

**CHAPTER 1507
Shore Erosion****Section**

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§ 1507.01 Division created; duties of chief engineer; employees.**Text of Statute**

There is hereby created in the department of natural resources the division of engineering to be administered by the chief engineer of the department, who shall be a professional engineer registered under Chapter 4733. of the Revised Code. The chief engineer shall do all of the following:

- (A) Administer this chapter;
- (B) Provide engineering, architectural, land surveying, and related administrative and maintenance support services to the other divisions in the department;
- (C) Upon request of the director of natural resources, implement the department's capital improvement program and facility maintenance projects, including all associated engineering, architectural, design, contracting, surveying, inspection, and management responsibilities and requirements;
- (D) With the approval of the director, act as contracting officer in departmental engineering, architectural, surveying, and construction matters regarding capital improvements except for those matters otherwise specifically provided for in law;
- (E) As long as the state retains ownership of the Burr Oak water system, administer, operate, and maintain the Burr Oak water system and, with the approval of the director, act as contracting agent in matters concerning that system;
- (F) Provide engineering support for the coastal management program established under Chapter 1506. of the Revised Code;

(G) Coordinate the department's roadway maintenance program with the department of transportation pursuant to section 5511.05 of the Revised Code and maintain the roadway inventory of the department of natural resources;
(H) Coordinate the department's emergency response activities with the emergency management agency created in section 5502.22 of the Revised Code;
(I) Coordinate the department's projects, programs, policies, procedures, and activities with the United States army corps of engineers;
(J) Subject to the approval of the director, employ professional and technical assistants and such other employees as are necessary for the performance of the activities required or authorized under this chapter, other work of the division, and any other work agreed to under working agreements or contractual arrangements; prescribe their duties; and fix their compensation in accordance with such schedules as are provided by law for the compensation of state employees.

History

HISTORY: 145 v S 182 (Eff 10-20-94); 148 v H 283. Eff 9-29-99.

Not analogous to former RC § 1507.01, amended and renumbered RC § 1507.02 in 145 v S 182, eff 10-20-94.

The effective date is set by section 162 of HB 283.

§ 1507.02 Amended and renumbered.

Amended and renumbered RC § 1521.20 in 148 v H 601. Eff 6-14-2000.

§ 1507.03 Amended and renumbered.

Amended and renumbered RC § 1521.21 in 148 v H 601, eff 6-14-2000.

§ 1507.04 Amended and renumbered.

Amended and renumbered RC § 1521.22 in 148 v H 601, eff 6-14-2000.

§ 1507.05 Amended and renumbered.

Amended and renumbered RC § 1521.23 in 148 v H 601, eff 6-14-2000.

[§§ 1507.05.1, 1507.05.2] §§ 1507.051, 1507.052 Amended and renumbered.

Amended and renumbered RC §§ 1507.07, 1507.08 in 145 v S 182. Eff 10-20-94.

§ 1507.06 Amended and renumbered.

Amended and renumbered RC § 1521.24 in 148 v H 601, eff 6-14-2000.

[§§ 1507.06.1, 1507.06.2] §§ 1507.061, 1507.062 Repealed.

Repealed, 129 v 1350(1361), § 2 [126 v 569(572)]. Eff 11-2-61.

These sections created the waterways safety commission.

[§§ 1507.06.3, 1507.06.4] §§ 1507.063, 1507.064 Repealed.

Repealed, 129 v 1350(1361), § 2 [126 v 569(572)]; 128 v H 928]. Eff 11-2-61.

These sections created the waterways safety commission.

§ 1507.07 Amended and renumbered.

Amended and renumbered RC § 1521.25 in 148 v H 601, eff 6-14-2000.

[§ 1507.07.1] § 1507.071 Amended and renumbered.

Amended and renumbered RC § [1521.26](#) in 148 v H 601, eff 6-14-2000.

§ 1507.08 Amended and renumbered.

Amended and renumbered RC § [1521.27](#) in 148 v H 601, eff 6-14-2000.

§ 1507.09 Amended and renumbered.

Amended and renumbered RC § [1521.28](#) in 148 v H 601, eff 6-14-2000.

§ 1507.10 Amended and renumbered.

Amended and renumbered RC § [1521.29](#) in 148 v H 601, eff 6-14-2000.

§ 1507.11 Amended and renumbered.

Amended and renumbered RC § [1521.30](#) in 148 v H 601, eff 6-14-2000.

§ 1507.12 Burr Oak water system fund.

Text of Statute

The chief engineer of the department of natural resources shall adopt, and may amend and rescind, rules in accordance with Chapter [119](#). of the Revised Code specifying requirements and procedures for the provision of water service to water users and establishing a rate schedule, including related water service fees and late payment penalties, for the sale of water from the Burr Oak water system sufficient to meet the capital improvement and operating expenses of the system. The revenue derived from the sale of the water shall be deposited into the Burr Oak water system fund, which is hereby created in the state treasury. All investment earnings of the fund shall be credited to the fund. Money in the fund shall be used to pay the capital improvement and operating expenses of the Burr Oak water system. The chief engineer may enter into contracts with the Ohio Water Development authority, pursuant to Chapter [6121](#). of the Revised Code, to meet the capital improvement expenses of the Burr Oak water system.

The provisions of this section apply only as long as the state retains ownership of the Burr Oak water system and cease to apply if ownership of the Burr Oak water system is transferred from the state.

For the purposes of this chapter, "Burr Oak water system" means the Burr Oak water treatment plant and its transmission lines, storage tanks, and other appurtenances.

History

HISTORY: RC § [1503.36](#), 144 v H 298 (Eff 7-26-91); RC § [1541.23](#), 144 v S 180 (Eff 3-24-93); RC § [1507.12](#), 145 v S 182 (Eff 10-20-94); 146 v S 310 (Eff 6-20-96); 148 v H 283. Eff 9-29-99.

Not analogous to former RC § [1507.12](#), amended and renumbered RC § [1507.10](#) in 145 v S 182, eff 10-20-94.

The effective date is set by section 162 of HB 283.

§ 1507.13 Entry on land for surveys and inspections.

Text of Statute

The chief engineer of the department of natural resources or any employee in the service of the division of engineering may enter upon lands to make surveys and inspections in accordance with this chapter when necessary in the discharge of the

duties specified in this chapter. Notice of such a proposed entry shall be given to the owner of the land to be surveyed or inspected or to the person in possession of it by such means as are reasonably available, not less than forty-eight hours nor more than thirty days prior to the date of the entry. Such an entry does not constitute a trespass.

History

HISTORY: 145 v S 182. Eff 10-20-94.

Not analogous to former RC § 1507.13, amended and renumbered RC § 1507.11 in 145 v S 182, eff 10-20-94.

§ 1507.99 Repealed.

Repealed, 148 v H 601, § 2 [Bureau of Code Revision, 10-1-53; 145 v S 182]. Eff 6-14-2000.

This section set the penalty for violations of RC § 1507.04, renumbered to RC § 1521.22 in HB 601 (148 v --), effective 6-14-2000.

CH 1521

CONSERVATION OF NATURAL RESOURCES CHAPTER 1521 Division of Water

Section

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§ 1521.01 Definitions.

Text of Statute

As used in sections [1521.01](#) to [1521.05](#), [1521.13](#) to [1521.18](#), and [1521.20](#) to [1521.30](#) of the Revised Code:

(A) "Consumptive use," "diversion," "Lake Erie drainage basin," "other great lakes states and provinces," "water resources," and "waters of the state" have the same meanings as in section [1501.30](#) of the Revised Code.

(B) "Well" means any excavation, regardless of design or method of construction, created for any of the following purposes:

(1) Removing ground water from or recharging water into an aquifer, excluding subsurface drainage systems installed to enhance agricultural crop production or urban or suburban landscape management or to control seepage in dams, dikes, and levees;

(2) Determining the quantity, quality, level, or movement of ground water in or the stratigraphy of an aquifer, excluding borings for instrumentation in dams, dikes, levees, or highway embankments;

(3) Removing or exchanging heat from ground water, excluding horizontal trenches that are installed for water source heat pump systems.

(C) "Aquifer" means a consolidated or unconsolidated geologic formation or series of formations that are hydraulically interconnected and that have the ability to receive, store, or transmit water.

(D) "Ground water" means all water occurring in an aquifer.

(E) "Ground water stress area" means a definable geographic area in which ground water quantity is being affected by human activity or natural forces to the extent that continuous availability of supply is jeopardized by withdrawals.

(F) "Person" has the same meaning as in section [1.59](#) of the Revised Code and also includes the United States, the state, any political subdivision of the state, and any department, division, board, commission, agency, or instrumentality of the United States, the state, or a political subdivision of the state.

(G) "State agency" or "agency of the state" has the same meaning as "agency" in section [111.15](#) of the Revised Code.

(H) "Development" means any artificial change to improved or unimproved real estate, including the construction of buildings and other structures, any substantial improvement of a structure, and mining, dredging, filling, grading, paving, excavating, and drilling operations.

(I) "Floodplain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water.

(J) "Floodplain management" means the implementation of an overall program of corrective and preventive measures for reducing flood damage, including the collection and dissemination of flood information, construction of flood control works, nonstructural flood damage reduction techniques, and adoption of rules, ordinances, or resolutions governing development in floodplains.

(K) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year.

(L) "One-hundred-year floodplain" means that portion of a floodplain inundated by a one-hundred-year flood.

(M) "Structure" means a walled and roofed building, including, without limitation, gas or liquid storage tanks, mobile homes, and manufactured homes.

(N) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty per cent of the market value of the structure before the start of construction of the improvement. "Substantial improvement" includes repairs to structures that have incurred substantial damage regardless of the actual repair work performed. "Substantial improvement" does not include either of the following:

(1) Any project for the improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the state or local code enforcement official having jurisdiction and that are the minimum necessary to ensure safe living conditions;

(2) Any alteration of an historic structure designated or listed pursuant to federal or state law, provided that the alteration will not preclude the structure's continued listing or designation as an historic structure.

(O) "Shore structure" includes, but is not limited to: beaches; groins; revetments; bulkheads; seawalls; breakwaters; certain dikes designated by the chief of the division of water; piers; docks; jetties; wharves; marinas; boat ramps; any associated fill or debris used as part of the construction of shore structures that may affect shore erosion, wave action, or inundation; and fill or debris placed along or near the shore, including bluffs, banks, or beach ridges, for the purpose of stabilizing slopes.

(P) "Conservancy district" means a conservancy district established under Chapter [6101](#). of the Revised Code.

(Q) "Park board" means the board of park commissioners of a park district created under Chapter [1545](#). of the Revised Code.

(R) "Erosion control structure" means anything that is designed primarily to reduce or control erosion of the shore along or near lake erie,* including, but not limited to, revetments, seawalls, bulkheads, certain breakwaters designated by the chief, and similar structures. "Erosion control structure" does not include wharves, piers, docks, marinas, boat ramps, and other similar structures.

History

HISTORY: GC § 408; 121 v 305; 123 v 84, § 2; Bureau of Code Revision, 10-1-53; 142 v H 662 (Eff 6-29-88); 143 v H 476 (Eff 7-18-90); 143 v S 396 (Eff 4-11-91); 147 v S 142 (Eff 3-30-99); 148 v H 601. Eff 6-14-2000.

* Division (R). Lake Erie does not appear with initial capital letters in the new wording by HB 601 (148 v --).

§ 1521.02 Division of water.

Text of Statute

There is hereby created within the department of natural resources a division of water consisting of a chief of the division of water, and such positions as are necessary for the performance of the functions of the division.

History

HISTORY: GC § 408-2; 121 v 305; 123 v 84, § 2; 123 v 862 (907), § 3; Bureau of Code Revision, 10-1-53; 128 v 298. Eff 11-2-59.

§ 1521.03 Powers and duties.

Text of Statute

The chief of the division of water shall do all of the following:

(A) Assist in an advisory capacity any properly constituted watershed district, conservancy district, or soil and water conservation district or any county, municipal corporation, or other government agency of the state in the planning of works for ground water recharge, flood mitigation, floodplain management, flood control, flow capacity and stability of streams, rivers, and watercourses, or the establishment of water conservation practices, within the limits of the appropriations for those purposes;

(B) Have authority to conduct basic inventories of the water and related natural resources in each drainage basin in the state; to develop a plan on a watershed basis that will recognize the variety of uses to which water may be put and the need for its management for those uses; with the approval of the director of natural resources and the controlling board, to transfer appropriated or other funds, authorized for those inventories and plan, to any division of the department of natural resources or other state agencies for the purpose of developing pertinent data relating to the plan of water management; and to accept and expend moneys contributed by any person for implementing the development of the plan;

(C) Have authority to make detailed investigations of all factors relating to floods, floodplain management, and flood control in the state with particular attention to those factors bearing upon the hydraulic and hydrologic characteristics of rivers, streams, and watercourses, recognizing the variety of uses to which water and watercourses may be put;

(D) Cooperate with the United States or any agency thereof and with any political subdivision of the state in planning and constructing flood control works;

(E) Hold meetings or public hearings, whichever is considered appropriate by the chief, to assist in the resolution of conflicts between ground water users. Such meetings or hearings shall be called upon written request from boards of health of city or general health districts created by or under the authority of Chapter [3709](#) of the Revised Code or authorities having the duties of a board of health as authorized by section [3709.05](#) of the Revised Code, boards of county commissioners, boards of township trustees, legislative authorities of municipal corporations, or boards of directors of conservancy districts and may be called by the chief upon the request of any other person or at the chief's discretion. The chief shall collect and present at such meetings or hearings the available technical information relevant to the conflicts and to the ground water resource. The chief shall prepare a report, and may make recommendations, based upon the available technical data and the record of the meetings or hearings, about the use of the ground water resource. In making the report and any recommendations, the chief also may consider the factors listed in division (B) of section [1521.17](#) of the Revised Code. The technical information presented, the report prepared, and any recommendations made under this division shall be presumed to be prima-facie authentic and admissible as evidence in any court pursuant to Evidence Rule 902.

(F) Perform stream or ground water gauging and may contract with the United States government or any other agency for the gauging of any streams or ground water within the state;

(G) Primarily with regard to water quantity, have authority to collect, study, map, and interpret all available information, statistics, and data pertaining to the availability, supply, use, conservation, and replenishment of the ground and surface waters in the state in coordination with other agencies of this state;

(H) Primarily with regard to water quantity and availability, be authorized to cooperate with and negotiate for the state with any agency of the United States government, of this state, or of any other state pertaining to the water resources of the state;

(I) Provide engineering support for the coastal management program established under Chapter [1506](#) of the Revised Code.

History

HISTORY: 134 v S 397 (Eff 10-23-72); 137 v H 522 (Eff 11-1-77); 143 v H 476 (Eff 7-18-90); 143 v S 396 (Eff 4-11-91); 147 v S 187 (Eff 3-18-99); 148 v H 601. Eff 6-14-2000.

Not analogous to former RC § [1521.03](#) (GC § 408-2; 121 v 305; 123 v 84; 123 v 862 (907); Bureau of Code Revision, 10-1-53), repealed 128 v 298, eff 11-2-59.

[§ 1521.03.1] § 1521.031 Water advisory council.

Text of Statute

There is hereby created in the department of natural resources the Ohio water advisory council. The council shall consist of seven members appointed by the governor with the advice and consent of the senate. No more than four of the members shall be of the same political party. Members shall be persons who have a demonstrated interest in water management and whose expertise reflects the various responsibilities of the division of water, including, but not limited to, dam safety, surface water, groundwater, and flood plain management. The chief of the division of water may participate in the deliberations of the council, but shall not vote.

Terms of office of members shall be for two years commencing on the second day of February and ending on the first day of February. Each member shall hold office from the date of appointment until the end of the term for which he was appointed. The governor may remove any member at any time for inefficiency, neglect of duty, or malfeasance in office. In the event of the death, removal, resignation, or incapacity of any member, the governor, with the advice and consent of the senate, shall appoint a successor to hold office for the remainder of the term for which his predecessor was appointed. Any member shall continue in office following the expiration date of his term until his successor takes office or until sixty days have elapsed, whichever occurs first. Membership on the council does not constitute holding a public office or position of employment under the Revised Code and is not grounds for removal of public officers or employees from their offices or positions of employment.

The council annually shall select from its members a chairman and a vice-chairman. The council shall hold at least one meeting each calendar quarter and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairman and shall be called upon the written request of two or more members. A majority of the members constitutes a quorum. The division shall furnish clerical, technical, legal, and other services required by the council in the performance of its duties.

Members shall receive no compensation, but shall be reimbursed from the appropriations for the division for the actual and necessary expenses incurred by them in the performance of their official duties.

The council shall:

(A) advise the chief of the division of water in carrying out the duties of the division under this chapter and Chapter [1523](#). of the Revised Code;
(B) recommend such policy and legislation with respect to water management and conservation as will promote the economic, industrial, and social development of the state while minimizing threats to the state's natural environment;
(C) review and make recommendations on the development of plans and programs for long-term, comprehensive water management throughout the state; and
(D) recommend ways to enhance cooperation among governmental agencies having an interest in water to encourage wise use and protection of the state's ground and surface waters. To this end, the council shall request nonvoting representation from appropriate governmental agencies.

History

HISTORY: 140 v S 360. Eff 10-15-84.

See provisions, § 27 of HB 670 (146 v --), concerning the date of expiration for certain state agencies, following RC § [1501.04](#).

§ 1521.04 Aid for water management improvements; authority to make improvements; charges.

Text of Statute

The chief of the division of water, with the approval of the director of natural resources, may make loans and grants from the water management fund created in section [1501.32](#) of the Revised Code to governmental agencies for water management, water supply improvements, and planning and may administer grants from the federal government and from other public or private sources for carrying out those functions and for the performance of any acts that may be required by the United States or by any agency or department thereof as a condition for the participation by any governmental agency in any federal financial or technical assistance program. Direct and indirect costs of administration may be paid from the water management fund.

The chief may use the water management fund to acquire, construct, reconstruct, improve, equip, maintain, operate, and dispose of water management improvements. The chief may fix, alter, charge, and collect rates, fees, rentals, and other charges to be paid into the water management fund by governmental agencies and persons who are supplied with water by facilities constructed or operated by the department of natural resources in order to amortize and defray the cost of the construction, maintenance, and operation of those facilities. This section does not apply to the Burr Oak water system administered by the chief engineer of the department of natural resources under sections [1507.01](#) and [1507.12](#) of the Revised Code.

History

HISTORY: RC § [1501.21](#), 134 v S 397 (Eff 10-23-72); RC § [1521.04](#), 137 v H 522 (Eff 11-1-77); 143 v H 550 (Eff 5-3-90); 145 v S 182 (Eff 10-20-94); 148 v H 283. Eff 9-29-99.

The effective date is set by section 162 of HB 283.

Former RC § [1521.04](#) renumbered RC § [6111.42](#) in 134 v S 397, eff 10-23-72.

[§ 1521.04.1] § 1521.041 Repealed.

Repealed, 129 v 1418, § 2 [128 v 918]. Eff 7-1-63.

This section concerned sale of publications.

§ 1521.05 Well construction logs; sealing reports.

Text of Statute

(A) As used in this section:

(1) "Construct" or "construction" includes drilling, boring, digging, deepening, altering, and logging.

(2) "Altering" means changing the configuration of a well, including, without limitation, deepening a well, extending or replacing any portion of the inside or outside casing or wall of a well that extends below ground level, plugging a portion of a well back to a certain depth, and reaming out a well to enlarge its original diameter.

(3) "Logging" means describing the lithology, grain size, color, and texture of the formations encountered during the drilling, boring, digging, deepening, or altering of a well.

(4) "Grouting" means neat cement; bentonite products in slurry, granular, or pelletized form, excluding drilling mud or fluids; or any combination of neat cement and bentonite products that is placed within a well to seal the annular space or to seal an abandoned well and that is impervious to and capable of preventing the movement of water.

(5) "Abandoned well" means a well whose use has been permanently discontinued and that poses potential health and safety hazards or that has the potential to transmit surface contaminants into the aquifer in which the well has been constructed.

(6) "Sealing" means the complete filling of an abandoned well with grouting or other approved materials in order to permanently prevent the vertical movement of water in the well and thus prevent the contamination of ground water or the intermixing of water between aquifers.

(B) Any person that constructs a well shall keep a careful and accurate log of the construction of the well. The log shall show all of the following:

(1) The character, including, without limitation, the lithology, color, texture, and grain size, the name, if known, and the depth of all formations passed through or encountered;

(2) The depths at which water is encountered;

(3) The static water level of the completed well;

(4) A copy of the record of all pumping tests and analyses related to those tests, if any;

(5) Construction details, including lengths, diameters, and thicknesses of casing and screening and the volume, type of material, and method of introducing gravel packing and grouting into the well;

(6) The type of pumping equipment installed, if any;

(7) The name of the owner of the well, the address of the location where the well was constructed, and a description of the location of the property where the well was constructed;

(8) The signature of the individual who constructed the well and filed the well log;

(9) Any other information required by the chief of the division of water.

The log shall be furnished to the division within thirty days after the completion of construction of the well on forms prescribed and prepared by the division. The log shall be kept on file by the division.

In accordance with Chapter [119](#). of the Revised Code, the chief may adopt, amend, and rescind rules requiring other persons that are involved in the construction or subsequent development of a well to submit well logs under this division containing any or all of the information specified in divisions (B)(1) to (9) of this section and requiring any person that seals an abandoned well to submit a well sealing report under this division containing any or all of the information specified in those divisions and any additional information specified in the rules.

(C)(1) No person shall fail to keep and submit a well log as required by this section.

(2) No person shall make a false statement in any well log required to be kept and submitted under this section. Violation of division (C)(2) of this section is falsification under section [2921.13](#) of the Revised Code.

(D) For the purposes of prosecution of a violation of division (C)(1) of this section, a prima-facie case is established when the division obtains either of the following:

(1) A certified copy of a permit for a private water system issued in accordance with rules adopted under section [3701.344](#) [3701.34.4] of the Revised Code, or a certified copy of the invoice or a canceled check from the owner of a well indicating the construction services performed;

(2) A certified copy of any permit issued under Chapter [3734](#). or 6111. of the Revised Code or plan approval granted under Chapter [6109](#). of the Revised Code for any activity that includes the construction of a well.

History

HISTORY: GC § 408-10; 121 v 305; 122 v 651; 123 v 84; Bureau of Code Revision, RC § [1521.05](#), 10-1-53; RC § [6111.43](#), 134 v S 397 (Eff 10-23-72); RC § [1521.05](#), 137 v H 522 (Eff 11-1-77); 143 v H 476 (Eff 7-18-90); 145 v S 182 (Eff 10-20-94); 147 v S 187. Eff 3-18-99.

§ 1521.06 Construction permits for dams, dikes, or levees.

Text of Statute

(A) No dam may be constructed for the purpose of storing, conserving, or retarding water, or for any other purpose, nor shall any dike or levee be constructed for the purpose of diverting or retaining flood water, unless the person or governmental agency desiring the construction has a construction permit for the dam, dike, or levee issued by the chief of the division of water.

A construction permit is not required under this section for:

(1) A dam which is or will be less than ten feet in height and which has or will have a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.

(2) A dam, regardless of height, which has or will have a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;

(3) A dam, regardless of storage capacity, which is or will be six feet or less in height, as determined by the chief;

(4) A dam, dike, or levee which belongs to a class exempted by the chief;

(5) The repair, maintenance, improvement, alteration, or removal of a dam, dike, or levee which is subject to section [1521.062](#) [1521.06.2] of the Revised Code, unless the construction constitutes an enlargement of the structure as determined by the chief;

(6) A dam or impoundment constructed under Chapter [1513](#). of the Revised Code.

(B) Before a construction permit may be issued, three copies of the plans and specifications, including a detailed cost estimate, for the proposed construction, prepared by a registered professional engineer, together with the filing fee specified by this section and the bond or other security required by section [1521.061](#) [1521.06.1] of the Revised Code, shall be filed with the chief. The detailed estimate of the cost shall include all costs associated with the construction of the dam, dike, or levee, including supervision and inspection of the construction by a registered professional engineer. Except for a political subdivision, the filing fee shall be based on the detailed cost estimate for the proposed construction as filed with and approved by the chief, and shall be determined by the following schedule:

- (1) For the first one hundred thousand dollars of estimated cost, a fee of two per cent;
- (2) For the next four hundred thousand dollars of estimated cost, a fee of one and one-half per cent;
- (3) For the next five hundred thousand dollars of estimated cost, a fee of one per cent;
- (4) For all costs in excess of one million dollars, a fee of one-quarter of one per cent.

In no case shall the filing fee be less than two hundred dollars or more than fifty thousand dollars. If the actual cost exceeds the estimated cost by more than fifteen per cent, an additional filing fee shall be required equal to the fee determined by the preceding schedule less the original filing fee. The filing fee for a political subdivision shall be two hundred dollars. All fees collected pursuant to this section, and all fines collected pursuant to section [1521.99](#) of the Revised Code, shall be deposited in the state treasury to the credit of the dam safety fund, which is hereby created. Expenditures from the fund shall be made by the chief for the purpose of administering this section and sections 1521.061 [1521.06.1] and 1521.062 [1521.06.2] of the Revised Code.

(C) The chief shall, within thirty days from the date of the receipt of the application, fee, and bond or other security, issue or deny a construction permit for the construction or may issue a construction permit conditioned upon the making of such changes in the plans and specifications for the construction as he considers advisable if he determines that the construction of the proposed dam, dike, or levee, in accordance with the plans and specifications filed, would endanger life, health, or property.

(D) The chief may deny a construction permit if he finds that a dam, dike, or levee built in accordance with the plans and specifications would endanger life, health, or property, because of improper or inadequate design, or for such other reasons as the chief may determine.

In the event the chief denies a permit for the construction of the dam, dike, or levee, or issues a permit conditioned upon a making of changes in the plans or specifications for the construction, he shall state his reasons therefor and so notify, in writing, the person or governmental agency making the application for a permit. If the permit is denied, the chief shall return the bond or other security to the person or governmental agency making application for the permit.

The decision of the chief conditioning or denying a construction permit is subject to appeal as provided in Chapter [119](#). of the Revised Code. A dam, dike, or levee built substantially at variance from the plans and specifications upon which a

construction permit was issued is in violation of this section. The chief may at any time inspect any dam, dike, or levee, or site upon which any dam, dike, or levee is to be constructed, in order to determine whether it complies with this section.

(E) A registered professional engineer shall inspect the construction for which the permit was issued during all phases of construction and shall furnish to the chief such regular reports of his inspections as the chief may require. When the chief finds that construction has been fully completed in accordance with the terms of the permit and the plans and specifications approved by him, he shall approve the construction. When one year has elapsed after approval of the completed construction, and the chief finds that within this period no fact has become apparent to indicate that the construction was not performed in accordance with the terms of the permit and the plans and specifications approved by the chief, or that the construction as performed would endanger life, health, or property, he shall release the bond or other security. No bond or other security shall be released until one year after final approval by the chief, unless the dam, dike, or levee has been modified so that it will not retain water and has been approved as nonhazardous after determination by the chief that the dam, dike, or levee as modified will not endanger life, health, or property.

(F) When inspections required by this section are not being performed, the chief shall notify the person or governmental agency to which the permit has been issued that inspections are not being performed by the registered professional engineer and that the chief will inspect the remainder of the construction. Thereafter, the chief shall inspect the construction and the cost of inspection shall be charged against the owner. Failure of the registered professional engineer to submit required inspection reports shall be deemed notice that his inspections are not being performed.

(G) The chief may order construction to cease on any dam, dike, or levee which is being built in violation of the provisions of this section, and may prohibit the retention of water behind any dam, dike, or levee which has been built in violation of the provisions of this section. The attorney general, upon written request of the chief, may bring an action for an injunction against any person who violates this section or to enforce an order or prohibition of the chief made pursuant to this section.

(H) The chief may adopt rules in accordance with Chapter [119](#) of the Revised Code, for the design and construction of dams, dikes, and levees for which a construction permit is required by this section or for which periodic inspection is required by section [1521.062](#) [1521.06.2] of the Revised Code, for deposit and forfeiture of bonds and other securities required by section [1521.061](#) [1521.06.1] of the Revised Code, for the periodic inspection, operation, repair, improvement, alteration, or removal of all dams, dikes, and levees, as specified in section [1521.062](#) [1521.06.2] of the Revised Code, and for establishing classes of dams, dikes, or levees which are exempt from the requirements of sections [1521.06](#) and [1521.062](#) [1521.06.2] of the Revised Code as being of a size, purpose, or situation which does not present a substantial hazard to life, health, or property. The chief may, by rule, limit the period during which a construction permit issued under this section is valid. If a construction permit expires before construction is completed, the person or agency shall apply for a new permit, and shall not continue construction until the new permit is issued.

(I) As used in this section and section [1521.063](#) [1521.06.3] of the Revised Code, "political subdivision" includes townships, municipal corporations, counties, school districts, municipal universities, park districts, sanitary districts, and conservancy districts and subdivisions thereof.

History

HISTORY: GC § 408-11; 121 v 305 (311); 123 v 84 (95), § 2; Bureau of Code Revision, 10-1-53; 130 v S 330 (Eff 10-10-63); 132 v H 589 (Eff 12-14-67); 133 v S 224 (Eff 12-18-69); 142 v H 171 (Eff 7-1-87); 142 v H 708. Eff 4-19-88.

[§ 1521.06.1] § 1521.061 Surety bond conditioned on satisfactory completion of project.

Text of Statute

Except as otherwise provided in this section, a construction permit shall not be issued under section [1521.06](#) of the Revised Code unless the person or governmental agency applying for the permit executes and files a surety bond conditioned on completion of the dam, dike, or levee in accordance with the terms of the permit and the plans and specifications approved by the chief of the division of water, in an amount equal to fifty per cent of the estimated cost of the project. The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by his attorney in fact, with a certified copy of the power of attorney attached. The chief shall not approve the bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

All bonds shall be given in a form prescribed by the chief and shall run to the state as obligee.

The applicant may deposit, in lieu of a bond, cash in an amount equal to the amount of the bond or United States government securities or negotiable certificates of deposit issued by any bank organized or transacting business in this state having a par value equal to or greater than the amount of the bond. Such cash or securities shall be deposited upon the same terms as bonds. If one or more certificates of deposit are deposited in lieu of a bond, the chief shall require the bank which issued any the certificate to pledge securities of the aggregate market value equal to the amount of the certificate which is in excess of the amount insured by the federal deposit insurance corporation. The securities to be pledged shall be those designated as eligible under section [135.18](#) of the Revised Code. The securities shall be security for the repayment of the certificate of deposit.

Immediately upon a deposit of cash, securities, or certificates of deposit, the chief shall deliver them to the treasurer of state, who shall hold them in trust for the purposes for which they have been deposited. The treasurer of state is responsible for the safekeeping of such deposits. An applicant making a deposit of cash, securities, or certificates of deposit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any portion of the cash, securities, or certificates of deposit, upon depositing with the treasurer of state cash, other United States government securities, or negotiable certificates of deposit issued by any bank organized or transacting business in this state equal in par value to the par value of the cash, securities, or certificates of deposit withdrawn. An applicant may demand and receive from the treasurer of state all interest or other income from any such securities or certificates as it becomes due. If securities so deposited

with and in the possession of the treasurer of state mature or are called for payment by the issuer thereof, the treasurer of state, at the request of the applicant who deposited them, shall convert the proceeds of the redemption or payment of the securities into such other United States government securities, negotiable certificates of deposit issued by any bank organized or transacting business in this state, or cash as the applicant designates.

When the chief finds that a person or governmental agency has failed to comply with the conditions of his bond, he shall make a finding of that fact and declare the bond, cash, securities, or certificates of deposit forfeited in the amount set by rule of the chief. The chief shall thereupon certify the total forfeiture to the attorney general, who shall proceed to collect that amount.

In lieu of total forfeiture, the surety, at its option, may cause the dam, dike, or levee to be completed as required by section [1521.06](#) of the Revised Code and rules of the chief, or otherwise rendered nonhazardous, or pay to the treasurer of state the cost thereof.

All moneys collected on account of forfeitures of bonds, cash, securities, and certificates of deposit under this section shall be credited to the dam safety fund created in section [1521.06](#) of the Revised Code. The chief shall make expenditures from the fund to complete dams, dikes, and levees for which bonds have been forfeited or to otherwise render them nonhazardous.

Expenditures from the fund for those purposes shall be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in the contract.

A surety bond shall not be required for a permit for a dam, dike, or levee that is to be designed and constructed by an agency of the United States government, if the agency files with the chief written assurance of the agency's financial responsibility for the structure during the one-year period following the chief's approval of the completed construction provided for under division (E) of section [1521.06](#) of the Revised Code.

History

HISTORY: 133 v S 224 (Eff 12-18-69); 141 v H 201 (Eff 7-1-85); 142 v H 171 (Eff 7-1-87); 143 v H 602. Eff 9-28-90.

Not analogous to former RC § [1521.06.1](#) (130 v S 330), repealed 133 v S 224, § 2, eff 10-10-63.

[§ 1521.06.2] § 1521.062 Periodic inspection; chief may remove or correct unsafe structures.

Text of Statute

(A) All dams, dikes, and levees constructed in this state and not exempted by this section or by the chief of the division of water under section [1521.06](#) of the Revised Code, shall be inspected periodically by the chief to ensure that continued operation and use of the dam, dike, or levee does not constitute a hazard to life, health, or property. Periodic inspections shall not be required of the following structures:

(1) A dam that is less than ten feet in height and has a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.

(2) A dam, regardless of height, that has a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;

(3) A dam, regardless of storage capacity, that is six feet or less in height, as determined by the chief;

(4) A dam, dike, or levee belonging to a class exempted by the chief;

(5) A dam, dike, or levee that has been exempted in accordance with rules adopted under section [1521.064](#) [1521.06.4] of the Revised Code.

(B) Intervals between periodic inspections shall be determined by the chief, but shall not exceed five years. The chief may use inspection reports prepared for the owner of the dam, dike, or levee by a registered professional engineer.

(C) The owner shall be furnished a report of each inspection and shall be informed of required repairs, maintenance, investigations, and other remedial and operational measures by the chief. The chief shall order the owner to perform such repairs, maintenance, investigations, or other remedial or operational measures as he considers necessary to safeguard life, health, or property. The order shall permit the owner a reasonable time in which to perform the needed repairs, maintenance, investigations, or other remedial measures, and the cost thereof shall be borne by the owner. All orders of the chief are subject to appeal as provided in Chapter [119](#) of the Revised Code. The attorney general, upon written request of the chief, may bring an action for an injunction against any person who violates this section or to enforce an order of the chief made pursuant to this section.

(D) The owner of a dam, dike, or levee shall monitor, maintain, and operate the structure and its appurtenances safely in accordance with state rules, terms and conditions of permits, orders, and other requirements issued pursuant to this section or section [1521.06](#) of the Revised Code. The owner shall fully and promptly notify the division of water and other responsible authorities of any condition which threatens the safety of the structure, and shall take all necessary actions to safeguard life, health, and property.

(E) Before commencing the repair, improvement, alteration, or removal of a dam, dike, or levee, the owner shall file an application including plans, specifications, and other required information with the division, and shall secure written approval of the application by the chief. Emergency actions by the owner required to safeguard life, health, or property are exempt from this requirement. The chief may, by rule, define maintenance, repairs, or other remedial measures of a routine nature which are exempt from this requirement.

(F) The chief may remove or correct, at the expense of the owner, any unsafe structures found to be constructed or maintained in violation of this section or section [1521.06](#) of the Revised Code. In the case of an owner other than a governmental agency, the cost of removal or correction of any unsafe structure, together with a description of the property on which the unsafe structure is located, shall be certified by the chief to the county auditor and placed by the county auditor upon the tax duplicate. This cost is a lien upon the lands from the date of entry and shall be collected as other taxes and returned to the division. In the case of an owner that is a governmental agency, the cost of removal or correction of any unsafe structure shall be recoverable from the owner by appropriate action in a court of competent jurisdiction.

(G) If the condition of any dam, dike, or levee is found, in the judgment of the chief, to be so dangerous to the safety of life, health, or property as not to permit time for the issuance and enforcement of an order relative to repair, maintenance,

or operation, the chief shall employ any of the following remedial means necessary to protect life, health, and property:

- (1) Lower the water level of the lake or reservoir by releasing water;
- (2) Completely drain the lake or reservoir;
- (3) Take such other measures or actions as he considers necessary to safeguard life, health, and property. The chief shall continue in full charge and control of the dam, dike, or levee until the structure is rendered safe. The cost of the remedy shall be recoverable from the owner of the structure by appropriate action in a court of competent jurisdiction.

(H) The chief may accept and expend gifts, bequests, and grants from the United States government or from any other public or private source, and may contract with the United States government or any other agency or entity for the purpose of carrying out the dam safety functions set forth in this section and section [1521.06](#) of the Revised Code.

History

HISTORY: 133 v S 224 (Eff 12-18-69); 142 v H 171 (Eff 7-1-87); 143 v H 602. Eff 9-28-90.

[§ 1521.06.3] § 1521.063 Annual inspection fee.

Text of Statute

(A) Except for a political subdivision, the owner of any dam subject to section [1521.062](#) [1521.06.2] of the Revised Code shall pay an annual fee, based upon the height of the dam, to the division of water on or before June 30, 1988, and on or before the thirtieth day of June of each succeeding year. The annual fee shall be as follows:

(1) For any dam classified as a class I dam under rules adopted by the chief of the division of water under section [1521.06](#) of the Revised Code, thirty dollars plus three dollars per foot of height of dam;

(2) For any dam classified as a class II dam under those rules, thirty dollars plus one dollar per foot of height of dam;

(3) For any dam classified as a class III dam under those rules, thirty dollars.

For purposes of this section, the height of a dam is the vertical height, to the nearest foot, as determined by the division under section [1521.062](#) [1521.06.2] of the Revised Code. All fees collected under this section shall be deposited in the dam safety fund created in section [1521.06](#) of the Revised Code. Any owner who fails to pay any annual fee required by this section within sixty days after the due date shall be assessed a penalty of ten per cent of the annual fee plus interest at the rate of one-half per cent per month from the due date until the date of payment.

(B) The chief shall, in accordance with Chapter [119](#) of the Revised Code, adopt, and may amend or rescind, rules for the collection of fees and the administration, implementation, and enforcement of this section.

(C)(1) No person or governmental agency shall violate or fail to comply with this section or any rule or order adopted or issued under it.

(2) The attorney general, upon written request of the chief, may commence an action against any such violator. Any action under division (C)(2) of this section is a civil action.

History

HISTORY: 142 v H 171 (Eff 7-1-87); 143 v H 602. Eff 9-28-90.

[§ 1521.06.4] § 1521.064 Rules for exemption from inspections.

Text of Statute

The chief of the division of water, in accordance with Chapter [119](#). of the Revised Code, shall adopt, and may amend and rescind, rules establishing a program under which dams, dikes, and levees may be exempted from inspections under section [1521.062](#) [1521.06.2] of the Revised Code if the continued operation and use of, and any rupturing of or other structural damage to, the dams, dikes, and levees will not constitute a hazard to life, health, or property. The rules shall establish, without limitation, all of the following:

- (A) A procedure by which the owner of such a dam, dike, or levee may apply for an exemption under this section;
- (B) The standards that a dam, dike, or levee shall meet in order to be exempted under this section;
- (C) A procedure by which the chief shall periodically review the status of a dam, dike, or levee that has been exempted under this section to determine if the exemption should be rescinded;
- (D) A requirement that the owner of any dam, dike, or levee exempted under this section shall agree, in writing, to accept liability for any injury, death, or loss to persons or property caused by the rupturing of or other structural damage to the dam, dike, or levee.

History

HISTORY: 143 v H 602. Eff 9-28-90.

§ 1521.07 Right of entry.

Text of Statute

The chief of the division of water or any employee in the service of the division may enter upon lands to make surveys and inspections in accordance with this chapter, when necessary in the discharge of the duties enumerated in this chapter.

History

HISTORY: GC § 408-12; 121 v 305 (311); 123 v 84 (96), § 2; Bureau of Code Revision, 10-1-53; 132 v H 589 (Eff 12-14-67); 143 v S 396. Eff 4-11-91.

§ 1521.08 Two grand divisions.

Text of Statute

The public works of this state shall be divided into two grand divisions as follow:

- (A) The Miami and Erie canal, together with Lake St. Mary's reservoir, Indian Lake reservoir, and the Loramie reservoir, with all of their feeders and parts, and the various state channel dams which impound water for the purpose of supplying water for the Miami and Erie canal shall be styled "division one."
- (B) The Ohio and Erie canal, together with the Portage lakes and Buckeye lake, with all of their feeders and parts, and the various state dams in the state channels which impound waters for the purpose of supplying the Ohio and Erie canal shall be styled "division two."

The division of water shall have the care and control of the public works as defined in this section on behalf of the director of natural resources pursuant to section [1520.03](#) of the Revised Code and shall protect, operate, maintain, and keep them in repair. The chief of the division of water may remove obstructions and shall make such alterations or changes on those works and construct such feeders,

dikes, reservoirs, dams, locks, or other works, devices, or improvements as are proper in the discharge of his duties. The chief may adopt, amend, and rescind rules for the administration of this section.

History

HISTORY: RS § 218-1; 95 v 392; 86 v 385; 75 v 584; GC § 411; 103 v 119; Bureau of Code Revision, 10-1-53; 143 v H 111. Eff 7-1-89.

§ 1521.09 Reservoirs; reduction of assessed valuation.

Text of Statute

Any landowner, or groups of landowners or lessors, in this state not within the corporate limits of any municipal corporation in this state, who shall by the construction of a dam across any watercourse form upon his own land one or more reservoirs for the collection and storage of surface water, and who maintains such reservoirs in such condition as to collect and store such water, or who donates to the state or any of its agencies a tract of land on which the state or any of its agencies may erect and maintain a reservoir for the storage of water, is entitled to a reduction of the assessed valuation of the tract of land upon which such reservoir is located of forty dollars for each acre-foot of storage capacity afforded by such dam. The total amount of such reduction shall not exceed forty per cent of the assessed valuation of the entire contiguous acreage owned by the landowner and upon which such reservoirs are located.

History

HISTORY: GC § 474-1; 117 v 696; Bureau of Code Revision. Eff 10-1-53.

§ 1521.10 Landowner to submit plans.

Text of Statute

In order to be entitled to the compensation provided for in section [1521.09](#) of the Revised Code, the landowner must have prepared and submit to the division of water complete plans for the dam provided for in such section. The plans shall have the approval of the chief of the division of water and the dam shall be constructed in accordance with such plans before compensation can be claimed.

History

HISTORY: GC § 474-2; 117 v 696, § 2; 123 v 84; 124 v 264 (272), § 3; Bureau of Code Revision. Eff 10-1-53.

§ 1521.11 Certification.

Text of Statute

Upon the completion of the dam referred to in section [1521.09](#) of the Revised Code to the satisfaction of the division of water, it shall certify the completion and the capacity thereof to the county auditor who shall thereupon make such reduction in the assessed valuation of the contiguous landowner as he is entitled to receive under sections [1521.09](#) to [1521.12](#), inclusive, of the Revised Code.

History

HISTORY: GC § 474-3; 117 v 696, § 3; 123 v 84; 124 v 264; Bureau of Code Revision. Eff 10-1-53.

§ 1521.12 Approval of plans.

Text of Statute

In the event that any dam is constructed before plans are submitted to and approved by the division of water as required by section [1521.10](#) of the Revised Code, the landowner may submit plans of the dam he has built, showing the area of the drainage basin above the dam, a cross section of the dam site, a cross section, plan, and elevation of the dam, a map of the spillway, a topographic map of the reservoir basin, and such other data and information as the division requires. If the plans receive the approval of the division, and upon examination the dam is found to be satisfactorily completed in accordance with such plans, said division shall certify the completion and capacity thereof to the county auditor. If the plans fail to meet the requirements of the division, the owner may submit revised plans, and when such revised plans have been approved and the dam rebuilt to conform to such plans, the completion of the dam and its capacity shall then be certified to the auditor who shall thereupon make such reduction in the assessed valuation of the contiguous land as such owner is entitled to receive under sections [1521.09](#) to [1521.12](#), inclusive, of the Revised Code.

History

HISTORY: GC § 474-4; 117 v 696, § 4; 123 v 84; 124 v 264, § 3; Bureau of Code Revision. Eff 10-1-53.

§ 1521.13 Floodplain management; flood damage reduction standards.

Text of Statute

(A) The chief of the division of water shall do all of the following:

- (1) Coordinate the floodplain management activities of state agencies and political subdivisions with the floodplain management activities of the United States, including the national flood insurance program established in the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, and regulations adopted under that act;
- (2) Collect, prepare, and maintain technical data and information on floods and floodplain management and make the data and information available to the public, state agencies, political subdivisions, and agencies of the United States;
- (3) Cooperate and enter into agreements with persons for the preparation of studies and reports on floods and floodplain management;
- (4) Assist any county, municipal corporation, or state agency in developing comprehensive floodplain management programs;
- (5) Provide technical assistance to any county, municipal corporation, or state agency through engineering assistance, data collection, preparation of model laws, training, and other activities relating to floodplain management;
- (6) For the purpose of reducing damages and the threat to life, health, and property in the event of a flood, cooperate with state agencies, political subdivisions, and the United States in the development of flood warning systems, evacuation plans, and flood emergency preparedness plans;
- (7) Upon request, assist the emergency management agency established by section [5502.22](#) of the Revised Code in the preparation of flood hazard mitigation reports required as a condition for receiving federal disaster aid under the "Disaster Relief Act of 1974," 88 Stat. 143, 42 U.S.C.A. 5121, as amended, "The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1994," Pub.L.No. 93-288, as amended, and regulations adopted under those acts;

(8) Adopt, and may amend or rescind, rules in accordance with Chapter [119](#) of the Revised Code for the administration, implementation, and enforcement of this section and sections [1521.14](#) and [1521.18](#) of the Revised Code;

(9) Establish, by rule, technical standards for the delineation and mapping of floodplains and for the conduct of engineering studies to determine the vertical and horizontal limits of floodplains. The standards adopted under this division shall be consistent with and no more stringent than the analogous standards established under the national flood insurance program adopted pursuant to the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended.

(10) Establish, by rule, flood damage reduction standards governing development within one hundred year floodplains other than development subject to the rules adopted under division (A)(11) of this section. The standards shall include provisions to ensure that structures are protected at least to the one hundred year flood level and that any increase in the one hundred year flood level will not exceed one foot as determined by engineering studies conducted in accordance with the technical standards established in rules adopted under division (A)(9) of this section. The standards adopted under this division shall be no more stringent than the minimum floodplain management criteria of the national flood insurance program adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended.

(11) Establish, by rule, minimum flood damage reduction standards governing development undertaken by state agencies within one hundred year floodplains. The standards shall include provisions to ensure that structures are protected at least to the one hundred year flood level and that any increase in the one hundred year flood level will not exceed one foot as determined by engineering studies conducted in accordance with the technical standards established in rules adopted under division (A)(9) of this section. The standards adopted under this division shall be consistent with and no less stringent than the minimum floodplain management criteria of the national flood insurance program adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended.

(12) On behalf of the director of natural resources, administer section [1506.04](#) of the Revised Code.

(B) Rules adopted under division (A)(10) of this section and standards established under those rules apply only to developments for which a demonstration of compliance is required under division (C)(1) of section [1521.14](#) of the Revised Code.

History

HISTORY: 143 v S 396 (Eff 4-11-91); 144 v H 264 (Eff 3-2-92); 145 v S 182 (Eff 10-20-94); 146 v S 162. Eff 10-29-95.

Not analogous to former RC § [1521.13](#) (GC § 408-15; 122 v 651; Bureau of Code Revision, 10-1-53), repealed 134 v S 397, § 2, eff 10-23-72.

§ 1521.14 Floodplain management duties of state agencies and political subdivisions; marking of flood heights; conditions for funding developments.

Text of Statute

(A) All state agencies and political subdivisions, prior to the expenditure of funds for or the construction of buildings, structures, roads, bridges, or other facilities in locations that may be subject to flooding or flood damage, shall notify and consult

with the division of water and shall furnish such information as the division may reasonably require in order to avoid the uneconomic, hazardous, or unnecessary use of floodplains in connection with such facilities.

(B) With respect to existing publicly owned facilities that have suffered flood damage or that may be subject to flood damage, the chief of the division of water may conspicuously mark past and probable flood heights so as to assist in creating public awareness of and knowledge about flood hazards. Wherever economically feasible, state agencies and political subdivisions responsible for existing publicly owned facilities shall apply floodproofing measures in order to reduce potential flood damage.

(C)(1) Any state agency that funds or finances developments or that has regulatory jurisdiction that preempts the authority of political subdivisions to regulate development as necessary to establish participation in the national flood insurance program under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a one hundred year floodplain, shall require the applicant therefor to demonstrate to the satisfaction of the agency that the development will comply with the flood damage reduction standards established in rules adopted under division (A)(10) of section [1521.13](#) of the Revised Code.

(2) Any state agency that undertakes any development that is or is to be located within a one hundred year floodplain shall ensure that the development complies with the minimum flood damage reduction standards established in rules adopted under division (A)(11) of section [1521.13](#) of the Revised Code.

(3) Prior to the disbursement of any state disaster assistance funds in connection with any incident of flooding to or within a municipal corporation or county that is not listed by the chief as being in compliance under division (D)(1) of section [1521.18](#) of the Revised Code, each state agency having the authority to disburse such funds shall require the municipal corporation or county to establish or reestablish compliance as provided in that division.

(D) All state agencies shall comply with this section, rules adopted under section [1521.13](#) of the Revised Code, and any applicable local floodplain management ordinance or resolution. Upon the written request of the director of natural resources, the attorney general may bring a civil action for injunctive relief, in the court of common pleas of Franklin county, against any state agency that violates this section, rules adopted under section [1521.13](#) of the Revised Code, or any applicable local floodplain management ordinance or resolution. In the action, the court may enter an order that restrains, prevents, or abates any conduct, or abates any development undertaken by a state agency, in violation of this section, rules adopted under section [1521.13](#) of the Revised Code, or any applicable local floodplain management ordinance or resolution.

History

HISTORY: 132 v H 314 (Eff 12-14-67); 143 v S 396 (Eff 4-11-91); 144 v H 264 (Eff 3-2-92); 145 v S 182. Eff 10-20-94.

§ 1521.15 Water resources inventory and long-term plan.

Text of Statute

(A) The chief of the division of water shall develop and maintain, in cooperation with local, state, federal, and private agencies and entities, a water resources

inventory for the collection, interpretation, storage, retrieval, exchange, and dissemination of information concerning the water resources of this state, including, but not limited to, information on the location, type, quantity, and use of those resources and the location, type, and quantity of consumptive use and diversion of the water resources. The water resources inventory also shall include, without limitation, information to assist in determining the reasonableness of water use and sharing under common law, promoting reasonable use and development of water resources, and resolving water use conflicts.

All agencies of the state shall cooperate with the chief in the development and maintenance of the inventory.

(B) The chief shall cooperate with the other great lakes states and provinces to develop a common base of data regarding the management of the water resources of the Lake Erie drainage basin and to establish systematic arrangements for the exchange of those data.

(C) The chief shall prepare and present to the governor no later than September 1, 1998, a long-term water resources plan for the protection, conservation, and management of the water resources of the Lake Erie drainage basin. The plan shall include, without limitation, all of the following:

(1) An inventory of surface and ground water resources;

(2) Identification and assessment of existing uses and future demand for all of the following:

(a) Withdrawal of water resources for domestic, agricultural, manufacturing, mining, navigation, power production, recreation, fish and wildlife, and other uses;

(b) Diversion;

(c) Consumptive use.

(3) Guidelines to minimize consumptive use;

(4) Guidelines and procedures to coordinate, conserve, develop, protect, use, and manage the water resources of the Lake Erie drainage basin.

History

HISTORY: 142 v H 662 (Eff 6-29-88); 143 v H 476 (Eff 7-18-90); 145 v S 182. Eff 10-20-94.

§ 1521.16 Registration of facilities capable of withdrawing more than 100,000 gallons a day; ground water stress areas.

Text of Statute

(A) Any person who owns a facility that has the capacity to withdraw waters of the state in an amount greater than one hundred thousand gallons per day from all sources and whose construction is completed before January 1, 1990, shall register the facility by January 1, 1991, with the chief of the division of water, and any person who owns a facility that has the capacity to withdraw waters of the state in such an amount and whose construction is completed on or after January 1, 1990, shall register the facility with the chief within three months after the facility is completed. The person shall register the facility using a form prescribed by the chief that shall include, without limitation, the name and address of the registrant and date of registration; the locations and sources of the facility's water supply; the facility's withdrawal capacity per day and the amount withdrawn from each source; the uses made of the water, places of use, and places of discharge; and such other information as the chief may require by rule.

The registration date of any facility whose construction was completed prior to January 1, 1990, and that is registered under this division prior to January 1, 1991, shall be January 1, 1990. The registration date of any facility whose construction was completed prior to January 1, 1990, and that is required to register under this division prior to January 1, 1991, but that is not registered prior to that date, and the registration date of any facility whose construction was completed after January 1, 1990, and that is required to register under this division shall be the date on which the registration is received by the chief.

(B) In accordance with division (D) of this section, the chief shall adopt rules establishing standards and criteria for determining when an area of ground water is a ground water stress area, the geographic limits of such an area, and a threshold withdrawal capacity for the area below which registration under this division shall not be required. At any time following the adoption of those rules, the chief may by order designate an area of ground water as a ground water stress area and shall establish in any such order a threshold withdrawal capacity for the area below which registration under this division shall not be required.

Following the designation of a ground water stress area, the chief immediately shall give notice by publication in a newspaper of general circulation in the designated area that shall include a map delineating the designated ground water stress area and a statement of the threshold withdrawal capacity established for the area below which registration under this division shall not be required. The notice shall not appear in the legal notices section of the newspaper. Any person who owns a facility in the designated ground water stress area that is not registered under division (A) of this section and that has the capacity to withdraw waters of the state in an amount greater than the threshold withdrawal capacity for the area from all sources shall register his facility with the chief not later than thirty days after publication of the notice. A person registering a facility under this division shall do so using a form prescribed by the chief. The form shall include the information specified in division (A) of this section.

(C) Any person who owns a facility registered under division (A) or (B) of this section shall file a report annually with the chief listing the amount of water withdrawn per day by the facility, the return flow per day, and any other information the chief may require by rule. Any person who, under Chapter [6109](#). of the Revised Code, provides such information to the Ohio environmental protection agency is exempt from reporting under this division. The director of environmental protection shall provide the chief any such reported information upon his request.

(D) The chief shall adopt, and may amend or rescind, rules in accordance with Chapter [119](#). of the Revised Code to carry out this section.

(E)(1) No person knowingly shall fail to register a facility or file a report as required under this section.

(2) No person shall file a false report under this section. Violation of division (E)(2) of this section is falsification under section [2921.13](#) of the Revised Code.

(F) At the request of the director of natural resources, the attorney general may commence a civil action to compel compliance with this section, in a court of common pleas, against any person who has violated or is violating division (E)(1) of this section. The court of common pleas in which a civil action is commenced under this division has jurisdiction to and shall compel compliance with this section upon a showing that the person against whom the action is brought has violated or is violating that division.

Any action under this division is a civil action, governed by the rules of civil procedure and other rules of practice and procedure applicable to civil actions.

History

HISTORY: 142 v H 662 (Eff 6-29-88); 143 v H 476 (Eff 7-18-90); 145 v S 182. Eff 10-20-94.

§ 1521.17 Determination of reasonableness of use of water.

Text of Statute

(A) The general assembly hereby finds and declares that the determination of the reasonableness of a use of water depends upon a consideration of the interests of the person making the use, of any person harmed by the use, and of society as a whole.

(B) In accordance with section 858 of the Restatement (Second) of Torts of the American law institute, all of the following factors shall be considered, without limitation, in determining whether a particular use of water is reasonable:

- (1) The purpose of the use;
- (2) The suitability of the use to the watercourse, lake, or aquifer;
- (3) The economic value of the use;
- (4) The social value of the use;
- (5) The extent and amount of the harm it causes;
- (6) The practicality of avoiding the harm by adjusting the use or method of use of one person or the other;
- (7) The practicality of adjusting the quantity of water used by each person;
- (8) The protection of existing values of water uses, land, investments, and enterprises;
- (9) The justice of requiring the user causing harm to bear the loss.

(C) In any determination of reasonable use of water under common law in which prior use is a factor, it shall be conclusive that one use is prior to another in the quantity claimed if the date of registration of one facility providing such use under section [1521.16](#) of the Revised Code is prior to that of another facility. If a use of water in which prior use is a factor is by means of a facility having the capacity to withdraw one hundred thousand gallons or less of water per day and the facility is not registered under division (B) of that section, prior use shall be based on historic information and documentation provided by any person.

History

HISTORY: 142 v H 662 (Eff 6-29-88); 143 v H 476. Eff 7-18-90.

§ 1521.18 Compliance of municipal ordinances and county resolutions with flood insurance act standard.

Text of Statute

(A) For the purposes of this section, a one hundred year floodplain is limited to an area identified as a one hundred year floodplain in accordance with the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended.

(B) Each municipal corporation or county that has within its boundaries a one hundred year floodplain and that adopts a floodplain management ordinance or resolution or any amendments to such an ordinance or resolution on or after April 11, 1991, after adopting the ordinance, resolution, or amendments and before submitting the ordinance, resolution, or amendments to the federal emergency management agency for final approval for compliance with applicable standards

adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, shall submit the ordinance, resolution, or amendments to the chief of the division of water for his review for compliance with those standards. Within forty-five days after receiving any such ordinance, resolution, or amendments, the chief shall complete his review and notify the municipal corporation or county as to whether the ordinance, resolution, or amendments comply with those standards. If the chief finds that the ordinance, resolution, or amendments comply with those standards, he shall forward it or them to the federal emergency management agency for final approval.

(C)(1) If the chief determines that a county or municipal corporation that has adopted a floodplain management resolution or ordinance fails to administer or enforce the resolution or ordinance, the chief shall send a written notice by certified mail to the board of county commissioners of the county or the chief executive officer of the municipal corporation stating the nature of the noncompliance.

(2) In order to maintain its compliance status in accordance with division (D) of this section, a county or municipal corporation that has received a notice of noncompliance under division (C)(1) of this section may submit information to the chief not later than thirty days after receiving the notice that demonstrates compliance or indicates the actions that the county or municipal corporation is taking to administer or enforce the resolution or ordinance. The chief shall review the information and shall issue a final determination by certified mail to the county or municipal corporation of the compliance or noncompliance status of the county or municipal corporation. If the chief issues a final determination of noncompliance, he shall send a copy of that determination to the federal emergency management agency concurrently with mailing the notice to the municipal corporation or county.

(D)(1) A county or municipal corporation is considered to be in compliance for the purposes of this section if either of the following applies:

(a) The county or municipal corporation has adopted a floodplain management resolution or ordinance that the chief has determined complies with applicable standards adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, and is adequately administering and enforcing it as determined under division (C) of this section.

(b) The county or municipal corporation is participating in the national flood insurance program under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, and has not received a notice of noncompliance under division (B) or (C) of this section.

(2) The chief shall maintain a list of all counties and municipal corporations that have one hundred year floodplains within their boundaries. The list shall indicate whether each such county or municipal corporation is in compliance or noncompliance as provided in division (D)(1) of this section and whether each such county or municipal corporation is participating in the national flood insurance program. The chief shall provide a copy of the list to the general assembly and all state agencies annually and shall notify the general assembly and the agencies of any changes at least quarterly.

(E) Any county or municipal corporation that is adversely affected by any determination of the chief under this section may appeal it in accordance with Chapter [119](#) of the Revised Code not later than thirty days after the final determination.

History

HISTORY: 143 v S 396 (Eff 4-11-91); 145 v S 182. Eff 10-20-94.

§ 1521.20 Erosion agent for purposes of cooperation with federal authorities.

Text of Statute

The chief of the division of water shall act as the erosion agent of the state for the purpose of cooperating with the secretary of the army, acting through the chief of engineers of the United States army corps of engineers in the department of defense. The chief shall cooperate with the secretary in carrying out, and may conduct, investigations and studies of conditions along the shorelines of Lake Erie and of the bays and projections therefrom, and of the islands therein, within the territorial waters of the state, with a view to devising and perfecting economical and effective methods and works for preventing, correcting, and controlling shore erosion and damage therefrom and controlling the inundation of improved property by the waters of Lake Erie, its bays, and associated inlets.

History

HISTORY: GC § 412-24; 116 v 244; 123 v 84(110), § 2; 124 v 264; Bureau of Code Revision, RC § [1507.01](#), 10-1-53; 126 v 569 (Eff 9-30-55); 129 v 1350 (Eff 11-2-61); 130 v H 1 (Eff 1-23-63); RC § [1507.02](#), 145 v S 182 (Eff 10-20-94); RC § [1521.20](#), 148 v H 601. Eff 6-14-2000.

The provisions of § 6 of HB 601 (148 v --) read as follows:

SECTION 6. On the effective date of this section, all of the staff, records, files, and effects of the Division of Engineering in the Department of Natural Resources pertaining to the functions, powers, duties, and obligations of that Division under former sections 1507.02, 1507.03, 1507.04, 1507.05, 1507.06, 1507.07, 1507.071, 1507.08, 1507.09, 1507.10, 1507.11, and 1507.99 of the Revised Code shall be transferred and assigned to the Division of Water in the Department of Natural Resources for the purposes of sections [1521.20](#) to [1521.30](#) and [1521.99](#) of the Revised Code, as amended by this act. The Division of Water also shall assume custody and control of funds and other assets in the possession of the Division of Engineering that are appropriate and necessary to carry out the transferred functions, powers, duties, and obligations.

Any business or other matter undertaken or commenced by the Division of Engineering pertaining to or connected with the functions, powers, duties, and obligations hereby transferred or assigned and pending on the effective date of this act shall be conducted and completed by the Division of Water in the same manner and under the same terms and conditions and with the same effect as if conducted by the Division of Engineering.

All powers of the Chief Engineer of the Division of Engineering transferred by this act shall be performed by the Chief of the Division of Water.

All criteria, acts, determinations, certifications, and decisions of the Division of Engineering pertaining to the functions transferred and assigned to the Division of Water at the time of the transfer and assignment shall continue in force as criteria, acts, determinations, certifications, and decisions of the Division of Water until duly modified or terminated by that Division.

Wherever the functions, powers, duties, and obligations of the Division of Engineering that are transferred and assigned by this act to the Division of Water are referred to or designated in any law, contract, or other document pertaining to

those functions, powers, duties, and obligations, the reference or designation shall be deemed to refer to the Division of Water.

No existing right or remedy of any person shall be lost, impaired, or affected by reason of this act, except insofar as the rights and remedies shall be administered by the Division of Water instead of the Division of Engineering.

No action or proceeding pending on the effective date of this act brought by the Division of Engineering pertaining to the functions, powers, duties, and obligations that are transferred by this act shall be affected by any provision of this act, but may be prosecuted or defended in the name of the Division of Water. In all such actions and proceedings, the Division of Water, upon application to the court, shall be substituted as a party.

§ 1521.21 Assistance by engineers and employees of other state departments or educational institutions.

Text of Statute

The chief of the division of water, in the discharge of the chief's duties under sections 1507.20 to 1507.30 of the Revised Code, may call to the chief's assistance, temporarily, any engineers or other employees in any state department, or in the Ohio state university or other educational institutions financed wholly or in part by the state, for the purpose of devising the most effective and economical methods of controlling shore erosion and damage from it and controlling the inundation of improved property by the waters of Lake Erie and its bays and associated inlets. Such engineers and employees shall not receive any additional compensation over that which they receive from the departments or institutions by which they are employed, but they shall be reimbursed for their actual necessary expenses incurred while working under the direction of the chief on erosion and inundation projects.

History

HISTORY: GC §§ 412-25, 412-26; 116 v 244, §§ 2, 3; 123 v 84(111), § 2; 124 v 264; Bureau of Code Revision, RC § [1507.02](#), 10-1-53; 129 v 1350 (Eff 11-2-61); RC § [1507.03](#), 145 v S 182 (Eff 10-20-94); RC § [1521.21](#), 148 v H 601. Eff 6-14-2000.

§ 1521.22 Shore structure permits.

Text of Statute

No person shall construct a beach, groin, or other structure to control erosion, wave action, or inundation along or near the Ohio shoreline of Lake Erie, including related islands, bays, and inlets, without first obtaining a shore structure permit from the chief of the division of water. The application for a shore structure permit shall include detailed plans and specifications prepared by a professional engineer registered under Chapter 4733. of the Revised Code. An applicant shall provide appropriate evidence of compliance with any applicable provisions of this chapter and Chapters 1505. and 1506. of the Revised Code, as determined by the chief. A temporary shore structure permit may be issued by the chief or an authorized representative of the chief if it is determined necessary to safeguard life, health, or property.

Each application or reapplication for a permit under this section shall be accompanied by a non-refundable fee as the chief shall prescribe by rule.

If the application is approved, the chief shall issue a permit to the applicant authorizing construction of the project. If requested in writing by the applicant within thirty days of issuance of a notice of disapproval of the application, the chief shall conduct an adjudication hearing under Chapter [119](#) of the Revised Code, except sections [119.12](#) and [119.121](#) [119.12.1] of the Revised Code. After reviewing the record of the hearing, the chief shall issue a final order approving the application, disapproving it, or approving it conditioned on the making of specified revisions in the plans and specifications.

The chief, by rule, shall limit the period during which a construction permit issued under this section is valid and shall establish reapplication requirements governing a construction permit that expires before construction is completed.

In accordance with Chapter [119](#) of the Revised Code, the chief shall adopt, and may amend or rescind, such rules as are necessary for the administration, implementation, and enforcement of this section.

History

HISTORY: GC § 412-28; 116 v 244, § 5; 121 v 575; 123 v 84(111), § 2; 124 v 264; Bureau of Code Revision, RC § [1507.03](#), 10-1-53; 125 v 802 (Eff 10-30-53); 126 v 769 (Eff 10-5-55); 129 v 1350 (Eff 11-2-60); 142 v S 70 (Eff 3-15-89); RC § [1507.04](#), 145 v S 182 (Eff 10-20-94); RC § [1521.22](#), 148 v H 601. Eff 6-14-2000.

§ 1521.23 Permit and lease fund.

Text of Statute

All moneys derived from the granting of permits and leases under section [1505.07](#) of the Revised Code for the removal of sand, gravel, stone, gas, oil, and other minerals and substances from and under the bed of Lake Erie and from applications for shore structure permits submitted under section [1521.22](#) of the Revised Code shall be paid into the state treasury to the credit of the permit and lease fund, which is hereby created. Notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under division (A) of section [1505.99](#) and division (C) of section [1521.99](#) of the Revised Code shall be paid into that fund. The fund shall be administered by the department of natural resources for the protection of Lake Erie shores and waters; investigation and control of erosion; the planning, development, and construction of facilities for recreational use of Lake Erie; implementation of section [1521.22](#) of the Revised Code; preparation of the state shore erosion plan under section [1521.29](#) of the Revised Code; and state administration of Lake Erie coastal erosion areas under sections [1506.06](#) and [1506.07](#) of the Revised Code.

History

HISTORY: GC § 412-28; 116 v 244, § 5; 121 v 575; 123 v 84(111), § 2; 124 v 264; Bureau of Code Revision, RC § [1507.04](#), 10-1-53; 126 v 569 (Eff 9-30-55); 129 v 582(684) (Eff 1-10-61); 129 v 1350 (Eff 11-2-61); 131 v 458 (Eff 11-5-65); 134 v H 94 (Eff 10-16-72); 134 v S 397 (Eff 10-23-72); 137 v S 221 (Eff 11-23-77); 141 v H 201 (Eff 7-1-85); 142 v S 70 (Eff 3-15-89); RC § [1507.05](#), 145 v S 182 (Eff 10-20-94); 146 v H 119 (Eff 5-8-96); 147 v S 187 (Eff 3-18-99); RC § [1521.23](#), 148 v H 601. Eff 6-14-2000.

§ 1521.24 Agreements with subdivisions or state agencies for erosion projects.

Text of Statute

The state, acting through the chief of the division of water, subject to section [1521.28](#) of the Revised Code, may enter into agreements with counties, townships, municipal corporations, park boards, and conservancy districts, other political subdivisions, or any state departments or divisions for the purpose of constructing and maintaining projects to control erosion along the Ohio shoreline of Lake Erie and in any rivers and bays that are connected with Lake Erie and any other watercourses that flow into Lake Erie. Such projects also may be constructed on any Lake Erie island that is situated within the boundaries of the state.

The cost of such shore erosion projects that are for the benefit of public littoral property shall be prorated on the basis of two-thirds of the total cost to the state through appropriations made to the division of water and one-third of the cost to the counties, townships, municipal corporations, park boards, conservancy districts, or other political subdivisions.

If a shore erosion emergency is declared by the governor, the state, acting through the chief, may spend whatever state funds are available to alleviate shore erosion, without participation by any political subdivision, regardless of whether the project will benefit public or private littoral property.

A board of county commissioners, acting for the county over which it has jurisdiction, may enter into and carry out agreements with the chief for the construction and maintenance of projects to control shore erosion. In providing the funds for the county's proportionate share of the cost of constructing and maintaining the projects referred to in this section, the board shall be governed by and may issue and refund bonds in accordance with Chapter [133](#). of the Revised Code.

A municipal corporation or a township, acting through the legislative authority or the board of township trustees, may enter into and carry out agreements with the chief for the purpose of constructing and maintaining projects to control shore erosion. In providing the funds for the municipal corporation's or township's proportionate share of the cost of constructing and maintaining the projects referred to in this section, a municipal corporation or township may issue and refund bonds in accordance with Chapter [133](#). of the Revised Code. The contract shall be executed on behalf of the municipal corporation or township by the mayor, city manager, or other chief executive officer who has the authority to act for the municipal corporation or township.

Conservancy districts may enter into and carry out agreements with the chief, in accordance with the intent of this section, under the powers conferred upon conservancy districts under Chapter [6101](#). of the Revised Code.

Park boards may enter into and carry out agreements with the chief, in accordance with the intent of this section, and issue bonds for that purpose under the powers conferred upon park districts under Chapter [1545](#). of the Revised Code.

The chief shall approve and supervise all projects that are to be constructed in accordance with this section. The chief shall not proceed with the construction of any project until all funds that are to be paid by the county, township, municipal corporation, park board, or conservancy district, in accordance with the terms of the agreement entered into between the chief and the county, township, municipal corporation, park board, or conservancy district, are in the chief's possession and deposited in the shore erosion fund, which is hereby created in the state treasury. If the chief finds it to be in the best interests of the state to construct projects as

set forth in this section by the state itself, without the financial contribution of counties, townships, municipal corporations, park boards, or conservancy districts, the chief may construct the projects.

In deciding whether to assist a county or municipal corporation in constructing and maintaining a project under this section, the state, acting through the chief, shall consider, among other factors, whether the county or municipal corporation has adopted or is in the process of adopting a Lake Erie coastal erosion area resolution or ordinance under division (D) of section [1506.07](#) of the Revised Code.

All projects constructed by the state in conformity with sections [1521.20](#) to [1521.28](#) of the Revised Code shall be constructed subject to sections [153.01](#) to [153.20](#) of the Revised Code, except that the state architect and engineer is not required to prepare the plans and specifications for those projects.

History

HISTORY: GC § 412-28; 116 v 244, § 5; 121 v 575; 123 v 84(111), § 2; 124 v 264; Bureau of Code Revision, RC § [1507.05](#), 10-1-53; 125 v 802 (Eff 10-30-53); 129 v 1350 (Eff 11-2-61); 130 v H 573 (Eff 9-30-63); 137 v S 221 (Eff 11-23-77); 141 v H 201 (Eff 7-1-85); 142 v S 70 (Eff 3-15-89); 143 v H 230 (Eff 10-30-89); RC § [1507.06](#), 145 v S 182 (Eff 10-20-94); 146 v H 119 (Eff 5-8-96); RC § [1521.24](#), 148 v H 601. Eff 6-14-2000.

§ 1521.25 Contracts with subdivisions for erosion projects.

Text of Statute

The chief of the division of water may enter into a contract with any county, township, municipal corporation, conservancy district, or park board that has an agreement with the state in accordance with section [1521.24](#) of the Revised Code for the construction of a shore erosion project. No contract shall be let until all money that is to be paid by the political subdivision entering into the agreement has been deposited in the shore erosion fund created in section [1521.24](#) of the Revised Code, and no contract shall be valid until approved by the director of natural resources.

History

HISTORY: RC § [1507.05.1](#), 125 v 802 (Eff 10-30-53); 129 v 1350 (Eff 11-2-61); 137 v S 221 (Eff 11-23-77); 141 v H 201 (Eff 7-1-85); RC § [1507.07](#), 145 v S 182 (Eff 10-20-94); RC § [1521.25](#), 148 v H 601. Eff 6-14-2000.

§ 1521.26 Coastal erosion loan program.

Text of Statute

(A) A board of county commissioners may use a loan obtained under division (C) of this section to provide financial assistance to any person who owns real property in a coastal erosion area, as defined in section [1506.01](#) of the Revised Code, and who has received a permit under section [1521.22](#) of the Revised Code to construct an erosion control structure in that coastal erosion area. The board shall enter into an agreement with the person that complies with all of the following requirements:

(1) The agreement shall identify the person's real property for which the erosion control structure is being constructed and shall include a legal description of that property and a reference to the volume and page of the deed record in which the title of that person to that property is recorded.

(2) In accordance with rules adopted by the Ohio water development authority under division (V) of section [6121.04](#) of the Revised Code for the purposes of

division (C) of this section and pursuant to an agreement between the board and the authority under that division, the board shall agree to cause payments to be made by the authority to the contractor hired by the person to construct an erosion control structure in amounts not to exceed the total amount specified in the agreement between the board and the person.

(3) The person shall agree to pay to the board, or to the authority as the assignee pursuant to division (C) of this section, the total amount of the payments plus administrative or other costs of the board or the authority at times, in installments, and bearing interest as specified in the agreement.

The agreement may contain additional provisions that the board determines necessary to safeguard the interests of the county or to comply with an agreement entered into under division (C) of this section.

(B) Upon entering into an agreement under division (A) of this section, the board shall do all of the following:

(1) Cause the agreement to be recorded in the county deed records in the office of the county recorder of the county in which the real property is situated. Failure to record the agreement does not affect the validity of the agreement or the collection of any amounts due under the agreement.

(2) Establish by resolution an erosion control repayment fund into which shall be deposited all amounts collected under division (B)(3) of this section. Moneys in that fund shall be used by the board for the repayment of the loan and for administrative or other costs of the board or the authority as specified in an agreement entered into under division (C) of this section. If the amount of money in the fund is inadequate to repay the loan when due, the board of county commissioners, by resolution, may advance money from any other fund in order to repay the loan if that use of the money from the other fund is not in conflict with law. If the board so advances money in order to repay the loan, the board subsequently shall reimburse each fund from which the board advances money with moneys from the erosion control repayment fund.

(3) Bill and collect all amounts when due under the agreement entered into under division (A) of this section. The board shall certify amounts not paid when due to the county auditor, who shall enter the amounts on the real property tax list and duplicate against the property identified under division (A)(1) of this section. The amounts not paid when due shall be a lien on that property from the date on which the amounts are placed on the tax list and duplicate and shall be collected in the same manner as other taxes.

(C) A board may apply to the authority for a loan for the purpose of entering into agreements under division (A) of this section. The loan shall be for an amount and on the terms established in an agreement between the board and the authority. The board may assign any agreements entered into under division (A) of this section to the authority in order to provide for the repayment of the loan and may pledge any lawfully available revenues to the repayment of the loan, provided that no moneys raised by taxation shall be obligated or pledged by the board for the repayment of the loan. Any agreement with the authority pursuant to this division is not subject to Chapter [133](#). of the Revised Code or any requirements or limitations established in that chapter.

(D) The authority, as assignee of any agreement pursuant to division (C) of this section, may enforce and compel the board and the county auditor by mandamus

pursuant to Chapter [2731](#). of the Revised Code to comply with division (B) of this section in a timely manner.

(E) The construction of an erosion control structure by a contractor hired by an individual homeowner, group of individual homeowners, or homeowners association that enters into an agreement with a board under division (A) of this section is not a public improvement, as defined in section [4115.03](#) of the Revised Code, and is not subject to competitive bidding or public bond laws.

History

HISTORY: RC § [1507.07.1](#), 148 v S 43 (Eff 10-20-99); RC § [1521.26](#), 148 v H 601. Eff 6-14-2000.

§ 1521.27 Acquisition of lands.

Text of Statute

The state, or any county, township, municipal corporation, conservancy district, or park board that has entered into a contract under section [1521.25](#) of the Revised Code, may acquire lands by gift or devise, purchase, or appropriation. In case of appropriation, the proceedings shall be instituted in the name of the state or the political subdivision and shall be conducted in the manner provided for the appropriation of private property by the state or the political subdivision insofar as those proceedings are applicable. Either the fee or any lesser interest may be acquired as the state or the political subdivision considers advisable.

History

HISTORY: RC § [1507.05.2](#), 125 v 802 (Eff 10-30-53); RC § [1507.08](#), 145 v S 182 (Eff 10-20-94); RC § [1521.27](#), 148 v H 601. Eff 6-14-2000.

§ 1521.28 Action not in conflict.

Text of Statute

Any action taken by the chief of the division of water under sections [1521.20](#) to [1521.30](#) of the Revised Code shall not be deemed in conflict with certain powers and duties conferred upon and delegated to federal agencies and to municipal corporations under Section 7 of Article XVIII, Ohio Constitution, or as provided by sections [721.04](#) to [721.11](#) of the Revised Code.

History

HISTORY: GC § 412-29; 115 v 244, § 6; 123 v 84(114), § 2; 124 v 264; Bureau of Code Revision, RC § [1507.11](#), 10-1-53; 129 v 1350 (Eff 11-2-61); 142 v S 70 (Eff 3-15-89); RC § [1507.09](#), 145 v S 182 (Eff 10-20-94); RC § [1521.28](#), 148 v H 601. Eff 6-14-2000.

§ 1521.29 Plan for management of erosion; technical assistance to subdivisions and landowners.

Text of Statute

The chief of the division of water, in cooperation with the division of geological survey, may prepare a plan for the management of shore erosion in the state along Lake Erie, its bays, and associated inlets, revise the plan whenever it can be made more effective, and make the plan available for public inspection. In the preparation of the plan, the chief may employ such existing plans as are available.

The chief also may establish a program to provide technical assistance on shore erosion control measures to municipal corporations, counties, townships, conservancy districts, park boards, and shoreline property owners.

History

HISTORY: RC § [1507.12](#), 125 v 802 (Eff 10-30-53); 129 v 1350 (Eff 11-2-61); 142 v S 70 (Eff 3-15-89); RC § [1507.10](#), 145 v S 182 (Eff 10-20-94); RC § [1521.29](#), 148 v H 601. Eff 6-14-2000.

§ 1521.30 Reappraisal of real property damaged or destroyed by shore erosion.

Text of Statute

Upon application of any owner of real property damaged or destroyed by shore erosion, the county auditor of the county in which the real property is situated shall cause a reappraisal to be made and shall place the property on the tax list at its true value in money.

Whenever the county auditor finds that ninety per cent or more of the area of any littoral parcel of land appearing upon the tax duplicate has been eroded and lies within the natural boundaries of Lake Erie and that the remainder of the parcel, if any, has no taxable value, the auditor may certify that finding to the county board of revision. Upon consideration thereof, the board may authorize removal of the parcel from the tax duplicate and cancellation of all current and delinquent taxes, assessments, interest, and penalties charged against the parcel.

History

HISTORY: RC § [1507.13](#), 125 v 802 (Eff 10-30-53); 136 v H 920 (Eff 10-11-76); 140 v H 260 (Eff 9-27-83); RC § [1507.11](#), 145 v S 182 (Eff 10-20-94); RC § [1521.30](#), 148 v H 601. Eff 6-14-2000.

§§ 1521.41, 1521.42 Repealed.

Repealed, 132 v H 192, § 1 [127 v 88; 131 v 506]. Eff 8-24-67.

These sections were about the construction, control and management of Salt Fork Lake.

§ 1521.99 Penalties.

Text of Statute

(A) Whoever violates division (C)(1) of section [1521.05](#) or division (E)(1) of section [1521.16](#) of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section [1521.06](#) or [1521.062](#) [1521.06.2] of the Revised Code shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each day of violation constitutes a separate offense.

(C) Whoever violates sections [1521.20](#) to [1521.30](#) of the Revised Code shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each day of violation constitutes a separate offense.

History

HISTORY: 137 v H 522 (Eff 11-1-77); 142 v H 171 (Eff 7-1-87); 142 v H 662 (Eff 6-29-88); 143 v H 476 (Eff 7-18-90); 145 v S 182 (Eff 10-20-94); 148 v H 601. Eff 6-14-2000.

Not analogous to former RC § [1521.99](#) (Bureau of Code Revision, 10-1-53), repealed 134 v S 397, eff 10-23-72.