breach of contract (<i>R.C. Chapters 1301 and 1302</i>).</p>

Current law	H.B 340
have breached the contract, allows the county engineer to replace that contractor (<i>R.C. 6131.44</i>).	
Civil action to recover damages	
Allows an owner who has suffered any loss or damage by reason of the failure of a contractor to perform in accordance with the contract, or by the contractor's negligence in performing the contract to bring suit against the contractor and the contractor's bondsmen to recover damages that are sustained (<i>R.C. 6131.42</i>).	Removes this specific provision; however, Ohio law provides a process for bringing a civil action for an owner who suffers damages caused by a contractor.
Joinder	
Allows two or more owners who are assessed for the construction of the improvement to bring one civil suit against the contractor and the contractor's bondsmen to recover damages and for the jury to award damages in one verdict (<i>R.C. 6131.42</i>).	Removes this specific provision; however, the Ohio Rules of Civil Procedure governs joinder of parties.

Funding and compensation

Current law	H.B. 340
General Drainage Improvement Fund	
Requires the board of county commissioners of each county to provide and establish the "General Drainage Improvement Fund" to be used as a sinking fund for all bonds issued for improvements (<i>R.C. 6131.50</i>).	Authorizes, instead of requires, each county to have a General Drainage Improvement Fund. As a result, allows each county to establish other special funds to deposit money to be used for improvements and other costs (<i>R.C. 6131.50</i>) and makes conforming changes (<i>R.C. 6131.06, 6131.12, 6131.19, 6131.30, 6131.51, 6131.52, and 6131.60</i>).
Warrants	
Prohibits warrants from being drawn to be paid from the fund unless the fund contains a sufficient amount not otherwise specifically appropriated to pay them (<i>R.C. 6131.51</i>).	Removes this prohibition.

Current law	H.B. 340
Extra compensation for contractors	
<p>Authorizes the board of county commissioners to order extra compensation for nonbid work to be done by a contractor, under the supervision of the county engineer, if one of the following occurs:</p> <ol style="list-style-type: none"> 1. In the progress of the work on any improvement there occurs bed rock, flowing sand, or other items not noted in the engineer's report that must be removed or controlled; or 2. In the progress of the work nonbid material or labor, or both, is needed. <p>Allows for pro rata reductions if the costs are less than anticipated. (<i>R.C. 6131.48.</i>)</p>	<p>No provision.</p> <p>No provision (repealed).</p>
Installment payments to contractor	
<p>Provides for installment payments to be paid to the contractor as work on the improvement progresses (<i>R.C. 6131.49.</i>)</p>	<p>Repeals this provision (however Ohio law – R.C. 151.13, 153.12, and 153.14 – still allows for installment payments to contractors).</p>

Conflicts of interest

Current law	H.B. 340
Procedures incase of conflict	
<p>Specifies that if one or more members of a board of county commissioners are petitioners for an improvement, the clerk of the board must notify the court of common pleas judge who then appoints disinterested owners of property in the county to take the place of the board members who are petitioners (<i>R.C. 6131.60.</i>)</p>	<p>Same (<i>R.C. 6131.60.</i>)</p>
<p>However, prohibits the appointees from being related by blood or affinity to the interested members (<i>R.C. 6131.60.</i>)</p>	<p>No provision.</p>
<p>Requires the appointees to take an oath (<i>R.C. 6131.60.</i>)</p>	<p>No provision.</p>

Current law	H.B. 340
Requires the appointees to receive the same per diem rate that the disqualified member receives (<i>R.C. 6131.60</i>).	Authorizes, instead of requires, the appointee to receive the same per diem rate that the disqualified member receives (<i>R.C. 6131.60</i>).

Owner-funded improvement

Current law	H.B. 340
Exception to owner-funded improvement	
Allows one or more owners who are willing to construct and pay the costs of a drainage improvement to enter into a written agreement for the construction of the improvement, with the exception of an owner whose land is used for agricultural purposes who desires to install tile by extending or adding to the owner's own laterals or desires to expel water into an open ditch on the owner's land in the same watershed (<i>R.C. 6131.63</i>).	Same, but removes the agricultural land owner exception (<i>R.C. 6131.63(A)</i>).
Professional engineer approval	
Requires the plan for an owner-funded drainage improvement to be approved by a professional engineer (<i>R.C. 6131.63</i>).	No provision.
County engineer's review	
Requires the county engineer to file with the clerk of the board of county commissioners, within 60 days, a report of the engineer's review with recommendations for change, amendment, or alteration of the agreement, plan, and schedules that the engineer determines are necessary in the public interest (<i>R.C. 6131.63</i>).	Same, except requires the county engineer to submit all aspects of the review regardless of whether the engineer determines they are necessary in the public interest (<i>R.C. 6131.63(E)</i>).

JOINT COUNTY DRAINAGE IMPROVEMENTS

Current law establishes a process by which multiple counties may construct a drainage improvement after a petition is made to a joint board of county commissioners. The joint county process is similar to the process used for constructing a single county drainage improvement and includes the following:

- Requiring the joint board to meet regarding the proposed drainage improvement;
- Accepting petitions filed by landowners for a proposed improvement;
- Ensuring proper recordkeeping regarding the proposed improvement;
- Providing proper notice, and viewing the proposed improvement;
- Holding hearings regarding the proposed improvement;
- Voting on whether to approve the petition;
- Ordering assessments to pay for the improvement;
- Designating which county engineer will conduct the field work, make the survey, plans, and estimates and file required reports; and
- The hearing of appeals regarding the process in the court of common pleas.⁴

Current law also establishes permanent maintenance assessment requirements and repair standards regarding joint county drainage improvements.⁵

The bill retains the basic process structure for approving and implementing a joint county drainage improvement, as well as the maintenance assessment requirements and repair standards. However, it makes numerous changes to the specifics of that process and those requirements and standards. Below is a discussion of the changes to the process, requirements, and standards made by the bill.

Procedures and requirements

Current law	H.B. 340
Lead county	
Does not specifically define a “lead county,” but instead generally refers throughout the Joint County Ditch Law to the “county in which the petition is filed” (<i>R.C. Chapter 6133</i>).	Defines a “lead county” to mean the county in which the majority of a joint county drainage improvement would be located, as specified in an original petition (<i>R.C. 6133.01(B)</i>).

⁴ R.C. Chapter 6133.

⁵ R.C. Chapter 6137.

Current law	H.B. 340
Meeting requirement	
Requires the board of county commissioners from each of the counties affected by a joint county improvement to meet in the county in which the petition for the project was filed (<i>R.C. 6133.04</i>).	Eliminates the requirement that the boards meet in the county in which the petition for the project was filed (<i>R.C. 6133.04(A)</i>).
Certified copies of petition	
Requires the clerk of the board of county commissioners in the county in which the petition was filed to act as clerk, and to file certified copies of all proceedings with the clerks of the boards of all the affected counties (<i>R.C. 6133.04</i>).	Instead, requires the clerk of the lead county to act as clerk and administrator and requires the clerk to provide copies, not certified, of all the proceedings to the clerks of all affected counties (<i>R.C. 6133.04(B)</i>).
Ex officio members of the joint board	
Requires the Director of Natural Resources to serve as an ex officio member of the joint board (<i>R.C. 6133.04</i>).	Instead requires the Director of Agriculture to serve as an ex officio member of the joint board (<i>R.C. 6133.04(D)</i>).
Hearing locations	
Requires that all hearings to be held in the county in which the petition for the improvement was filed (<i>R.C. 6133.04</i>).	Instead, requires all such hearings to be held in the lead county unless a majority of the joint board agrees to an alternative location (<i>R.C. 6133.04(E)</i>).
Administration of the joint board	
No provision.	Requires that when the joint board is formed, that it be administered by the lead county's elected officials, the lead county's county engineer, county recorder, county auditor, county prosecutor, common pleas judges, county treasurer, and clerk of the board of the county commissioners (<i>R.C. 6133.04(F)</i>).
Fiscal agents	
Requires the county auditor and the county treasurer of the county in which the petition is filed to be the fiscal agents of all the counties interested in the improvement (<i>R.C. 6133.07</i>).	Instead, requires the county auditor and county treasurer of the lead county to be the fiscal agents (<i>R.C. 6133.07(A)(1)</i>).

Current law	H.B. 340
Claims for compensation	
<p>Requires all applications, remonstrances, claims for compensation or damages, reports, schedules, certificates, statements, contracts, bonds, and other papers to be filed with the clerk with whom the petition is filed (<i>R.C. 6133.06</i>).</p>	<p>Instead, requires both of the following:</p> <ol style="list-style-type: none"> 1. The clerk of the joint board to present bills for payment to the fiscal agents in the same manner as a request for payment would be made with respect to a single county drainage improvement; 2. The fiscal agents to process and pay each bill for the joint board of county commissioners presented (<i>R.C. 6133.07(A)(2) and (3)</i>).
Certification of costs and collection of assessments	
<p>Specifies the following certification and collection requirements regarding assessments:</p> <ol style="list-style-type: none"> 1. The county auditor must certify a schedule of assessments to the other county auditors; 2. The county auditor and treasurer must receive and account for the funds in the same manner as single county improvements; 3. All warrants for the payment of costs and location for construction of a joint county ditch must be drawn by the county auditor of the county in which the petition was filed, on the treasurer of that county, payable from the general ditch improvement fund of that county. (<i>R.C. 6133.07</i>.) 	<p>Instead, specifies the lead county auditor and lead county treasurer must perform the certification of costs and collection requirements (<i>R.C. 6133.07(B) to (E)</i>).</p>
Certification of costs and collection of assessments – dismissal of petition	
<p>If a petition for a joint county improvement is dismissed, requires the costs and expenses of the county engineer where a petition for an improvement is filed to be paid by the counties involved in the joint county improvement (<i>R.C. 6133.07</i>).</p>	<p>Similar, but requires the costs and expenses of the lead county engineer to be paid by the counties involved in the joint county improvement (<i>R.C. 6133.07(F)</i>).</p>
Selection of county engineer for joint drainage improvements	
<p>Authorizes the joint board of county commissioners to designate the county engineer where a petition for an improvement is filed to do the field work, make the survey, plans, and estimates, and file reports.</p>	<p>Instead, designates the lead county engineer as being responsible for such actions (<i>R.C. 6133.08(A)</i>).</p>

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<p>If one or more county engineers of counties interested in making a joint ditch improvement do not agree with the reports or estimates, authorizes the engineer or engineers to file separate reports and schedules (<i>R.C. 6133.08</i>).</p>	<p>No provision.</p>
<p>Appeals</p>	
<p>Requires all appeals except appeals for compensation or damages to be heard by one judge of the court of common pleas from each of the interested counties, sitting en banc (<i>R.C. 6133.10</i>).</p>	<p>Similar, but does all of the following regarding appeals:</p> <ol style="list-style-type: none"> 1. Requires all appeals (except those for compensation or damages) to be heard by a panel of judges from each of the affected counties; 2. Authorizes the panel to request an additional judge from a court of common pleas in the area of the state where the joint drainage improvement is located if the panel cannot reach a decision; 3. Requires the panel to follow court opinions and precedent established by the appellate district in which the petition for the joint drainage improvement was filed (<i>R.C. 6133.10(A)</i>).

MAINTENANCE AND REPAIRS

Current law establishes procedures by which maintenance is conducted and assessments for maintenance are levied under the county ditch law. The bill expands the scope of those procedures to apply to the law governing multi-county ditches and soil and water conservation districts. Below is a discussion of the changes made by the bill.

Current law	H.B. 340
Maintenance fund	
<p>Requires the board of county commissioners of each county to establish a separate fund for the repair of:</p> <ol style="list-style-type: none"> 1. Each improvement constructed under the law governing single county ditches; and 2. Each improvement constructed after August 23, 1957, under the laws governing joint county ditches and interstate county ditches (<i>R.C. 6137.02</i>). 	<p>Instead, requires the board of county commissioners of each county to establish a fund for the repair of each improvement constructed after August 23, 1957, under the law governing soil and water conservation districts, single county ditches, joint county ditches, or interstate county ditches (<i>R.C. 6137.02(A) and 6135.05(A)</i>).</p>
Maintenance fund assessments	
<p>Requires maintenance assessments levied on benefited owners to be based on the estimated benefits for construction of the drainage improvement (<i>R.C. 6137.03</i>).</p>	<p>Instead, requires the assessments to be based on the estimated benefits for <i>all costs</i> of the improvement (<i>R.C. 6137.03(A)(1)</i>).</p>
Maintenance fund – unencumbered balance	
<p>Prohibits a maintenance fund from having an unencumbered balance of greater than 20% of all construction costs of a drainage improvement (<i>R.C. 6137.03</i>).</p>	<p>Instead, prohibits a maintenance fund from having an unencumbered balance of greater than 20% of the permanent assessment base established for maintenance under the bill (see “Permanent assessment base for maintenance,” below) (<i>R.C. 6137.03(A)(2)</i>).</p>
Permanent assessment base for maintenance	
<p>Requires the county auditor to maintain the original schedule of benefits on owners (of public or private property for the construction of an improvement) as the “permanent base for maintenance assessments,” and establishes general procedures for increasing or reducing the assessment and notice and hearing requirements (<i>R.C. 6137.11</i>).</p>	<p>Similar, but makes the following changes:</p> <ol style="list-style-type: none"> 1. Refers to the term as the “permanent assessment base”; 2. Requires notice of hearings to be sent by first-class mail rather than either by first-class or certified mail; 3. Authorizes, rather than requires, the board of county commissioners to review the permanent

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	assessment base every six years from the date of first review of the permanent assessment base (<i>R.C. 6137.11(C)(4) and (D)</i>).
Owner application for reduction in maintenance assessment	
Authorizes an owner to apply for a reduction in maintenance assessment due to repair and maintenance work the owner proposes to do and requires the county engineer, when making inspections of drainage improvements, to note the extent to which any owner has carried out the work (<i>R.C. 6137.08</i>).	Similar, but only requires the county engineer, when making inspections of drainage improvements, to so note with regard to an owner who has actually applied for a reduction in maintenance assessment (<i>R.C. 6137.08(B)</i>).
Reduction in maintenance assessment	
Requires the clerk of the board of county commissioners to file with the county auditor a list of owners who have been certified by the soil and water conservation district for a 50% reduction in maintenance assessment for the current year on or before July 1 of each year (<i>R.C. 6137.09</i>).	Instead, does both of the following: <ol style="list-style-type: none"> 1. Requires the clerk to file with the county auditor a list of owners who have been granted any reduction in maintenance assessment for the current year; and 2. Requires the clerk to file the list on or before August 1 of each year (<i>R.C. 6137.09(D)</i>).
Maintenance assessment deposit	
No provision.	Establishes the following requirements concerning maintenance assessments: <ol style="list-style-type: none"> 1. With respect to a single county drainage improvement, requires the county auditor to place maintenance assessments into the maintenance fund for the improvement; 2. With respect to a joint county drainage improvement, does all of the following: <ul style="list-style-type: none"> --Requires each county auditor that is not the lead county auditor to place the maintenance assessments into the maintenance fund for the improvement; --Twice a year, requires each such auditor to transfer that money to the county auditor of the lead county, who must deposit the money into the joint drainage improvement's maintenance fund; and --Requires the county auditor of the lead county to

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	place maintenance assessments received in the lead county into the joint drainage improvement's maintenance fund. <i>(R.C. 6137.03(E)(1) and (2).)</i>
Responsibility for maintenance of joint county drainage improvements	
Requires each county engineer to inspect and maintain joint county drainage improvements <i>(R.C. 6137.06)</i> .	Instead, requires the lead county engineer to inspect and maintain all joint county drainage improvements <i>(R.C. 6137.06(A))</i> .
County engineer reports	
Requires the county engineer to issue an inspection report to the board of county commissioners on or before June 1 of each year <i>(R.C. 6137.06)</i> .	Instead, requires the report to be issued on or before July 1 of each year <i>(R.C. 6137.03(C))</i> .
Use of county engineer reports	
No provision.	Requires the board of county commissioners to do both of the following: <ol style="list-style-type: none"> 1. Use the county engineer's estimate on repair and maintenance of drainage improvements when determining the annual maintenance assessments, which must be based on a percentage of the permanent assessment base; 2. On or before the second Monday of September each year, direct the county auditor or auditors to place the maintenance assessments on the tax duplicate <i>(R.C. 6137.03(D))</i>.
County drainage maintenance fund – payment of estimates for repair	
Requires the county engineer to approve all estimates paid from the county drainage maintenance fund for the repair and maintenance of drainage improvements <i>(R.C. 6137.06)</i> .	No provision.
Drainage maintenance district – same watershed	
Regarding the combining of drainage improvements into a drainage maintenance district, specifies that the improvements must be in the same watershed <i>(R.C. 6137.04)</i> .	Eliminates the requirement that the improvements be located in the same watershed <i>(R.C. 6137.04(A)(2))</i> .

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Drainage maintenance district – factors to consider	
Regarding the combining of drainage improvements into a drainage maintenance district, requires the board of county commissioners and county engineer to consider uniformity of topography and soil types (<i>R.C. 6137.04</i>).	Similar, but requires the board and engineer to also consider similarity of costs (<i>R.C. 6137.04(A)(1)</i>).
Procedures for drainage improvement repair or maintenance – identification	
Specifies that any of the following may identify a need for repair or maintenance of a drainage improvement: <ol style="list-style-type: none"> 1. The board of county commissioners or joint board of county commissioners; 2. County engineer; or 3. A land owner subject to the maintenance assessment (<i>R.C. 6137.05</i>). 	Similar, but adds the lead county’s county engineer (<i>R.C. 6137.05(B)</i>).
Procedures for drainage improvement repair or maintenance – inspection	
Requires the board of county commissioners or joint board of county commissioners or the county engineer to inspect the condition of the drainage improvement (<i>R.C. 6137.05</i>).	Instead, only requires the county engineer to inspect (<i>R.C. 6137.05(B)</i>).
Procedures for drainage improvement repair or maintenance – estimate of costs	
Requires the board of county commissioners or joint board of county commissioners to make an estimate of the necessary work and material for the repair or maintenance activity (<i>R.C. 6137.05</i>).	Instead, only requires the county engineer to make an estimate of the cost of the necessary work (<i>R.C. 6137.05(C)(1)</i>).
Procedures for drainage improvement repair or maintenance – performance of work	
Requires the board of county commissioners or joint board of county commissioners to determine whether the work should be done by force account, contract through competitive bidding, or both, to certify costs to the county auditor, and proceed with competitive bidding (<i>R.C. 6137.05</i>).	Similar, but only requires the county engineer to determine whether the work should be done by force account, contract through competitive bidding, or both and streamlines the competitive bidding procedures by referring to the general county competitive bidding law (<i>R.C. 6137.05(C)(2)</i>).

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No provision.	Defines “force account” as the county engineer will act as contractor, using labor employed by the engineer using material and equipment either owned by the county or leased or purchased in compliance with competitive bidding laws and excludes subcontracting any part of such work unless done pursuant to those laws (<i>R.C. 6137.01(B)</i>).
Procedures for drainage improvement repair or maintenance – contract with soil and water conservation district	
No provision.	Authorizes the board of county commissioners or joint board of county commissioners and the county engineer to contract with a soil and water conservation district for the repair and permanent maintenance of any drainage improvement for which the county engineer is responsible, whether as the county engineer or as the lead county engineer (<i>R.C. 6137.05(D)</i>).
Repairs, repair assessments, and inadequate drainage repair funds	
<p>Regarding repairs to a drainage improvement, does all of the following:</p> <ol style="list-style-type: none"> 1. Authorizes a board of county commissioners to authorize a county engineer to make repairs at a cost not to exceed \$4,000; 2. Limits the number of semiannual installments that may be made to owners to pay for repairs to four; 3. Authorizes a board to make payment for a drainage improvement repair from the county general fund when the drainage repair fund is inadequate and requires the board to repay the county general fund as soon as adequate funds become available in the drainage maintenance fund. (<i>R.C. 6137.051.</i>) 	<p>Generally retains current law regarding repairs to a drainage improvement, but:</p> <ol style="list-style-type: none"> 1. Increases the amount a board of county commissioners may authorize a county engineer to spend to make repairs to a cost not to exceed \$24,000; 2. Increases the limit on the number of semiannual installments to ten; 3. Eliminates the authorization to pay for repairs from the county general fund when the drainage repair fund for the improvement is inadequate. (<i>R.C. 6137.051(C) and (E).</i>)

Drainage equipment and miscellaneous

Current law	H.B 340
Rotary fund	
Requires the county auditor to establish and maintain a rotary fund for the purchase of equipment, materials, and labor related to the general maintenance of watercourses (<i>R.C. 6137.06</i>).	Instead, authorizes, rather than requires, the county auditor to establish and maintain a rotary fund for the purchase of equipment, materials, and labor related to the general maintenance of drainage improvements (<i>R.C. 6137.06(E)</i>).
Drainage equipment - inventory	
Requires the county engineer to annually, on June 1, make an inventory of drainage equipment (<i>R.C. 6137.07</i>).	Instead, requires the county engineer to make the inventory on the second Monday of January (<i>R.C. 6137.07(C)</i>).
Open ditch log-jam removal projects	
No provision.	Regarding an open ditch log-jam removal project within a wooded riparian corridor, authorizes a maintenance easement to be created from the top of a bank to 25 feet outside the edge of the wooded riparian corridor (<i>R.C. 6137.12(B)(2)</i>).
Crop owner payment for damages	
Requires the reimbursement of a crop owner for damage to crops located beyond the permanently established sod or seeded strip due to maintenance work on a drainage improvement, and requires the reimbursement to be equal to market value (<i>R.C. 6137.12</i>).	Same, but clarifies that a crop owner must submit a written request for payment for damages to the county engineer (<i>R.C. 6137.12(E)</i>).

HISTORY

Action	Date
Introduced	09-17-19