



# Ohio Legislative Service Commission

## Bill Analysis

Jeff Grim and Amanda George

### Sub. S.B. 293\*

131st General Assembly

(As Reported by H. Energy & Natural Resources)

**Sens.** Balderson, Coley, Eklund, Faber, Hackett, Hite, Obhof, Oelslager, Seitz, Uecker, Yuko

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## BILL SUMMARY

### Division of Parks and Watercraft

- Merges the Division of Parks and Recreation and the Division of Watercraft in the Department of Natural Resources, names the merged Division the Division of Parks and Watercraft, and retains all of the duties and responsibilities of the former Divisions.

### Watercraft safety

- Makes changes to the law governing watercraft safety as follows:
  - Revises the requirements governing the use of a wearable personal flotation device when a person is engaged in a towed watersport (e.g. water skiing);
  - Specifies that the requirements governing the use of a wearable personal flotation device do not apply to a person engaged in barefoot skiing if the person is wearing a wet suit designed for barefoot skiing;
  - Revises the prohibition against operating a vessel, including a commercial vessel, in Ohio waters without carrying certain personal flotation devices aboard the vessel;
  - Prohibits a person from using a personal flotation device in a manner that is inconsistent with any federally approved limitations or restrictions or special instructions provided by the manufacturer;

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\* This analysis was prepared before the report of the House Energy & Natural Resources Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

--Requires an operator of a personal watercraft to ensure that each person on the watercraft is wearing a personal flotation device used in compliance with manufacturer labeling;

--Adds the total loss of a vessel to the list of circumstances when a vessel operator must file with the Chief of the Division of Watercraft a full description of a collision or accident; and

--Eliminates the prohibition against using a watercraft accident report in a civil, criminal, or administrative action at law.

## **Registration certificates relating to watercraft**

- Specifies that a temporary watercraft registration certificate issued to the new owner of a watercraft is valid for 60 days rather than 45 days as under current law.
- Authorizes a watercraft dealer, prospective purchaser, or third party to use a watercraft dealer registration certificate for purposes of operating a watercraft under certain circumstances, including authorizing a dealer or third party to transport the watercraft to the person who purchased it from the dealer.
- Prohibits a person, in accordance with federal law, from recklessly displaying or affixing a dealer or manufacturer registration number on a watercraft in a manner that causes permanent alteration to the watercraft's hull prior to a final sale.

## **Division of Forestry**

### **Forest-fire investigators**

- Authorizes the Chief of the Division of Forestry to appoint forest-fire investigators, specifies the powers and duties of an investigator, and requires the Chief to establish a policy for an investigator's training, including training as a peace officer.
- Specifies that a forest-fire investigator is not personally liable for any required or authorized act while acting within the scope of official duties as an investigator.
- Requires the Chief or the Chief's designee to supervise and instruct forest-fire investigators.

### **Fire protection areas**

- Requires the Chief, with approval of the Director of Natural Resources, to establish fire protection areas for Ohio and specifies that appointed forest-fire wardens and forest-fire investigators have jurisdiction over the areas.



- Limits current law provisions that authorize the Chief to enter into agreements with firefighting agencies and to transfer title or ownership of certain excess equipment and supplies to firefighting agencies by specifying that the agreements or transfers may only be made with regard to and within fire protection areas.
- Revises the requirement that the Chief must cause the prosecution of a person who violates laws pertaining to forest fires by instead requiring the Chief or the Chief's designee to direct investigations of alleged violations of such laws within fire protection areas.
- Authorizes, instead of requires as in current law, the Chief to use money in the existing Wildfire Suppression Fund to reimburse certain firefighting agencies for their costs incurred in the suppression of wildfires and limits such reimbursements to costs incurred in counties within certain fire protection areas.

### **Additional Division of Forestry Law revisions**

- Requires the Chief of the Division of Forestry to transfer any money in the Wildfire Suppression Fund in excess of \$200,000 to the existing State Forest Fund instead of disbursing the excess money to certain firefighting agencies.
- Authorizes a forest-fire warden to cut trees or other vegetation for purposes of controlling a fire.
- Alters the requirement that a person or governmental entity bidding on a timber sale execute a bond in an amount equal to 25% of the highest value cutting section by instead requiring the bond to be in an amount determined by the Chief.
- Eliminates certain provisions of the Division of Forestry Law, including provisions that specify the duties of the Ohio Agricultural Research and Development Center and the duties of railroad companies regarding fires.

### **Office of Real Estate and Land Management**

- Establishes the Office of Real Estate and Land Management in the Department of Natural Resources, which formerly existed as the Division of Real Estate and Land Management from 1994 to 2009.
- Requires the Office to coordinate and conduct all real estate functions for the Department and cooperate with federal agencies and political subdivisions in administering federal recreation money.



- Authorizes the Office to coordinate environmental matters concerning the Department and the state as are necessary to comply with federal environmental laws.

### **Water Improvements Law**

- Eliminates the Water Improvements Law, including all of the following provisions:
  - General authority for the Chief of the Division of Water Resources to construct, make additions to, enlarge, or make alterations to reservoirs, dams, storage basins, dikes, canals, raceways, and other improvements;
  - A requirement that the Chief issue and sell bonds to provide the funds for such construction, alteration, or enlargement; and
  - A requirement that the Chief sell or lease for agricultural, commercial, manufacturing, or other lawful purposes, for a term up to 50 years, the water conserved and stored by improvements constructed under the Water Improvements Law.

### **Natural resources officers**

- Renames existing park, watercraft, preserve, and forestry officers as natural resources officers.
- Authorizes natural resources officers to enforce specified laws relating to the Department of Natural Resources that are currently enforced by park, watercraft, preserve, and forestry officers.
- Eliminates the Division of Parks and Recreation Law Enforcement Fund and the Division of Watercraft Law Enforcement Fund and credits the money that currently is credited to those Funds to the Division of Natural Resources Law Enforcement Fund created by the bill.

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## CONTENT AND OPERATION

### Division of Parks and Watercraft

The bill merges the Division of Parks and Recreation and the Division of Watercraft in the Department of Natural Resources and names the merged Division the Division of Parks and Watercraft. It also retains most of the duties and responsibilities of the former Divisions and transfers those duties to the Division of Parks and Watercraft. However, it eliminates a requirement that the Division of Parks and Recreation assist the Department and its divisions by providing Department-wide planning, capital improvements planning, and special purpose planning. According to a spokesperson for the Department, the Division of Engineering in the Department currently does the planning. Finally, the bill provides for the continuation of agreements and contracts by the Division of Parks and Watercraft that were entered into by the respective former Divisions.<sup>1</sup>

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<sup>1</sup> R.C. 121.04, 154.01, 154.22, 1501.011, 1501.012, 1501.07, 1501.09, 1501.11, 1501.12, 1501.13, 1501.14, 1503.012, 1509.73, 1509.78, 1514.10, 1519.03, 1520.03, 1541.01 (repealed), 1541.02 (1546.06), 1541.03 (repealed), 1541.031 (1546.07), 1541.032 (1546.08), 1541.04 (1546.09), 1541.05 (1546.10), 1541.07 (1546.12), 1541.082 (1546.13), 1541.083 (1546.14), 1541.09 (1546.15), 1541.16 (1546.16), 1541.17 (1546.17), 1541.18 (1546.18), 1541.19 (1546.19), 1541.20 (1546.20), 1541.22 (1546.21), 1541.23 (1546.22), 1541.24 (1546.23), 1541.26 (1546.24), 1541.31 (1546.90), 1541.32 (1546.91), 1541.42 (1546.92), 1541.99 (1546.99), 1546.01, 1546.02, 1546.021, 1546.03, 1546.04, 1546.05, 1547.01 (repealed), 1547.051, 1547.052, 1547.06, 1547.08, 1547.111, 1547.14, 1547.20, 1547.25, 1547.26, 1547.30, 1547.301, 1547.303, 1547.31, 1547.36, 1547.38, 1547.53, 1547.531, 1547.54, 1547.541, 1547.542, 1547.544, 1547.51 (repealed), 1547.52 (repealed), 1547.55, 1547.56, 1547.57, 1547.59, 1547.61, 1547.63, 1547.65, 1547.66, 1547.67, 1547.68, 1547.71, 1547.72, 1547.74, 1547.75, 1547.77, 1547.78 (repealed), 1547.80, 1547.81, 1547.83, 1547.85, 1547.86, 1547.87 (repealed), 1547.99, 1548.01, 1548.02, 1548.031, 1548.032, 1548.05, 1548.06, 1548.061, 1548.07, 1548.08, 1548.09, 1548.10, 1548.11, 1548.12, 1548.13, 1548.14, 1548.141, 1548.15, 1548.17, 1548.18, 1548.20, 1548.22, 2905.05, 2909.09, 2930.01, 2981.01, 3701.18, 3714.03, 3734.02, 3734.05, 3734.11, 3937.42, 4303.182, 4501.24, 4503.575, 4505.09, 4517.03, 4585.31, 4585.32, 5311.01, 5735.05, 5735.051, 5735.25, 5735.29, and 5735.30; Section 3.

## Watercraft safety

### Towed watersports and approved flotation devices

The bill revises the law governing the use of a personal flotation device when a person is engaged in a towed watersport. Current law sets forth the safety equipment that must be used when a person is riding or attempting to ride on water skis, a surfboard, an inflatable device, or a similar device being towed by a vessel. Specifically, current law prohibits a person from engaging in those activities without wearing an adequate and effective U.S. Coast Guard-approved Type I, II, or III personal flotation device, or Type V personal flotation device specifically designed for water skiing. The device must be specifically designed for water skiing, in good and serviceable condition, and of appropriate size. The prohibition does not apply when the state department, conservancy district, or political subdivision having jurisdiction and control of the water issues a special permit. A person engaged in barefoot skiing may wear a wet suit specifically designed for barefoot skiing in lieu of the above referenced flotation devices.

The bill instead prohibits a person from engaging in any form of towed watersports without wearing an adequate and effective Coast Guard-approved wearable personal flotation device specifically designed for towed watersports. As under current law, the flotation device must be in good and serviceable condition and of appropriate size and a person is not required to wear the device when a special permit is issued. However, under the bill, the special permit must be issued only by one of the following persons or entities that manages the waterway:

- (1) The political subdivision having primary jurisdiction;
- (2) The administrator of a federal agency;
- (3) The director of a state agency;
- (4) The board of directors of a conservancy district; or
- (5) Any other governing body having jurisdiction.<sup>2</sup>

In addition, the amended prohibition does not apply to a person engaging or attempting to engage in barefoot skiing if that person is wearing a wet suit specifically

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<sup>2</sup> R.C. 1547.18(A).



designed for barefoot skiing that is in good and serviceable condition and of appropriate size.<sup>3</sup>

### Definitional revisions

For purposes of the revisions to the law governing watercraft safety, the bill utilizes the following defined terms, some of which are added or revised by the bill:<sup>4</sup>

Definitions		
Defined Term	Definition Under Current Law	Definition under the Bill
<b>Towed watersport</b>	No provision.	Any activity that involves being towed by or riding in the wake of a recreational vessel, including both of the following: --Riding or attempting to ride on one or more water skis, a wakeboard, a surfboard, an inflatable device, or any other device manufactured or used for the purpose of being towed by a recreational vessel; --Engaging or attempting to engage in barefoot skiing or parasailing.
<b>Wearable personal flotation device</b>	No provision.	A device that is intended to be worn or otherwise attached to a person's body, including a personal flotation device marked as "Type I," "Type II," "Type III," "Type V," "Type V with Type II performance," or "Type V with Type III performance."
<b>Personal flotation device</b>	No provision.	A Coast Guard-approved personal safety device designed to provide buoyancy to support a person in the water.

<sup>3</sup> R.C. 1547.18(B).

<sup>4</sup> R.C. 1547.01.



<b>Definitions</b>		
<b>Defined Term</b>	<b>Definition Under Current Law</b>	<b>Definition under the Bill</b>
<b>Type I personal flotation device</b>	A device that is designed to turn an unconscious person floating in water from a face downward position to a vertical or slightly face upward position and that has at least 9 kilograms, approximately 20 pounds, of buoyancy.	Same.
<b>Type II personal flotation device</b>	A device that is designed to turn an unconscious person in the water from a face downward position to a vertical or slightly face upward position and that has at least 7 kilograms, approximately 15.4 pounds, of buoyancy.	Same.
<b>Type III personal flotation device</b>	A device that is designed to keep a conscious person in a vertical or slightly face upward position and that has at least 7 kilograms, approximately 15.4 pounds, of buoyancy.	Same.
<b>Type IV personal flotation device</b>	A device that is designed to be thrown to a person in the water and not worn and that has at least 7.5 kilograms, approximately 16.5 pounds, of buoyancy.	Same.
<b>Type V personal flotation device</b>	<p>A device that, unlike other personal flotation devices, has limitations on its approval by the Coast Guard, including all of the following:</p> <ul style="list-style-type: none"> <li>--The approval label on the device indicates that the device is approved for the activity in which the vessel is being used or as a substitute for a device of the type required on the vessel in use;</li> <li>--The device is used in accordance with any requirements on the approval label; and</li> <li>--The device is used in accordance with requirements in its owner's manual if the approval</li> </ul>	<p>A device that, unlike other personal flotation devices, has limitations on its approval by the Coast Guard, including any of the following:</p> <ul style="list-style-type: none"> <li>--A designation that states the device is approved only for use while participating in specific activities;</li> <li>--A designation that states the device is approved only for use by an operator (see below) or passenger of specific types of vessels; or</li> <li>--A designation that states the device is specifically approved as a substitute for the type of device required for</li> </ul>



<b>Definitions</b>		
<b>Defined Term</b>	<b>Definition Under Current Law</b>	<b>Definition under the Bill</b>
	label refers to such a manual.	use while engaged in certain activities or as an operator or passenger of a vessel.
<b>Operator</b>	Any person who navigates or has under the person's control a vessel, or vessel and detachable motor, on Ohio waters.	Same, but also includes any person who uses or employs a vessel.
<b>Vessel</b>	Every description of craft, including nondisplacement craft and seaplanes, designed to be used as a means of transportation on water.	Every description of craft, including nondisplacement craft, multimodal craft, and submersibles, being used or capable of being used as a means of transportation on water.

## **Personal flotation device requirements**

### **Requirements governing personal flotation devices aboard a vessel**

The bill revises the prohibition against a person operating a vessel on Ohio waters without carrying certain flotation devices aboard the vessel. Current law prohibits a person from operating or permitting to be operated any vessel, other than a commercial vessel or other vessel exempted by rules, on Ohio waters if certain personal flotation devices are not carried for each person aboard the vessel. The bill removes the commercial vessel exception and makes various definitional changes. For example, current law requires a person that is operating a vessel that is 16 or more feet in length to carry aboard one Type I, II, or III personal flotation device for each person aboard and one Type IV personal flotation device. The bill instead requires such a person to carry aboard one wearable personal flotation device (see table above) for each person aboard and one throwable personal flotation device.<sup>5</sup> Under the bill, a throwable personal flotation device is a device that is intended to be thrown to a person in the water. A throwable personal flotation device includes a personal flotation device marked as "Type IV" or "Type V with Type IV performance," but does not include a wearable personal flotation device unless it is specifically marked otherwise.<sup>6</sup>

Current law also requires a person that is operating a vessel that is less than 16 feet in length and canoes and kayaks of any length to carry aboard one Type I, II, or III personal flotation device for each person aboard. The bill instead requires the person to

<sup>5</sup> R.C. 1547.25(A)(1).

<sup>6</sup> R.C. 1547.01.



carry on board one wearable personal flotation device for each person on board. It also specifies that this requirement applies to a paddlecraft of any length rather than a canoe or kayak of any length as under current law. Under the bill, a paddlecraft is any type of canoe, kayak, paddleboard, or other vessel powered only by its occupants using a single or double-bladed paddle as a lever without the aid of a fulcrum provided by oarlocks, tholepins, crutches, or similar mechanisms. A kayak is a paddlecraft that is typically pointed at both ends and is propelled by human muscular effort by one or more seated individuals who use a double-bladed paddle, including an open kayak with an open deck for operator seating, an enclosed kayak designed to enclose an occupant within a cockpit, a tandem kayak designed for multiple occupants, and a racing kayak.<sup>7</sup>

The bill also requires all commercial vessels to have at least one wearable personal flotation device for each person on board, rather than specifying the specific type of device that must be used as in current law. Further, with respect to a commercial vessel that is 40 or more feet in length or is carrying persons for hire, the operator must use a wearable personal flotation device to which all of the following apply:

(1) It is designed to support the person wearing the wearable personal flotation device in the water in an upright or slightly backward position and provides support to the head so that the face of an unconscious or exhausted person is held above the water;

(2) It is capable of turning the person wearing the wearable personal flotation device, upon entering the water, to a safe flotation position;

(3) It is capable of being worn inside out;

(4) It is capable of supporting a minimum of 22 pounds in fresh water for 48 hours; and

(5) It is a highly visible color.<sup>8</sup>

Additionally, current law requires a person who is operating or permitted to be operating any commercial vessel that is 26 or more feet in length to carry aboard at least one Type IV ring life buoy. The bill instead requires such a person to carry aboard at least one throwable personal flotation device.<sup>9</sup>

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<sup>7</sup> R.C. 1547.25(A)(2) and 1547.01.

<sup>8</sup> R.C. 1547.25(B)(2).

<sup>9</sup> R.C. 1547.25(B)(3).

The bill expands the requirements governing personal flotation devices that are carried aboard a vessel. Under current law, each personal flotation device, among other specifications, must be Coast Guard-approved and in good and serviceable condition. The bill adds that a personal flotation device must be used in accordance with any requirements on its approval label or in accordance with requirements in its owner's manual if the approval label refers to such a manual.<sup>10</sup> The bill also specifies that a personal flotation device cannot be used in a manner that is inconsistent with any limitation or restrictions related to federal approval or special instructions for use provided by the manufacturer. Appropriate use must be indicated on the label of an approved personal flotation device with one or more of the following designations:

- (1) Conditional approval;
- (2) Performance type;
- (3) Type I personal flotation device;
- (4) Type II personal flotation device;
- (5) Type III personal flotation device;
- (6) Type IV personal flotation device;
- (7) Type V personal flotation device;
- (8) Throwable personal flotation device; or
- (9) Wearable personal flotation device.<sup>11</sup>

Under the bill, "conditional approval" means a personal flotation device approval that has one or more conditions with which the user must comply in order for the device to be considered appropriate for meeting the requirements for personal flotation devices for the vessel on which it is being used. "Performance type" means the in-water performance classification of a personal flotation device as determined by the Coast Guard.<sup>12</sup>

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<sup>10</sup> R.C. 1547.25(C).

<sup>11</sup> R.C. 1547.25(D).

<sup>12</sup> R.C. 1547.01.



### **Wearable flotation device requirements for personal watercraft**

The bill alters the requirements governing the use of a wearable personal flotation device for a person aboard a personal watercraft (e.g., a jet ski). Current law requires each person on a personal watercraft to wear a Type I, II, III, or V personal flotation device. The bill instead requires a person to wear a Coast Guard-approved wearable personal flotation device used in compliance with manufacturer labeling.<sup>13</sup>

### **Personal flotation device requirements for children under ten**

Current law prohibits a person from operating or permitting to be operated any vessel under 18 feet in length while there is present in the vessel any child under ten years of age who is not wearing a Coast Guard-approved Type I, II, III, or V personal flotation device in good and serviceable condition of appropriate size that is securely attached to the child. Instead, the bill requires such a child to utilize a wearable personal flotation device.<sup>14</sup>

### **Vessel collision or accident report**

The bill adds the total loss of a vessel to the list of circumstances when a vessel operator must file a full description of a collision or accident with the Chief of the Division of Parks and Watercraft. In addition, the bill removes the requirement that the filed report must be used for statistical purposes only and is not admissible for any purpose in any civil, criminal, or administrative action at law.<sup>15</sup>

### **Additional revisions**

The term "watercraft" is expanded to add a kayak, pedalboat, a vessel that has been issued a certificate of documentation with a recreational endorsement under federal law, and any of the following multimodal craft being operated on Ohio waters:

- (1) An amphibious vehicle;
- (2) A submersible; and
- (3) An airboat or hovercraft.

The bill revises the definitions of belly boat and float tube, kiteboard, paddleboard, and sailboard, all of which are exempt from registration under the

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<sup>13</sup> R.C. 1547.41(A)(1).

<sup>14</sup> R.C. 1547.24.

<sup>15</sup> R.C. 1547.59.



Watercraft Law. The bill also revises the definitions of rowboat, sailboat, canoe, inflatable watercraft, and owner.<sup>16</sup>

## **Registration certificates relating to watercraft**

### **Watercraft dealers**

The bill revises the definition, in part, of "watercraft dealer" for purposes of the law governing watercraft and watercraft certificates of registration. Under current law, "watercraft dealer" means, in part, any person who is regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in vessels at an established place of business. The bill specifies that the place of business must be used primarily for selling, displaying, offering for sale, or dealing vessels.<sup>17</sup>

### **Watercraft registration certificates**

The bill specifies that a temporary watercraft registration certificate issued to the new owner of a watercraft is valid for 60 days rather than 45 days as under current law. Under current law, if a person transfers a watercraft that is required to be issued a certificate of title upon transfer, the new owner does not need to register the watercraft with the Chief of the Division of Parks and Watercraft for 45 days following the date of the transfer, provided that the new owner obtains a temporary watercraft registration from the dealer. As indicated above, the bill extends this deadline from 45 to 60 days after the transfer.<sup>18</sup>

### **Watercraft dealer or manufacturer registration certificates**

The bill revises the circumstances under which a watercraft dealer registration certificate may be used. It authorizes a watercraft dealer, prospective purchaser, or third party to use a watercraft dealer registration certificate for purposes of operating a watercraft when any of the following occurs:

- (1) The dealer or third party is transporting the watercraft to the person who purchased it from the dealer;
- (2) The dealer is demonstrating the capabilities of the watercraft for purposes of selling or leasing the watercraft; or

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<sup>16</sup> R.C. 1547.01.

<sup>17</sup> R.C. 1546.01.

<sup>18</sup> R.C. 1547.531(A)(2).



(3) The dealer or, with the permission of the dealer, the prospective purchaser or third party is otherwise utilizing the watercraft.<sup>19</sup>

Under the bill, in accordance with federal law, no person can recklessly display or affix a dealer or manufacturer registration number on a watercraft in a manner that causes permanent alteration to the watercraft's hull prior to a final sale. Under current law, each dealer in or manufacturer of watercraft must display on both sides of any watercraft being operated on Ohio waters the dealer or manufacturer registration number and the validation decals assigned to the dealer or manufacturer so that the decals and number are clearly visible under normal operating conditions.<sup>20</sup>

## **Division of Forestry**

### **Forest-fire investigators**

The bill authorizes the Chief of the Division of Forestry to appoint forest-fire investigators, whose jurisdiction extends over fire protection areas established under the bill (see "**Fire protection areas**," below). The Chief may designate a forest-fire warden as a forest-fire investigator. A forest-fire investigator must conduct investigations and gather evidence for purposes of the enforcement of Ohio's forestry laws, as well as laws governing arson, criminal damaging or endangering, and littering with respect to forest fires in fire protection areas.

The bill requires the Chief to establish a policy for an investigator's training, which must include successful completion of basic wildland fire suppression training and training as a peace officer.<sup>21</sup> The Chief or the Chief's designee must supervise and instruct forest-fire investigators.<sup>22</sup> The bill specifies that a forest-fire investigator is not personally liable for any required or authorized act while acting within the scope of official duties as an investigator.<sup>23</sup>

The bill authorizes a forest-fire investigator to do all of the following:

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<sup>19</sup> R.C. 1547.543(A).

<sup>20</sup> R.C. 1547.543(D).

<sup>21</sup> R.C. 109.71, 109.751, 109.77, and 1503.09.

<sup>22</sup> R.C. 1503.10.

<sup>23</sup> R.C. 1503.15.



(1) Cut trees or other vegetation, destroy fences, plow land, or set backfires to check any fire;<sup>24</sup>

(2) Enter public and private lands, with permission from the Chief;<sup>25</sup> and

(3) Render assistance to a state or local law enforcement officer at the request of that officer or in the event of an emergency.<sup>26</sup>

### **Fire protection areas**

The bill requires the Chief, with approval of the Director of Natural Resources, to establish fire protection areas for Ohio and specifies that appointed forest-fire wardens and forest-fire investigators have jurisdiction over the areas. When establishing fire protection areas, the Chief must consider all of the following:

- (1) The amount of forest cover;
- (2) The actual and potential fire occurrence;
- (3) The threat to forest resources;
- (4) The population of the areas; and
- (5) Any other pertinent forest resource information.<sup>27</sup>

The bill limits the authorization in current law that allows the Chief to enter into agreements with firefighting agencies to provide mutual aid and assistance regarding forest fires. Instead of authorizing the Chief to enter into such agreements without limitation, the bill specifies that the agreements may only be made with regard to fire protection areas. The bill also limits the Chief's authority to transfer title or ownership of certain excess equipment and supplies to firefighting agencies. Instead of authorizing the Chief to transfer the title or ownership without limitation, the bill specifies that the transfer may occur only with regard to fire suppression in fire protection areas.<sup>28</sup>

The bill revises the requirement that the Chief must cause the prosecution of a person who violates laws pertaining to forest fires by instead requiring the Chief or the

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<sup>24</sup> R.C. 1503.11.

<sup>25</sup> R.C. 1503.09

<sup>26</sup> R.C. 1503.09 and 1501.24.

<sup>27</sup> R.C. 1503.08 and 1503.09.

<sup>28</sup> R.C. 1503.14.



Chief's designee to direct investigations of alleged violations of such laws within fire protection areas.<sup>29</sup>

The bill authorizes, instead of requires as in current law, the Chief to use money in the existing Wildfire Suppression Fund to reimburse certain firefighting agencies for their costs incurred in the suppression of wildfires. The bill then limits such reimbursement to costs incurred in counties within a fire protection area where there is a state forest or national forest. However, the Chief may, with the approval of the Director, provide reimbursement in additional counties.<sup>30</sup>

### **Additional Division of Forestry Law revisions**

Under the bill, the Chief of the Division of Forestry is required to transfer any money in the Wildfire Suppression Fund in excess of \$200,000 to the existing State Forest Fund. Current law requires the Chief to instead disburse the excess money to certain firefighting agencies.<sup>31</sup>

The bill expands upon the authorization in current law for a forest-fire warden to destroy fences, plow land, or set backfires to control a fire by adding that a forest-fire warden also may cut trees or other vegetation for purposes of controlling a fire.<sup>32</sup>

In addition, the bill alters bond requirements governing timber sales. Current law requires a person or governmental entity bidding on a timber sale to execute a bond in an amount equal to 25% of the highest value cutting section. The bill instead requires the bond to be in an amount determined by the Chief.<sup>33</sup>

Under the bill, the Chief may adopt rules in accordance with the Administrative Procedure Act governing the times and places for kindling fires beyond what is specified in current law and eliminates provisions of law that require the Chief to give notice of such an expansion in a newspaper or by giving written authorization to the affected person.<sup>34</sup>

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<sup>29</sup> R.C. 1503.10.

<sup>30</sup> R.C. 1503.141.

<sup>31</sup> R.C. 1503.141.

<sup>32</sup> R.C. 1503.11.

<sup>33</sup> R.C. 1503.05(B).

<sup>34</sup> R.C. 1503.18.



The bill transfers from the Division of Parks and Recreation to the Division of Forestry the responsibility to administer the existing State Recreational Vehicle Fund.<sup>35</sup>

The bill also eliminates provisions of the Division of Forestry Law that do all of the following:

--Specify the duties of the Ohio Agricultural Research and Development Center;<sup>36</sup>

--Require the Chief to cooperate with the Center when acquiring land for forestry purposes;<sup>37</sup>

--Specify that a railroad company that sets fire to trees, brush, or grass on lands outside the right-of-way is liable for any expenses incurred in extinguishing the fire;<sup>38</sup>

--Require every section foreman employed by a railroad company, upon discovery of a fire, to summon necessary assistance, proceed to the fire, extinguish the fire, and give other fire-related assistance;<sup>39</sup> and

--Require all steam and electric railroad companies to put into effect reasonable rules for the prevention of forest fires.<sup>40</sup>

## **Office of Real Estate and Land Management**

The bill establishes the Office of Real Estate and Land Management, which formerly existed as the Division of Real Estate and Land Management from 1994 to 2009, in the Department of Natural Resources. In establishing the Office, the bill does the following:

(1) Requires the Office to do all of the following:

--Coordinate and conduct all real estate functions for the Department;

--Cooperate with federal agencies and political subdivisions in administering federal recreation money and prepare and distribute the statewide comprehensive outdoor recreation plan; and

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<sup>35</sup> R.C. 1503.011(H) and 1541.03(F) (repealed).

<sup>36</sup> R.C. 1503.02 (repealed).

<sup>37</sup> R.C. 1503.03.

<sup>38</sup> R.C. 1503.24 (repealed).

<sup>39</sup> R.C. 1503.25 (repealed).

<sup>40</sup> R.C. 1503.26 (repealed).



--Prepare special studies and execute any other duties, functions, and responsibilities requested by the Director of Natural Resources.

(2) Authorizes the Office to do all of the following:

--Coordinate environmental matters concerning the Department and the state as are necessary to comply with specified federal environmental laws;

--Survey land;

--As considered necessary by the Director, administer any state or federally funded grant program that is related to natural resources or recreation;

--Coordinate Department projects, programs, policies, procedures, and activities with the U.S. Army Corps of Engineers and other federal agencies; and

--Coordinate activities associated with the completion of drainage ditch improvements.

(3) Requires the Director to appoint a Chief to administer the Office;

(4) Transfers authority from the Chief of the Division of Parks and Recreation (Division of Parks and Watercraft under the bill) to the Chief of the Office to sell, lease, or transfer minerals or mineral rights with regard to canal lands;

(5) Authorizes the Chief and the Chief's employees to enter upon lands to make surveys and inspections when necessary. The Chief must provide reasonable notice of any proposed entry to the owner or person in possession of land to be surveyed or inspected not less than 48 hours and not more than 30 days prior to the date of entry. An entry conducted under the bill does not constitute trespass.<sup>41</sup>

(6) Authorizes the Office to prepare and distribute the statewide comprehensive outdoor recreation plan. Under current law, the Division of Parks and Recreation must prepare and distribute the plan.<sup>42</sup>

## **Water Improvements Law**

The bill eliminates the Water Improvements Law, including all of the following:

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<sup>41</sup> R.C. 1504.01, 1504.02, 1504.03, and 1520.02.

<sup>42</sup> R.C. 1504.02(B)(6) and 1541.03(F) (repealed).



(1) General authority for the Chief of the Division of Water Resources to construct, make additions to, enlarge, or make alterations to reservoirs, dams, storage basins, dikes, canals, raceways, and other improvements;

(2) A requirement that the Chief issue and sell bonds to provide the funds for such construction, alteration, or enlargement;

(3) A requirement that the Chief make a written contract for the construction of or alterations to improvements with the lowest responsive and responsible bidder immediately after the sale of the bonds;

(4) A requirement that the Chief must use money from the Water Conservation Improvement Fund to pay contractors for materials and labor;

(5) A requirement that the Chief sell or lease for agricultural, commercial, manufacturing, or other lawful purposes, for a term up to 50 years, the water conserved and stored by improvements constructed under the Water Improvements Law;

(6) Authority for the Chief to lease the land surrounding the water for a term of up to 50 years;

(7) Authority for the Chief to enter into tentative agreements for the sale or lease of water or power;

(8) Provisions that specify the power and duties of the Treasurer of State and Auditor of State regarding collecting and holding money for maintenance of and repairs to dams, reservoirs, storage basins, and other improvements;

(9) Requirements regarding appropriations of property made by the Chief in carrying out the Chief's duties;

(10) Authority for the Chief to grant to political subdivisions the right, during certain emergencies, to draw or take water as necessary to protect both the property of the political subdivision and its inhabitants;

(11) Authority for certain entities, upon request of the Chief and with the approval of the Director of Transportation, to construct and maintain slack water dams in connection with a highway, highway bridge, or culvert so as to create reservoirs, or other incidental works to conserve the water supply;

(12) Authority for the Chief to request the construction of slack water dams;



(13) Authority for certain entities to petition the Chief for the construction of dams and reservoir projects in connection with the construction of any highway, highway bridge, or culvert;

(14) Duty of the Chief to supervise, care, maintain, repair, and control all constructed dams, reservoirs, ponds, water parks, basins, lakes, or other incidental works; and

(15) Authority for the Chief to acquire certain lands, waters, or riparian rights by appropriation proceedings.<sup>43</sup>

### **Natural resources officers**

The bill renames existing park, watercraft, preserve, and forestry officers as natural resources officers and requires natural resources officers to generally enforce the laws that the existing officers enforce. Under current law, the existing officers enforce the laws under which they are appointed on lands and waters owned, controlled, maintained, or administered by the Department of Natural Resources or the applicable Division. Thus, forest officers enforce the Division of Forestry Law, preserve officers enforce the Division of Natural Areas and Preserves Law, park officers enforce the Division of Parks and Recreation Law, and watercraft officers enforce the Division of Watercraft and Waterways Law.<sup>44</sup>

### **Division of Natural Resources Law Enforcement Fund**

The bill eliminates the Division of Parks and Recreation Law Enforcement Fund and the Division of Watercraft Law Enforcement Fund and credits the money that currently is credited to those Funds to the Division of Natural Resources Law Enforcement Fund created by the bill. Under current law, the Division of Parks and Recreation Law Enforcement Fund consists of proceeds from forfeited property resulting from investigations conducted by the Division of Forestry, the Division of Natural Areas and Preserves, and the Division of Parks and Recreation. Similarly, the Division of Watercraft Law Enforcement Fund consists of proceeds from forfeited property resulting from investigations conducted by the Division of Watercraft.

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<sup>43</sup> R.C. 1523.01, 1523.02, 1523.03, 1523.04, 1523.05, 1523.06, 1523.07, 1523.08, 1523.09, 1523.10, 1523.11, 1523.12, 1523.13, 1523.14, 1523.15, 1523.16, 1523.17, 1523.18, 1523.19, 1523.20, and 1521.031.

<sup>44</sup> R.C. 109.71, 109.751, 109.77, 145.01, 145.332, 742.63, 1501.02, 1501.24, 1501.25, 1503.29 (repealed), 1503.30 (repealed), 1503.31 (repealed), 1506.35, 1517.10 (repealed), 1519.04, 1533.89, 1541.10 (repealed), 1541.11 (repealed), 1541.18 (1546.18), 1547.05, 1547.51, 1547.521 (repealed), 1547.522 (repealed), 1547.523 (repealed), 1547.67, 1547.79, 1548.17, 2935.01, 2935.03, 3767.32, and 4167.01.

Money in the new Fund must be used for law enforcement purposes by the Division of Parks and Watercraft. Under existing law, money in the existing two Funds must be used for law enforcement purposes by the Divisions of Parks and Recreation and Watercraft respectively.<sup>45</sup>

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## HISTORY

ACTION	DATE
Introduced	03-10-16
Reported, S. Gov't Oversight & Reform	05-05-16
Passed Senate (32-0)	05-11-16
Reported, H. Energy & Natural Resources	---

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<sup>45</sup> R.C. 1501.45.

