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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

S.B. 313
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 313's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Sens. Gavarone and Manning

Local Impact Statement Procedure Required: Yes

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Highlights

- The Lake Erie Submerged Lands Fund (Fund 6970) could incur revenue loss of approximately \$130,000 per year under the bill's elimination of leases to develop or improve submerged land under Lake Erie for noncommercial and nongovernmental purposes.
- Fund 6970 could incur a one-time cost of several hundred thousand dollars to return rents on certain leases in effect prior to the bill's effective date.
- Revenue loss incurred by Fund 6970 could be at least partially offset by fees for permits to build structures issued by the Department of Natural Resources' (DNR) Coastal Management Program.
- Under continuing law, 50% of the submerged lands lease rentals paid into Fund 6970 are disbursed to the municipal corporation, county, or port authority in which individual leases are located. The bill's elimination of noncommercial, nongovernmental leases could result in lost revenue totaling approximately \$65,000 per year among the 33 entities that receive these disbursements.

Detailed Analysis

Overview of the Coastal Management Program

The Department of Natural Resources (DNR) administers the Ohio Coastal Management Program regarding Lake Erie to preserve, protect, and develop the state's coastal resources. Under the program, the DNR Director adopts a coastal management program governing document, issues leases for development or improvements in Lake Erie, designates Lake Erie coastal erosion areas, and issues permits for permanent structures in coastal areas. The bill

makes numerous changes to the program. Changes with fiscal effects are discussed under the headings below.

Submerged lands leases

The Submerged Lands Fund (Fund 6970) could incur revenue loss of approximately \$130,000 per year under the bill's elimination of leases to develop or improve submerged land under Lake Erie for noncommercial and nongovernmental purposes. Additionally, Fund 6970 could incur a one-time cost of several hundred thousand dollars to return rents collected on noncommercial, nongovernmental leases or leases for lands above the natural shoreline of Lake Erie. Under the bill, 630 leases could be terminated and affected lessees entitled to rent returns.

Under current law, the land currently and formerly underlying the waters of Lake Erie, and the waters of the lake itself, belong to the state of Ohio as proprietor in public trust for its citizens. Any person who wants to develop or improve those lands must enter into a lease with the Director of Natural Resources. Political subdivisions and special districts must also obtain a lease when developing or improving these lands. The bill eliminates the requirement to obtain a lease if the submerged land is being improved or developed for noncommercial and nongovernmental purposes. For these provisions, a commercial use includes any use that is profit-seeking or revenue-earning, or that involves the buying or selling of any good, service, or other product. A governmental use is a use by any agency or the state or any political subdivision of the state.

For leases entered into prior to the bill's effective date, the bill requires the DNR Director, within 120 days of the bill's effective date, to provide notice by certified mail to each existing lessee if all or part of the leased territory was above the natural shoreline of Lake Erie or was for a noncommercial or nongovernmental use. The lessee may request the state to modify or terminate the lease not later than 120 days after receipt of the notice. If the Director determines the lease was for territory above the natural shoreline the lease must be terminated or modified as of May 21, 2015. If the Director determines that the lease is for a noncommercial or nongovernmental use, the lease must be terminated as of May 21, 2015. Rents collected from May 21, 2015, up to the bill's effective date must be returned or prorated accordingly. Modified leases and leases not terminated would remain in full effect under the bill.

Coastal structure permits

Revenue lost as a result of eliminating the submerged lands leases described above could be at least partially offset by fees charged to applicants for permits issued by the Coastal Management Program. Under current law, there are two main permits issued under the Coastal Management Program. The first permit is required for any permanent structure constructed in a Lake Erie coastal erosion area. The second permit is required any time a shore structure, such as a dock, pier, or retaining wall, is constructed along or near the Lake Erie shoreline. The bill makes a number of changes to the content and operation of these permits that are described in detail in the LSC bill analysis. However, the bill retains DNR's current law authority to establish fees for these permits by rule. Although DNR does not currently assess fees for these permits, if the Department adopts rules to assess permit fees, revenue loss incurred by Fund 6970 could be at least partially offset.

Disbursements to political subdivisions

Political subdivisions along Lake Erie could lose a combined total of approximately \$65,000 per year under the bill's provisions eliminating submerged land leases for noncommercial, nongovernmental developments. Under current law, 50% of the revenue from submerged land leases is disbursed to the municipal corporation, county, or port authority in which individual leases are located. According to DNR, a total of 33 entities in seven coastal counties currently receive disbursements from revenue generated via leases that could be terminated under the bill. Affected entities and the amounts they currently receive from these leases are shown in the table below.

Current Submerged Lands Lease Revenue by Local Entity		
County	Local Entity	Disbursement
Ashtabula	Village of Geneva-on-the-Lake	\$572.31
	Ashtabula County Port Authority	\$502.35
	Village of North Kingsville	\$60.92
	Conneaut Port Authority	\$54.37
	Ashtabula City Port Authority	\$38.80
Ashtabula Subtotal		\$1,228.75
Cuyahoga	Village of Bratenahl	\$5,166.38
	City of Bay Village	\$4,426.07
	City of Lakewood	\$2,043.62
	City of Rocky River	\$1,035.48
	Cleveland-Cuyahoga County Port Authority	\$651.17
	City of Euclid	\$559.35
Cuyahoga Subtotal		\$13,882.07
Erie	Huron Joint Port Authority	\$2,325.29
	Erie County Board of Commissioners	\$1,593.40
	City of Sandusky	\$1,276.24
	Village of Kelleys Island	\$1,112.88
	Village of Bay View	\$25.00
Erie Subtotal		\$6,332.81

Current Submerged Lands Lease Revenue by Local Entity		
County	Local Entity	Disbursement
Lake	Lake County Board of Commissioners	\$1,443.98
	Eastlake Port Authority	\$241.24
	Village of Lakeline	\$143.82
	City of Willoughby	\$141.08
	City of Mentor-on-the-Lake	\$128.49
	Village of North Perry	\$120.86
	City of Mentor	\$44.83
	City of Willowick	\$34.67
Lake Subtotal		\$2,298.97
Lorain	City of Avon Lake	\$5,589.01
	Vermilion Port Authority	\$1,396.57
	City of Sheffield Lake	\$994.78
	Lorain Port Authority	\$269.51
Lorain Subtotal		\$8,249.87
Lucas	City of Oregon	\$2,454.41
Lucas Subtotal		\$2,454.41
Ottawa	Ottawa County Board of Commissioners	\$19,173.05
	Village of Marblehead	\$7,734.23
	Put-in-Bay Township Port Authority	\$3,032.84
	City of Port Clinton	\$495.15
Ottawa Subtotal		\$30,435.27
Total		\$64,882.15