



## **Financing and Completing Lake Erie Shoreline Improvements through Special Improvement Districts**

*Numerous members of the Ohio Lakefront Group have inquired about legislation that was introduced in 2017 and 2018 to allow property owners to band together to form special improvement districts as a means of financing improvements and repairs to their lakefront property.*

### **What is a Special Improvement District?**

A Special Improvement District (SID) is an economic development tool that may be used to facilitate the development and implementation of services within a defined district located within one or more cities, villages, or townships. The improvements and services are funded through a special assessment levied against property in the district. The SID is administered by the board of directors of a nonprofit corporation that is created for the purpose of governing the SID.

Legislation was recently passed so that a SIDs could be used for shoreline improvements. To simplify, in this review, we will call them “Shoreline SIDs.”

### **Timeline and Legislative Process**

In the 132<sup>nd</sup> General Assembly (2017 – 2018), two similar legislative proposals were introduced that would expand the scope of public improvements that may be financed via a SID to include shoreline improvements along the coast of Lake Erie:

- Senate Bill 51, sponsored by Sen. Eklund (R-Chardon) and Skindell (D-Lakewood), and
- House Bill 709, sponsored by Reps. Young (R-Painesville) and Rogers (D-Mentor-on-the-Lake).

It is not uncommon for similar bills to be introduced in both Chambers of the Legislature, but only one version can become law. In this case, not only was SB 51 the version to go to the Governor for a signature, but numerous provisions not related to shoreline improvements were also added to the bill. Consequently, when Governor Kasich signed SB 51 on December 19, 2018, the bill shows staggered effective dates for various provisions, but **the provisions related to Shoreline SIDs will become effective on March 20, 2019.**

### **Shoreline SIDs – Background**

A shoreline SID will allow property owners to band together to form a public-private partnership for the purposes of lakefront repairs, improvements, and protection. It allows property owners to develop a project funded by a special assessment on the properties within the district. Whereas SIDs are generally paid for as a bonded project assessed over a term of up to ten years, a

Shoreline SID can be assessed over a term of up to thirty years. Shoreline SIDs are not grants or zero-interest loans. Instead, they are generally projects financed through the bonding authority of local governments. Property owners will still pay for the project through assessments.

If a group of property owners wants to form a Shoreline SID, there are several steps that need to take place. In-depth statutory information on creating a SID can be found [here](#), with more information in the resources section below. In general, property owners will need to form a nonprofit organization to serve as the petitioning entity. The nonprofit organization will have authority to do things such as purchase and sell property, sign contracts, enter into agreements, and other similar activities, as long as it is an activity that is permitted by for a local government to enter into under its bond authority. Once the non-profit is formed, a project size/scope and needs will be established and participating properties will be identified. A Shoreline SID must be signed by 100% of the participating property owners, but properties do not have to be contiguous. Once the petition is complete, it will go before the local municipal government or township for approval. **We strongly advise that petitioners and property owners seek advice from appropriate legal counsel before submitting or signing on to a Shoreline SID. Ohio's SID law cities to set "reasonable" conditions before approving the petition, and some people have raised the valid concern that a local government could require public access as part of the approval process. We have fought hard to protect, defend, and retain our private property rights and must be vigilant that they are not accidentally given away.**

A parcel can also be added into a Shoreline SID, but only if the assessed project benefits the parcel. SB 51 also allows a Shoreline SID project to extend into the waters of Lake Erie, provided that the project complies with all applicable laws and regulations and the state is not subject to the assessment. A project proposed by a Shoreline SID may require the approval of the ODNR and the U.S. Army Corps of Engineers.

Once the petition is approved by local government, the project can be financed, owners assessed, and work started.

## **Special Note**

*This analysis is intended to help clarify the status of SB 51 and HB 709 of the 132<sup>nd</sup> General Assembly and outline the provisions related to Shoreline SIDs under SB 51 as signed by the Governor. It is not intended as legal or technical advice on your particular situation and is not intended to endorse or recommend entering into a Special Improvement District. While a Shoreline SID may be a unique opportunity to protect and preserve your lakefront property from erosion or damage, we **strongly** advise that any property owner who is considering entering into a SID get the appropriate legal assistance to ensure that provisions of that agreement do not inadvertently reduce your private property rights, which we have worked for so long to preserve, protect and defend.*

## **Resources**

[SB 51: Link to Legislation, Analysis, Testimony, and Fiscal Information](#) (Enacted)

[HB 709: Link to Legislation, Analysis, Testimony, and Fiscal Information](#) (Not Enacted)

[ORC 1710: Special Improvement Districts](#)

[OSU Factsheet on SIDs](#) (written prior to passage of SB 51)