

## **As Passed by the House**

**128th General Assembly**

**Regular Session**  
**2009-2010**

**Am. Sub. S. B. No. 110**

**Senator Niehaus**

**Cosponsors: Senators Cafaro, Fedor, Harris, Kearney, Sawyer, Schaffer,  
Schiavoni, Seitz, Turner, Miller, D., Strahorn, Smith, Miller, R., Morano  
Representatives Bubp, Chandler, DeBose, Domenick, Garland, Hagan,  
Harwood, Letson, Luckie, Mallory, Reece, Uecker, Walter, Weddington,  
Williams, B., Winburn, Yuko**

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## **A B I L L**

To amend sections 711.05, 711.10, 3718.01, 3718.02,	1
3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and	2
6117.51 and to enact sections 3718.011, 3718.012,	3
3718.023, 3718.024, 3718.025, 3718.041, and	4
3718.11 of the Revised Code to revise the	5
Household Sewage and Small Flow On-Site Sewage	6
Treatment Systems Law, and to amend Section 3 of	7
Am. H.B. 416 of the 127th General Assembly to	8
extend the date by which the report of the Great	9
Lakes-St. Lawrence River Basin Water Resources	10
Compact Advisory Board is due.	11

## **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

<b>Section 1.</b> That sections 711.05, 711.10, 3718.01, 3718.02,	12
3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 6117.51 be	13
amended and sections 3718.011, 3718.012, 3718.023, 3718.024,	14
3718.025, 3718.041, and 3718.11 of the Revised Code be enacted to	15
read as follows:	16

**Sec. 711.05.** (A) Upon the submission of a plat for approval, 17  
in accordance with section 711.041 of the Revised Code, the board 18  
of county commissioners shall certify on it the date of the 19  
submission. Within five days of submission of the plat, the board 20  
shall schedule a meeting to consider the plat and send a written 21  
notice by regular mail to the fiscal officer of the board of 22  
township trustees of the township in which the plat is located and 23  
the board of health of the health district in which the plat is 24  
located. The notice shall inform the trustees and the board of 25  
health of the submission of the plat and of the date, time, and 26  
location of any meeting at which the board of county commissioners 27  
will consider or act upon the proposed plat. The meeting shall 28  
take place within thirty days of submission of the plat, and no 29  
meeting shall be held until at least seven days have passed from 30  
the date the notice was sent by the board of county commissioners. 31  
The approval of the board required by section 711.041 of the 32  
Revised Code or the refusal to approve shall take place within 33  
thirty days from the date of submission or such further time as 34  
the applying party may agree to in writing; otherwise, the plat is 35  
deemed approved and may be recorded as if bearing such approval. 36

(B) The board may adopt general rules governing plats and 37  
subdivisions of land falling within its jurisdiction, to secure 38  
and provide for the coordination of the streets within the 39  
subdivision with existing streets and roads or with existing 40  
county highways, for the proper amount of open spaces for traffic, 41  
circulation, and utilities, and for the avoidance of future 42  
congestion of population detrimental to the public health, safety, 43  
or welfare, but shall not impose a greater minimum lot area than 44  
forty-eight hundred square feet. Before the board may amend or 45  
adopt rules, it shall notify all the townships in the county of 46  
the proposed amendments or rules by regular mail at least thirty 47  
days before the public meeting at which the proposed amendments or 48

rules are to be considered.	49
The rules may require the board of health to review and comment on a plat before the board of county commissioners acts upon it and may also require proof of compliance with any applicable zoning resolutions, and with <del>household</del> sewage treatment rules adopted under section 3718.02 of the Revised Code, as a basis for approval of a plat. Where under section 711.101 of the Revised Code the board of county commissioners has set up standards and specifications for the construction of streets, utilities, and other improvements for common use, the general rules may require the submission of appropriate plans and specifications for approval. The board shall not require the person submitting the plat to alter the plat or any part of it as a condition for approval, as long as the plat is in accordance with general rules governing plats and subdivisions of land, adopted by the board as provided in this section, in effect at the time the plat was submitted and the plat is in accordance with any standards and specifications set up under section 711.101 of the Revised Code, in effect at the time the plat was submitted.	50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67
(C) The ground of refusal to approve any plat, submitted in accordance with section 711.041 of the Revised Code, shall be stated upon the record of the board, and, within sixty days thereafter, the person submitting any plat that the board refuses to approve may file a petition in the court of common pleas of the county in which the land described in the plat is situated to review the action of the board. A board of township trustees is not entitled to appeal a decision of the board of county commissioners under this section.	68 69 70 71 72 73 74 75 76
<b>Sec. 711.10.</b> (A) Whenever a county planning commission or a regional planning commission adopts a plan for the major streets or highways of the county or region, no plat of a subdivision of	77 78 79

land within the county or region, other than land within a 80  
municipal corporation or land within three miles of a city or one 81  
and one-half miles of a village as provided in section 711.09 of 82  
the Revised Code, shall be recorded until it is approved by the 83  
county or regional planning commission under division (C) of this 84  
section and the approval is endorsed in writing on the plat. 85

(B) A county or regional planning commission may require the 86  
submission of a preliminary plan for each plat sought to be 87  
recorded. If the commission requires this submission, it shall 88  
provide for a review process for the preliminary plan. Under this 89  
review process, the planning commission shall give its approval, 90  
its approval with conditions, or its disapproval of each 91  
preliminary plan. The commission's decision shall be in writing, 92  
shall be under the signature of the secretary of the commission, 93  
and shall be issued within thirty-five business days after the 94  
submission of the preliminary plan to the commission. The 95  
disapproval of a preliminary plan shall state the reasons for the 96  
disapproval. A decision of the commission under this division is 97  
preliminary to and separate from the commission's decision to 98  
approve, conditionally approve, or refuse to approve a plat under 99  
division (C) of this section. 100

(C) Within five calendar days after the submission of a plat 101  
for approval under this division, the county or regional planning 102  
commission shall schedule a meeting to consider the plat and send 103  
a notice by regular mail or by electronic mail to the fiscal 104  
officer of the board of township trustees of the township in which 105  
the plat is located and the board of health of the health district 106  
in which the plat is located. The notice shall inform the trustees 107  
and the board of health of the submission of the plat and of the 108  
date, time, and location of any meeting at which the county or 109  
regional planning commission will consider or act upon the plat. 110  
The meeting shall take place within thirty calendar days after 111

submission of the plat, and no meeting shall be held until at 112  
least seven calendar days have passed from the date the planning 113  
commission sent the notice. 114

The approval of the county or regional planning commission, 115  
the commission's conditional approval as described in this 116  
division, or the refusal of the commission to approve shall be 117  
endorsed on the plat within thirty calendar days after the 118  
submission of the plat for approval under this division or within 119  
such further time as the applying party may agree to in writing; 120  
otherwise that plat is deemed approved, and the certificate of the 121  
commission as to the date of the submission of the plat for 122  
approval under this division and the failure to take action on it 123  
within that time shall be sufficient in lieu of the written 124  
endorsement or evidence of approval required by this division. 125

A county or regional planning commission may grant 126  
conditional approval under this division to a plat by requiring a 127  
person submitting the plat to alter the plat or any part of it, 128  
within a specified period after the end of the thirty calendar 129  
days, as a condition for final approval under this division. Once 130  
all the conditions have been met within the specified period, the 131  
commission shall cause its final approval under this division to 132  
be endorsed on the plat. No plat shall be recorded until it is 133  
endorsed with the commission's final or unconditional approval 134  
under this division. 135

The ground of refusal of approval of any plat submitted under 136  
this division, including citation of or reference to the rule 137  
violated by the plat, shall be stated upon the record of the 138  
county or regional planning commission. Within sixty calendar days 139  
after the refusal under this division, the person submitting any 140  
plat that the commission refuses to approve under this division 141  
may file a petition in the court of common pleas of the proper 142  
county, and the proceedings on the petition shall be governed by 143

section 711.09 of the Revised Code as in the case of the refusal of a planning authority to approve a plat. A board of township trustees is not entitled to appeal a decision of the commission under this division.	144 145 146 147
A county or regional planning commission shall adopt general rules, of uniform application, governing plats and subdivisions of land falling within its jurisdiction, to secure and provide for the proper arrangement of streets or other highways in relation to existing or planned streets or highways or to the county or regional plan, for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air, and for the avoidance of congestion of population. The rules may provide for their modification by the commission in specific cases where unusual topographical and other exceptional conditions require the modification. The rules may require the board of health to review and comment on a plat before the commission acts upon it and also may require proof of compliance with any applicable zoning resolutions, and with <del>household</del> sewage treatment rules adopted under section 3718.02 of the Revised Code, as a basis for approval of a plat.	148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163
Before adoption of its rules or amendment of its rules, the commission shall hold a public hearing on the adoption or amendment. Notice of the public hearing shall be sent to all townships in the county or region by regular mail or electronic mail at least thirty business days before the hearing. No county or regional planning commission shall adopt any rules requiring actual construction of streets or other improvements or facilities or assurance of that construction as a condition precedent to the approval of a plat of a subdivision unless the requirements have first been adopted by the board of county commissioners after a public hearing. A copy of the rules shall be certified by the planning commission to the county recorders of the appropriate	164 165 166 167 168 169 170 171 172 173 174 175

counties.	176
After a county or regional street or highway plan has been adopted as provided in this section, the approval of plats and subdivisions provided for in this section shall be in lieu of any approvals provided for in other sections of the Revised Code, insofar as the territory within the approving jurisdiction of the county or regional planning commission, as provided in this section, is concerned. Approval of a plat shall not be an acceptance by the public of the dedication of any street, highway, or other way or open space shown upon the plat.	177 178 179 180 181 182 183 184 185
No county or regional planning commission shall require a person submitting a plat to alter the plat or any part of it as long as the plat is in accordance with the general rules governing plats and subdivisions of land, adopted by the commission as provided in this section, in effect at the time the plat is submitted.	186 187 188 189 190 191
A county or regional planning commission and a city or village planning commission, or platting commissioner or legislative authority of a village, with subdivision regulation jurisdiction over unincorporated territory within the county or region may cooperate and agree by written agreement that the approval of a plat by the city or village planning commission, or platting commissioner or legislative authority of a village, as provided in section 711.09 of the Revised Code, shall be conditioned upon receiving advice from or approval by the county or regional planning commission.	192 193 194 195 196 197 198 199 200 201
(D) As used in this section, "business day" means a day of the week excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.	202 203 204
<b>Sec. 3718.01.</b> As used in this chapter:	205

(A) "Alter" means to change by making substantive replacements of, additions to, or deletions in the design or materials or to change the location of an existing sewage treatment system.	206 207 208 209
(B) <u>"Bedrock"</u> means hard stratum that underlies unconsolidated surface materials or soil.	210 211
(C) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.	212 213 214 215
(C)(D) "Domestic septage" means the liquid or solid material removed from a sewage treatment system, portable toilet, or type III marine sanitation device as defined in 33 C.F.R. 159.3. "Domestic septage" does not include grease removed from a grease trap.	216 217 218 219 220
(D)(E) "Gray water recycling systems" means systems that treat and reuse wastewater discharged from lavatories, bathtubs, showers, clothes washers, and laundry sinks that does not contain food wastes or bodily wastes.	221 222 223 224
(F) "Household sewage treatment system" means any sewage treatment system, or part of such a system, that receives sewage from a single-family, two-family, or three-family dwelling.	225 226 227
(E)(G) "Infiltrative surface" means the point or area of application of treated or partially treated sewage to the soil or sand fill for purposes of treatment, dispersal, or both.	228 229 230
(H) "Inspection" means the on-site evaluation or analysis of the <u>functioning design, installation, and operation</u> of a sewage treatment system.	231 232 233
(F)(I) "Installer" means any person who engages in the business of installing or altering or who, as an employee of	234 235

another, installs or alters any sewage treatment system.	236
<u>(G)(J) "Limiting condition" means a restrictive soil layer, bedrock, a water table, or ground water that limits or precludes the treatment or dispersal of sewage in the soil of a property where a household sewage treatment system is located.</u>	237
<u>(K) "Manufacturer" means any person that manufactures sewage treatment systems or components of systems.</u>	241
<u>(H)(L) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any state, any political subdivision of a state, and any department, division, board, commission, agency, or instrumentality of a state or political subdivision.</u>	243
<u>(I)(M) "Sanitary sewerage system" means pipelines or conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities that convey sewage to a central sewage treatment plant and that are required to obtain a permit under Chapter 6111. of the Revised Code.</u>	248
<u>(J)(N) "Septage hauler" means any person who engages in the collection, transportation, disposal, and land application of domestic septage.</u>	253
<u>(K)(O) "Service provider" means any person who services, but does not install or alter, sewage treatment systems.</u>	256
<u>(L)(P) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution that originates from humans and human activities. "Sewage" includes liquids containing household chemicals in solution commonly discharged from a residence or from commercial, institutional, or other similar facilities.</u>	258
<u>(M)(O) "Sewage treatment system" means a household sewage treatment system, a small flow on-site sewage treatment system, or</u>	264

both, as applicable.	266
<p><u>(N)(R) "Small flow on-site sewage treatment system"</u> means a system, other than a household sewage treatment system, that treats not more than one thousand gallons of sewage per day and that does not require a national pollutant discharge elimination system permit issued under section 6111.03 of the Revised Code or an injection well drilling or operating permit issued under section 6111.043 of the Revised Code.</p>	267 268 269 270 271 272 273
<p><u>(S) "Soil"</u> means the naturally occurring pedogenically developed and undeveloped regolith overlying bedrock.</p>	274 275
<p><u>(T) "Vertical separation distance"</u> means the distance of the infiltrative surface of the distribution system of a soil absorption system, or component thereof, to a limiting condition in the soil.</p>	276 277 278 279
<p><u>(U) "Water table"</u> means the surface of the saturated zone below which all interconnected voids are filled with water and at which the pressure is atmospheric.</p>	280 281 282
<p><u>Sec. 3718.011. (A) For purposes of this chapter, a sewage treatment system is causing a public health nuisance if any of the following situations occurs and, after notice by a board of health to the applicable property owner, timely repairs are not made to that system to eliminate the situation:</u></p>	283 284 285 286 287
<p><u>(1) The sewage treatment system is not operating properly due to a missing component, incorrect settings, or a mechanical or electrical failure.</u></p>	288 289 290
<p><u>(2) There is a blockage in a known sewage treatment system component or pipe that causes a backup of sewage or effluent affecting the treatment process or inhibiting proper plumbing drainage.</u></p>	291 292 293 294
<p><u>(3) An inspection conducted by, or under the supervision of,</u></p>	295

<u>the environmental protection agency or a sanitarian registered under Chapter 4736. of the Revised Code documents that there is ponding of liquid or bleeding of liquid onto the surface of the ground or into surface water and the liquid has a distinct sewage odor, a black or gray coloration, or the presence of organic matter and any of the following:</u>	296
<u>(a) The presence of sewage effluent identified through a dye test;</u>	297
<u>(b) The presence of fecal coliform at a level that is equal to or greater than five thousand colonies per one hundred milliliters of liquid as determined in two or more samples of the liquid when five or fewer samples are collected or in more than twenty per cent of the samples when more than five samples of the liquid are collected;</u>	298
<u>(c) Water samples that exceed one thousand thirty e. coli counts per one hundred milliliters in two or more samples when five or fewer samples are collected or in more than twenty per cent of the samples when more than five samples are collected.</u>	299
<u>(4) With respect to a discharging system for which an NPDES permit has been issued under Chapter 6111. of the Revised Code and rules adopted under it, the system routinely exceeds the effluent discharge limitations specified in the permit.</u>	300
<u>(B) With respect to divisions (A)(1) and (2) of this section, a property owner may request a test to be conducted by a board of health to verify that the sewage treatment system is causing a public health nuisance. The property owner is responsible for the costs of the test.</u>	301
<u><b>Sec. 3718.012. A sewage treatment system that was in operation prior to the effective date of this section shall not be required to be replaced with a new sewage treatment system under</b></u>	302
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<u>this chapter or rules adopted under it and shall be deemed</u>	326
<u>approved if the system does not cause a public health nuisance or,</u>	327
<u>if the system is causing a public health nuisance as provided in</u>	328
<u>section 3718.011 of the Revised Code, repairs are made to the</u>	329
<u>system that eliminate the public health nuisance as determined by</u>	330
<u>the applicable board of health.</u>	331
<u>Sec. 3718.02. (A) Not later than one year after the effective</u>	332
<u>date of this section, the</u> <u>The</u> <u>public health council, in accordance</u>	333
<u>with Chapter 119. of the Revised Code, shall adopt, and</u>	334
<u>subsequently may amend and rescind, rules of general application</u>	335
<u>throughout the state to administer this chapter. Rules adopted</u>	336
<u>under division (A) of this section shall do at least all of the</u>	337
<u>following:</u>	338
(1) <u>Require that the appropriate board of health approve or</u>	339
<u>disapprove the</u> <u>use</u> <u>installation, operation, and alteration</u> <u>of a</u>	340
<u>sewage treatment system if it is not connected to a sanitary</u>	341
<u>sewerage system;</u>	342
(2) <u>Require that a board of health, or other person as</u>	343
<u>established by rule,</u> <u>to conduct a site evaluation for any proposed</u>	344
<u>installation of a sewage treatment system;</u>	345
(3) <u>Prescribe standards for the siting, design, installation,</u>	346
<u>operation, monitoring, maintenance, and abandonment of</u> <u>household</u>	347
<u>sewage treatment systems that may be used in this state</u> <u>and for</u>	348
<u>the progressive or incremental alteration or repair of an existing</u>	349
<u>sewage treatment system or the progressive or incremental</u>	350
<u>installation of a new system to replace an existing sewage</u>	351
<u>treatment system. The rules shall be adopted so as to establish a</u>	352
<u>preference for the repair of an existing sewage treatment system,</u>	353
<u>when technically and economically feasible, rather than its</u>	354
<u>replacement with a new system.</u> The standards shall include at a	355
minimum all of the following:	356

(a) Soil absorption specifications+ <u>and vertical separation distances.</u>	357
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(i) <u>Soil absorption specifications established in rules shall include standards regarding the sizing of sewage treatment systems in use in the state.</u>	359
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(ii) <u>In establishing soil absorption specifications and vertical separation distances, the rules shall identify those soil conditions that present a low or moderate risk of inadequate treatment or dispersal of sewage from sewage treatment systems.</u>	362
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<u>For low and moderate risk conditions, the required vertical separation distance shall not exceed eighteen inches except as authorized pursuant to rules adopted under divisions</u>	366
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<u>(A)(3)(a)(iii) and (iv) of this section.</u>	369
<u>In addition, the rules shall identify those soil conditions that present a high risk of inadequate treatment or dispersal of sewage. For such high risk conditions, the vertical separation distance shall be set at a depth from twenty-four to thirty-six inches and shall not be lowered unless a reduction of vertical separation is granted in accordance with rules adopted under division (A)(3)(a)(iii) of this section.</u>	370
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(iii) <u>The rules shall establish options to be utilized by a board of health when approving the reductions of or compliance with vertical separation distances that are established in rules adopted under division (A)(3)(a)(ii) of this section. The options for a board of health in providing such approval shall include, but not be limited to: the use where deemed appropriate for a particular site of subsurface interceptor drains, perimeter drains, or engineered drainage; pretreatment of sewage; or soil elevation.</u>	377
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(iv) <u>The rules shall provide that a board of health may petition the director to increase the vertical separation</u>	386
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<u>distances required for sewage treatment systems in the applicable</u>	388
<u>health district or a portion of the district when conditions</u>	389
<u>present a high risk of inadequate treatment or dispersal of</u>	390
<u>sewage. The rules also shall provide that the director may approve</u>	391
<u>such a request upon a demonstration by the board of health that</u>	392
<u>unusual or unique local conditions relating to terrain, bedrock,</u>	393
<u>water table, soil fragments, or soil textures require the</u>	394
<u>establishment of greater vertical separation distances within the</u>	395
<u>jurisdiction of the board of health or a portion thereof. If,</u>	396
<u>under the rules, the director of health approves a greater</u>	397
<u>vertical separation distance, a board of health still may approve</u>	398
<u>a reduction of that vertical separation distance for an individual</u>	399
<u>sewage treatment system pursuant to rules adopted under division</u>	400
<u>(A)(3)(a)(iii) of this section. Further, if, under the rules, the</u>	401
<u>director approves a greater vertical separation distance, a person</u>	402
<u>who is denied permission by a board of health to install or</u>	403
<u>replace a sewage treatment system as a result of the director's</u>	404
<u>approval may request a hearing in accordance with section 3718.11</u>	405
<u>of the Revised Code.</u>	406
<u>(b) Specifications for discharging systems that do not</u>	407
<u>conflict with provisions related to the quality of treated sewage</u>	408
<u>effluent from household sewage treatment systems that is applied</u>	409
<u>to soil on the property where a household sewage treatment system</u>	410
<u>is located. The specifications established in the rules for the</u>	411
<u>quality of effluent from discharging systems shall comply with</u>	412
<u>discharge requirements imposed by the national pollutant discharge</u>	413
<u>elimination system permit program established in under section</u>	414
<u>6111.03 of the Revised Code and rules adopted under it.</u>	415
<u>(c) Requirements for the reasonable maintenance of a system</u>	416
<u>according to the manufacturer's instructions, if available;</u>	417
<u>(d) Requirements and procedures under which a person may</u>	418
<u>demonstrate the required maintenance of a system in lieu of having</u>	419

an inspection conducted when an inspection otherwise is required.	420
<del>The rules also shall require that a system that has been or is sited or installed prior to or on the effective date of the rules and that is operating on that date shall be deemed approved unless the system is declared to be a public health nuisance by a board of health <u>maintenance requirements approved by the director of health as recommended by the sewage treatment system technical advisory committee or according to accepted standards and practices established in rules, as applicable. The requirements may include standards for service contracts or other arrangements that assure regular maintenance and upkeep of the system. In determining the reasonableness of a maintenance requirement, the director shall consider a manufacturer's maintenance requirements as well as all other maintenance alternatives.</u></del>	421 422 423 424 425 426 427 428 429 430 431 432 433
(4) Prescribe procedures for notification to boards of health of the approval of a sewage treatment system or components of a system by the director of health under section 3718.04 of the Revised Code;	434 435 436 437
(5) Prescribe criteria and procedures under which boards of health shall issue installation <del>and permits</del> , operation permits, <del>and alteration permits</del> for sewage treatment systems. The rules shall require as a condition of an installation permit that the installer of a system must warrant that the system was installed in accordance with all applicable rules and design requirements. In addition, the rules shall require a board of health, not later than sixty days after the issuance of an installation, <del>operation, or alteration permit, to certify to notify the director on a form provided by the director</del> that the permit was issued. <del>The rules shall require the notification to be in a format prescribed by the director and to include information related to the issuance of the permit. With the assistance of the department of health, a board of health, to the extent practicable, shall computerize the</del>	438 439 440 441 442 443 444 445 446 447 448 449 450 451

<u>process of the issuance of permits for sewage treatment systems.</u>	452
(6) <u>Require a board of health to inspect a sewage treatment system not later than eighteen twelve months after its installation to ensure that the system is operating properly. The rules shall require a board of health, not later than sixty days after the inspection, to certify to the director on a form provided by the director that the inspection was performed.</u>	453 454 455 456 457 458
(7) <u>Require each board of health to develop a program for the administration of maintenance requirements established in rules adopted under division (A)(3)(c) of this section. The rules shall include requirements and procedures under which a person may demonstrate the required maintenance of a system in lieu of having an inspection conducted when an inspection otherwise is required. The rules shall require a board of health to provide written notice to a person that is demonstrating maintenance of a system in lieu of an inspection that if proof of the required maintenance of the system is not provided as required by rules, the system is subject to inspection by the board and the reasonable cost of the inspection must be paid by the person. The rules shall authorize a board of health to inspect any sewage treatment system if there is a good-faith complaint regarding the system, there is probable cause for the inspection, or proof of the required maintenance of the system has not been provided as required by rules. In addition, the rules shall authorize a board of health to inspect a sewage treatment system without prior notice in any instance in which the board has probable cause to believe that the system is endangering or threatening to endanger public health. The rules shall require that the reasonable costs for sewage effluent testing or evaluation be paid by the owner of a sewage treatment system that is being investigated. Further, the rules shall establish a methodology for determining the reasonable costs of an inspection in accordance with section 3709.09 of the Revised Code.</u>	459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483

The rules shall allow, but shall not require, a board of health to 484  
continue an inspection program that was established by the board 485  
prior to the effective date of the rules, provided that the 486  
program authorizes a person to demonstrate the required 487  
maintenance of a system in lieu of an inspection. 488

(8) Require a board of health to register installers, service 489  
providers, and septic haulers that perform work within the health 490  
district; prescribe criteria and procedures for the registration; 491  
and prescribe criteria for a demonstration of competency as a part 492  
of the registration+. The rules shall establish uniform statewide 493  
bonding requirements or other financial security requirements for 494  
installers, service providers, and septic haulers as a condition 495  
of registration within any health district. The rules shall 496  
establish a methodology by which the required amount of a bond or 497  
other security may be calculated for each installer, service 498  
provider, and septic hauler. The methodology, at a minimum, shall 499  
consider the number of systems installed or serviced and the type 500  
of system installed or serviced by an installer, service provider, 501  
or septic hauler on an annual basis. The rules shall provide that 502  
no board of health shall require an additional or different bond 503  
or security requirement as a condition of registration beyond the 504  
bonding and security requirements established in the rules adopted 505  
under division (A)(8) of this section. 506

The rules shall establish a cost methodology for determining 507  
the fee for the registration of an installer, service provider, or 508  
septic hauler in any health district. 509

(8)(9) Prescribe requirements for the collection, 510  
transportation, disposal, and land application of domestic septic 511  
in this state from a sewage treatment system; 512

(9)(10) Require boards of health to maintain records that are 513  
determined necessary to ascertain compliance with this chapter and 514  
the rules adopted under it; 515

<del>(10)</del> (11) Require a <del>board of health</del> and the manufacturer of a sewage treatment system, when possible, <u>that is authorized for use in this state in rules adopted under this section or that is approved for use in this state under section 3718.04 of the Revised Code</u> to provide instructions for the operation and maintenance of the system. The rules shall <del>authorize the instructions to be posted on the department of health's web site and the manufacturer's web site</del> <u>provide that a board of health may require a copy of a manufacturer's instructions for the operation and maintenance of a system to be filed with the board prior to the installation and use of the system in the health district in which the board has jurisdiction</u> . In addition, the rules shall require a board of health and a manufacturer to provide a copy of the operation and maintenance instructions, if available, when a board of health or a manufacturer receives a written request for instructions.	516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531
<del>(11)</del> (12) Prescribe criteria for the provision of written evidence of compliance with rules pertaining to <del>household</del> sewage treatment for purposes of sections 711.05 and 711.10 of the Revised Code;	532 533 534 535
<del>(12)</del> (13) Pursuant to divisions (A)(1) and (3) of this section, prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of small flow on-site sewage treatment systems that may be used in this state;	536 537 538 539
<u>(14) Prescribe minimum criteria and procedures under which boards of health may establish household sewage treatment district management programs for the purpose of providing a responsive approach toward preventing or solving sewage treatment problems resulting from household sewage treatment systems within the districts established under the program. For purposes of division (A)</u> <del>(12)</del> (14) of this section, a board of health may enter into a contract with any entity to administer a household sewage	540 541 542 543 544 545 546 547

treatment district management program.	548
<del>(13) Prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of small flow on site sewage treatment systems that may be used in this state.</del>	549 550 551 552
<u>(15) Prescribe standards for the use of subsurface interceptor drains, perimeter drains, and engineered drainage to remove or divert any subsurface water from an area to be used for soil absorption of sewage in the soil of a sewage treatment system;</u>	553 554 555 556 557
<u>(16) Authorize a board of health to require a property owner whose property is serviced by a sewage treatment system to connect to an available central sewer system under any of the following circumstances and conditions:</u>	558 559 560 561
<u>(a) The central sewer system is located not more than three hundred feet from the structure owned by the property owner measured from the foundation of the structure to the right-of-way where the central sewer system is located.</u>	562 563 564 565
<u>(b) There is an administrative or judicial order requiring connection to a central sewer system.</u>	566 567
<u>(c) The property is the subject of a sewer assessment process initiated by a county, municipal corporation, or other political subdivision.</u>	568 569 570
<u>The rules shall provide that after a property owner is required to connect to a central sewer system, the property owner is prohibited from installing, replacing, or continuing to use a sewage treatment system. The rules shall establish exceptions for extenuating circumstances that allow a property owner to continue to use a sewage treatment system.</u>	571 572 573 574 575 576
<u>The rules shall provide that if a property owner is required</u>	577

to connect to a central sewer system, a board of health shall 578  
afford the property owner a period of time not to exceed three 579  
years to install the connection to the central sewer system. The 580  
rules shall authorize a board of health to require connection to a 581  
central sewer system within an expedited time frame if a sewage 582  
treatment system owned by a property owner is causing a public 583  
health nuisance and the cost of connection to a central sewer 584  
system is not excessive. 585

Governmental entities constructing central sewer systems 586  
shall construct the central sewer systems in a manner that 587  
minimizes the distance between the foundations of the structures 588  
to be serviced by the central sewer system and the connecting 589  
point of the central sewer system. 590

A board of health shall not require the connection to a 591  
central sewer system under rules adopted under division (A)(16) of 592  
this section if a board of county commissioners has adopted a 593  
resolution requiring connection under section 6117.51 of the 594  
Revised Code. 595

(17) Prescribe standards for the inspection of septage 596  
hauling truck tanks by boards of health, including, but not 597  
limited to, tank seal safety specifications; 598

(18) Establish standards and testing methods to ensure that 599  
all septic tanks, other disposal component tanks, dosing tanks, 600  
pump vaults, household sewage treatment disposal system holding 601  
tanks and privy vaults, or other applicable sewage disposal system 602  
components manufactured after the effective date of this section 603  
and used in this state are watertight and structurally sound; 604

(19) Require a board of health to give notice and an 605  
opportunity for a hearing, pursuant to section 3718.11 of the 606  
Revised Code, to an affected property owner regarding any of the 607  
following: 608

<u>(a) The denial of an installation, operation, or alteration permit for a sewage treatment system;</u>	609 610
<u>(b) The imposition of a condition on the installation of a sewage treatment system;</u>	611 612
<u>(c) The required replacement of a sewage treatment system;</u>	613
<u>(d) Any other final order or decision of a board of health that is made under this chapter concerning which a property owner is claiming to be aggrieved or adversely affected.</u>	614 615 616
<u>The rules also shall establish procedures for giving such notice and for conducting the hearing required in rules adopted under division (A)(19) of this section.</u>	617 618 619
<u>(20) Prescribe standards for the regulation of gray water recycling systems;</u>	620 621
<u>(21) Prohibit a sewage treatment system from causing a public health nuisance;</u>	622 623
<u>(22) Define economic impact for purposes of division (B) of this section and section 3718.022 of the Revised Code.</u>	624 625
<u>The council may adopt other rules under division (A) of this section that it determines are necessary to implement this chapter and to protect the public health and welfare.</u>	626 627 628
<u>At least sixty days prior to adopting a rule under division (A) of this section, the council shall provide boards of health and any other interested parties an opportunity to comment on the rule.</u>	629 630 631 632
<u>(B)(1) In accordance with section 3709.20 or 3709.21 of the Revised Code, as applicable, and subject to review by and approval of the director under division (C) of section 3718.05 of the Revised Code, a board of health may adopt rules necessary for the public health providing for more stringent standards governing household sewage treatment systems, installers, service providers,</u>	633 634 635 636 637 638

~~or septicage haulers~~ than those established in rules of the public 639  
health council adopted under division (A) of this section. ~~A In~~ 640  
~~proposing or adopting the rules, a board of health shall consider~~ 641  
~~and document the economic impact of the rules on property owners~~ 642  
~~within the applicable health district.~~ 643

(2) A board that intends to adopt such rules shall notify the 644  
department of health of the proposed rules and submit a copy of 645  
the proposed rules and the documentation of the economic impact of 646  
the rules at least ninety days prior to the proposed date of 647  
adoption. The director shall approve or disapprove any such 648  
proposed rule within ninety days after receiving ~~notice of it~~ 649  
~~under this division a copy of the proposed rule from the board of~~ 650  
~~health. If the director fails to approve or disapprove a proposed~~ 651  
~~rule within ninety days after receiving notice of it, the proposed~~ 652  
~~rule shall be deemed approved.~~ 653

(3) In reviewing a proposed rule, the director shall approve 654  
the rule if all of the following apply: 655

(a) The proposed rule is not in conflict with this chapter or 656  
rules adopted under it. 657

(b) The proposed rule is authorized by division (B) of this 658  
section. 659

(c) The proposed rule is no less stringent than rules adopted 660  
by the public health council. 661

(d) Unless otherwise authorized by this chapter or rules 662  
adopted under it, the proposed rule does not require design 663  
changes to a sewage treatment system, or component thereof, that 664  
differ from a design authorized in rules adopted under division 665  
(A) of this section, including rules adopted under division (A)(1) 666  
or (A)(3)(a)(iii) or (iv) of this section, or approved by the 667  
director under section 3718.04 of the Revised Code. 668

(e) The proposed rule does not require operation or 669

<u>maintenance procedures for a sewage treatment system that conflict with operation or maintenance procedures authorized in rules adopted under division (A) of this section, including rules adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this section, or approved by the director under section 3718.04 of the Revised Code.</u>	670
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<u>(4) If a board of health fails to submit a proposed rule to the director or fails to demonstrate that the board has considered the economic impact of the proposed rule, the rule shall have no force or effect and is not enforceable.</u>	676
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<u><b>Sec. 3718.023. (A) In accordance with rules adopted under division (A) of section 3718.02 of the Revised Code, a board of health shall approve or deny the installation, operation, or alteration of sewage treatment systems the use of which has been authorized in those rules or that have been approved for use in this state by the director of health under section 3718.04 of the Revised Code. The board shall approve an installation, operation, or alteration only in the health district in which the board has jurisdiction. A board shall approve the installation, operation, or alteration of a sewage treatment system through the issuance of a permit in accordance with rules adopted under section 3718.02 of the Revised Code. A board shall not approve the installation, operation, or alteration of a sewage treatment system if the installation, operation, or alteration is not appropriate for the site at which the use of the system is or is proposed to be located. In determining whether to approve or disapprove the installation, operation, or alteration of a sewage treatment system, including the progressive or incremental installation or alteration of a system, a board shall consider the economic impact on the property owner, the state of available technology, and the nature and economics of various alternatives. A board shall provide written documentation of such economic impact if requested</b></u>	680
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by the property owner. In addition, the board shall ensure that a system, when installed and maintained properly, will not create a public health nuisance and shall require a system to comply with the requirements established in division (B) of this section and other applicable requirements of this chapter. 702  
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The board shall permit a property owner to select a sewage treatment system for use by the property owner from those systems that have been approved for use in the state, from the least expensive system to the most expensive system, and a property owner may select any such system regardless of its cost, provided that the system selected will comply with all applicable requirements and standards established under this chapter and rules adopted under it. 707  
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(B) A board of health shall ensure that the design and installation of a soil absorption system prevents public health nuisances. In addition, a board of health shall ensure that a sewage treatment system that is installed after the effective date of this section shall not discharge into a ditch, stream, pond, lake, natural or artificial waterway, drain tile, or other surface water or onto the surface of the ground unless authorized by a national pollutant discharge elimination system permit issued under Chapter 6111. of the Revised Code and rules adopted under it. In addition, a board shall ensure that a sewage treatment system shall not discharge into an abandoned well, a drainage well, a dry well, a cesspool, a sinkhole, or another connection to ground water. If a household sewage treatment system serving a two- or three-family dwelling or a small flow on-site sewage treatment system is classified as a class V injection well, a board of health shall ensure that the system complies with rules adopted under section 6111.043 of the Revised Code and with Chapter 3745-34 of the Administrative Code. 715  
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(C) For purposes of the approval or denial of the 733

<u>installation, operation, or alteration of a sewage treatment system under this section, "economic impact" means all of the following, as applicable:</u>	734
<u>(1) The cost to the property owner for the installation of the proposed sewage treatment system, including the cost of progressive or incremental installation of the system;</u>	737
<u>(2) The cost of an alternative system, including the cost of progressive or incremental installation of the system, that, when installed and maintained properly, will not create a public health nuisance compared to the proposed sewage treatment system;</u>	740
<u>(3) The costs of repairing the sewage treatment system, including the cost of progressive or incremental repairs, as opposed to replacing the system with a new system.</u>	744
<u>(D) An application for an installation permit that is accepted by a board of health prior to January 1, 2012, shall be valid for three years from the date of the submission of the complete application and the accompanying application fee.</u>	747
<u>(E) An installation permit issued by a board of health prior to January 1, 2012, shall be valid until January 1, 2013, unless extended by a board of health for not more than an additional six months.</u>	751
<u>Sec. 3718.024. The director of health in cooperation with a board of health shall assess the familiarity of the board's staff with best management practices in the use of sewage treatment systems, as necessary, and conduct appropriate training to educate the board's staff in those best management practices and in the use of any new sewage treatment system technology that is recommended for use by the sewage treatment system technical advisory committee created in section 3718.03 of the Revised Code.</u>	755
<u>Sec. 3718.025. The environmental protection agency shall not</u>	763

require a board of health to enter into a memorandum of 764  
understanding or any other agreement with the agency regarding the 765  
issuance of national pollutant discharge elimination system 766  
permits for off-lot household sewage treatment systems. Rather, a 767  
representative of a board of health may meet with a person who 768  
intends to install such a system to determine the feasibility of 769  
the system and refer the person to the agency to secure a national 770  
pollutant discharge elimination system permit for the system if 771  
needed. The environmental protection agency shall make revisions 772  
to any applicable general national pollutant discharge elimination 773  
system permits, issued pursuant to the federal Water Pollution 774  
Control Act as defined in section 6111.01 of the Revised Code, so 775  
that such a memorandum of understanding is not required. A board 776  
of health voluntarily may enter into a memorandum of understanding 777  
with the environmental protection agency to implement a general 778  
national pollutant discharge elimination system permit. The agency 779  
shall work with boards of health to facilitate securing national 780  
pollutant discharge elimination system permits on behalf of 781  
property owners in counties without a memorandum of understanding. 782

**Sec. 3718.03.** (A) There is hereby created the sewage 783  
treatment system technical advisory committee consisting of the 784  
director of health or the director's designee and ~~ten~~ thirteen 785  
members who are knowledgeable about sewage treatment systems and 786  
technologies. The director or the director's designee shall serve 787  
as committee secretary and may vote on actions taken by the 788  
committee. Of the ~~ten~~ thirteen members, ~~four~~ five shall be 789  
appointed by the governor, ~~three~~ four shall be appointed by the 790  
president of the senate, and ~~three~~ four shall be appointed by the 791  
speaker of the house of representatives. 792

(1) Of the members appointed by the governor, one shall 793  
represent academia and shall be active in teaching or research in 794  
the area of on-site wastewater treatment, one shall be a 795

representative of the public who is not employed by the state or 796  
any of its political subdivisions and who does not have a 797  
pecuniary interest in ~~household~~ sewage treatment systems, one 798  
shall be an a registered professional engineer from employed by 799  
the environmental protection agency, and one shall be selected 800  
from among soil scientists in the division of soil and water 801  
resources in the department of natural resources, and one shall be 802  
a representative of a statewide organization representing 803  
townships. 804

(2) Of the members appointed by the president of the senate, 805  
one shall be a health commissioner who is a member of and 806  
recommended by the association of Ohio health commissioners, one 807  
shall represent the interests of manufacturers of ~~household~~ sewage 808  
treatment systems, and one shall represent installers and service 809  
providers, and one shall be a person with demonstrated experience 810  
in the design of sewage treatment systems. 811

(3) Of the members appointed by the speaker of the house of 812  
representatives, one shall be a health commissioner who is a 813  
member of and recommended by the association of Ohio health 814  
commissioners, one shall represent the interests of manufacturers 815  
of ~~household~~ sewage treatment systems, and one shall be a 816  
sanitarian who is registered under Chapter 4736. of the Revised 817  
Code and who is a member of the Ohio environmental health 818  
association, and one shall be a registered professional engineer 819  
with experience in sewage treatment systems. 820

(B) Terms of members appointed to the committee shall be for 821  
three years, with each term ending on the same day of the same 822  
month as did the term that it succeeds. Each member shall serve 823  
from the date of appointment until the end of the term for which 824  
the member was appointed. 825

Members may be reappointed. Vacancies shall be filled in the 826  
same manner as provided for original appointments. Any member 827

appointed to fill a vacancy occurring prior to the expiration date 828  
of the term for which the member was appointed shall hold office 829  
for the remainder of that term. A member shall continue to serve 830  
after the expiration date of the member's term until the member's 831  
successor is appointed or until a period of sixty days has 832  
elapsed, whichever occurs first. The applicable appointing 833  
authority may remove a member from the committee for failure to 834  
attend two consecutive meetings without showing good cause for the 835  
absences. 836

(C) The technical advisory committee annually shall select 837  
from among its members a chairperson and a vice-chairperson ~~and a~~. 838  
The secretary to shall keep a record of its proceedings. A 839  
majority vote of the members of the full committee is necessary to 840  
take action on any matter. The committee may adopt bylaws 841  
governing its operation, including bylaws that establish the 842  
frequency of meetings. 843

(D) Serving as a member of the sewage treatment system 844  
technical advisory committee does not constitute holding a public 845  
office or position of employment under the laws of this state and 846  
does not constitute grounds for removal of public officers or 847  
employees from their offices or positions of employment. Members 848  
of the committee shall serve without compensation for attending 849  
committee meetings. 850

(E) A member of the committee shall not have a conflict of 851  
interest with the position. For the purposes of this division, 852  
"conflict of interest" means the taking of any action that 853  
violates any provision of Chapter 102. or 2921. of the Revised 854  
Code. 855

(F) The sewage treatment system technical advisory committee 856  
shall do all of the following: 857

(1) Develop with the department of health standards ~~and~~ 858

guidelines, and protocols for approving or disapproving a sewage treatment system or components of a system under section 3718.04 of the Revised Code. Any guideline requiring the submission of scientific information or testing data shall specify, in writing, the protocol and format to be used in submitting the information or data.	859 860 861 862 863 864
(2) Develop with the department an application form to be submitted to the director by an applicant for approval or disapproval of a sewage treatment system or components of a system and specify the information that must be included with an application form;	865 866 867 868 869
(3) <del>Advise Make recommendations to</del> the director on <del>regarding</del> the approval or disapproval of an application sent to the director under section 3718.04 of the Revised Code requesting approval of a sewage treatment system or components of a system;	870 871 872 873
(4) Pursue and recruit in an active manner the research, development, introduction, and timely approval of innovative and cost-effective <del>household</del> sewage treatment systems and components of a system for use in this state, which shall include conducting pilot projects to assess the effectiveness of a system or components of a system;	874 875 876 877 878 879
(5) <del>By January 1, 2008, provide the household sewage and small flow on site sewage treatment system study commission created by Am. Sub. H.B. 119 of the 127th general assembly with a list of available alternative systems and the estimated cost of each system.</del>	880 881 882 883 884
(G) The chairperson of the committee shall prepare and submit an annual report concerning the activities of the committee to the general assembly not later than ninety days after the end of the calendar year. The report shall discuss the number of applications submitted under section 3718.04 of the Revised Code for the	885 886 887 888 889

approval of a new sewage treatment system or a component of a 890  
system, the number of such systems and components that were 891  
approved, any information that the committee considers beneficial 892  
to the general assembly, and any other information that the 893  
chairperson determines is beneficial to the general assembly. If 894  
other members of the committee determine that certain information 895  
should be included in the report, they shall submit the 896  
information to the chairperson not later than thirty days after 897  
the end of the calendar year. 898

(H) The department shall provide meeting space for the 899  
committee. The committee shall be assisted in its duties by the 900  
staff of the department. 901

(I) Sections 101.82 to 101.87 of the Revised Code do not 902  
apply to the sewage treatment system technical advisory committee. 903

**Sec. 3718.04.** (A) A manufacturer seeking approval for the 904  
installation and use of a sewage treatment system or a component 905  
of a system in this state that differs in design or function from 906  
systems or components of systems the use of which is authorized in 907  
rules adopted under section 3718.02 of the Revised Code shall 908  
request an application form from the department of health. The 909  
applicant shall complete the form and include with it all of the 910  
information that is required by the department and the sewage 911  
treatment system technical advisory committee. The applicant shall 912  
submit a completed application and all required information to the 913  
director of health. 914

(B) Upon receipt of an application, the director shall 915  
examine the application and all accompanying information to 916  
determine if the application is complete. If the director 917  
determines that the application is not complete, the director 918  
shall notify the applicant not later than ~~fourteen~~ sixty days 919  
after ~~determining submission of the application~~ that the 920

application is not complete, provide a description of the 921  
information that is missing from the application, and return the 922  
application and all accompanying information to the applicant. The 923  
applicant may resubmit the application to the director if the 924  
application includes the information that was identified by the 925  
director. Not later than fourteen thirty days after receipt of a 926  
complete application, the director shall notify the committee of 927  
the complete application and send a copy of the complete 928  
application and all accompanying information to the committee 929  
together with a request that the committee ~~advise~~ recommend that 930  
the director ~~on the approval~~ approve or ~~disapproval of~~ disapprove 931  
the system. 932

Not later than ninety days after receipt of a complete 933  
application, the committee shall recommend approval or disapproval 934  
of the application and submit its recommendation in writing to the 935  
director. The director shall approve or disapprove the application 936  
not later than sixty days after the committee submits its 937  
recommendation to the director or, if the committee fails to 938  
recommend approval or disapproval within the required time, not 939  
later than one hundred twenty days after the submission of a 940  
complete application. If the director fails to approve or 941  
disapprove an application within the required time, the 942  
application shall be deemed approved. 943

(C) In approving or disapproving an application, the director 944  
shall use the standards ~~and~~ guidelines, and protocols that the 945  
committee developed with the department for that purpose. The 946  
director shall not approve an application that fails to comply 947  
with those standards ~~and~~ guidelines, and protocols. If the 948  
committee ~~advises~~ recommends approval or disapproval of an 949  
application, the director concerning the application, the director 950  
shall consider the ~~advice~~ committee's recommendation before 951  
approving or disapproving the application. ~~However, if~~ If the 952

committee fails to provide advice or if the committee fails to 953  
~~provide advice within a reasonable period of time before the~~ 954  
~~director is required to approve or disapprove the application~~ 955  
recommend approval or disapproval of the application within the 956  
required time, the director may approve or disapprove the 957  
application without considering the advice of the committee. ~~Not~~ 958  
~~later than ninety days after receipt of a complete application,~~ 959  
~~the director shall approve or disapprove the application in~~ 960  
~~writing. If the director fails to approve or disapprove the~~ 961  
~~application within that ninety day period, the application shall~~ 962  
~~be deemed approved. The director shall establish and include any~~ 963  
~~appropriate terms and conditions with the approval of a sewage~~ 964  
~~treatment system or component of a system for use in this state.~~ 965  
For purposes of establishing soil absorption specifications for a 966  
sewage treatment system, the terms and conditions shall include 967  
standards regarding the sizing of the system. 968

(D) If the director approves an application under this 969  
section, the director shall notify the applicant in writing. The 970  
director also shall notify boards of health in accordance with the 971  
procedures established in rules adopted under section 3718.02 of 972  
the Revised Code that the sewage treatment system or component of 973  
a system that is the subject of the application is approved for 974  
statewide use. If the director disapproves an application under 975  
this section, the director shall notify the applicant in writing 976  
and provide a brief explanation for the disapproval. 977

(E) Decisions of the director approving or disapproving 978  
applications under this section may be appealed in accordance with 979  
Chapter 119. of the Revised Code. 980

(F) No approval shall be required under this section with 981  
respect to a sewage treatment system or component of a system that 982  
has been approved by the director prior to the effective date of 983  
this amendment unless the manufacturer of the system or component 984

<u>changes the design or seeks modifications to any terms and conditions of the prior approval.</u>	985
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<u>(G) The director may revoke the approval of a sewage treatment system or component of a system if the director finds, based on substantial evidence, that the system or component fails to comply with applicable standards for the system or component. The revocation of an approval under this division may be appealed in accordance with Chapter 119. of the Revised Code.</u>	987
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<u><b>Sec. 3718.041. An installer or manufacturer of a sewage treatment system or component of a system the use of which has been authorized in rules adopted under section 3718.02 of the Revised Code may request from the director of health a written statement acknowledging that the system or component of a system is approved for use in this state and that the approval is equivalent in all respects to the approval of a system or component of a system under section 3718.04 of the Revised Code. The director may approve or deny such a request as the director determines appropriate.</b></u>	993
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<u><b>Sec. 3718.05. The director of health shall do all of the following:</b></u>	1003
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<u>(A) Administer and enforce this chapter and the rules of the public health council adopted under it;</u>	1005
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<u>(B) Examine records of boards of health, in accordance with rules adopted by the council, that are determined necessary to ascertain compliance with this chapter and rules adopted under it;</u>	1007
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<u>(C) Review and approve or disapprove rules proposed by boards of health under division (B) of section 3718.02 of the Revised Code. The director shall not disapprove a proposed rule unless the director determines that the proposed rule conflicts with this chapter or rules adopted under section 3718.02 of the Revised Code</u>	1010
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by the public health council or fails to promote public health or environmental protection. If the director disapproves a proposed rule, the director shall provide a written explanation of the director's disapproval to the board of health that proposed the rule.	1015 1016 1017 1018 1019
(D) Survey boards of health as required by section 3718.07 of the Revised Code;	1020 1021
(E) Develop with the sewage treatment system technical advisory committee standards <u>and, guidelines, and protocols</u> for use by the director in approving or disapproving a sewage treatment system under section 3718.04 of the Revised Code and an application form for use by applicants for that approval, including identification of the information that must be included with the form;	1022 1023 1024 1025 1026 1027 1028
(F) Provide instructions on the operation and maintenance of a sewage treatment system. The director shall provide the operation and maintenance instructions on the department of health's web site. In addition, the director shall provide a copy of the operation and maintenance instructions when the director receives a written request for the instructions.	1029 1030 1031 1032 1033 1034
<u>(G) Develop educational programs, in conjunction with boards of health, to educate owners of sewage treatment systems regarding the proper operation and maintenance of those systems.</u>	1035 1036 1037
<b>Sec. 3718.06.</b> (A)(1) A board of health shall establish fees in accordance with section 3709.09 of the Revised Code for the purpose of carrying out its duties under this chapter and rules adopted under it, including <u>a fee fees for an installation permit permits, operation permits, and alteration permits</u> issued by the board. All fees so established and collected by the board shall be deposited in a special fund of the district to be used exclusively by the board in carrying out those duties.	1038 1039 1040 1041 1042 1043 1044 1045

(2) In accordance with Chapter 119. of the Revised Code, the public health council may establish by rule a fee to be collected from applicants for installation <u>permits and alteration</u> permits issued under rules adopted under this chapter. The director of health shall use <u>not more than seventy-five per cent of</u> the proceeds from that fee for administering and enforcing this chapter and the rules adopted under it by the council. <u>The director shall use not less than twenty-five per cent of the proceeds from that fee to establish a program in cooperation with boards of health to fund installation and evaluation of sewage treatment system new technology pilot projects through grants or other agreements. In the selection of pilot projects, the director shall consult with the sewage treatment system technical advisory committee.</u> A board of health shall collect and transmit the fee to the director pursuant to section 3709.092 of the Revised Code. <del>The director shall use the money so credited solely for the administration and enforcement of this chapter and the rules adopted under it by the public health council.</del>	1046 1047 1048 1049 1050 1051 1052 1053 1054 1055 1056 1057 1058 1059 1060 1061 1062 1063
(B) The director may submit recommendations to the <u>public health</u> council regarding the amount of the fee collected under division (A)(2) of this section for installation <u>and alteration</u> permits. When making the recommendations, the director shall submit a report stating the current and projected expenses of administering and enforcing this chapter and the rules adopted under it <del>by the council and of the sewage treatment system new technology pilot projects program established under this section</del> and the total of all money that has been deposited to the credit of the general operations fund under division (A)(2) of this section. The director may include in the report any recommendations for modifying the requirements established under this chapter and the rules adopted under it by the council.	1064 1065 1066 1067 1068 1069 1070 1071 1072 1073 1074 1075 1076
<b>Sec. 3718.09.</b> (A) A board of health may issue, modify,	1077

suspend, or revoke enforcement orders to a registration or permit holder or other person directing the holder or person to abate a violation of this chapter, any rule adopted or order issued under it, or a condition of a registration or permit issued under it within a specified, reasonable time. If an order issued under this division is neglected or disregarded, the applicable board of health may proceed in accordance with section 3707.02 of the Revised Code. 1078  
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(B) The health commissioner or the commissioner's designated representative, without prior notice or hearing and in accordance with the rules of the public health council, may issue an emergency order requiring any action necessary to meet a public health emergency or to prevent or abate an imminent and substantial threat to surface water or ground water regarding domestic septage management or regarding a sewage treatment system that is being operated in a manner that does not comply with this chapter or rules adopted under it. A person to whom such an emergency order is issued immediately shall comply with the order. 1086  
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Sec. 3718.11. (A) A property owner may request a hearing with the board of health for any reason described in division (A)(19) of section 3718.02 of the Revised Code. A property owner may appeal the results of the hearing to either of the following: 1100  
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(1) The court of common pleas of the county in which the property owner's land is located; 1104  
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(2) A sewage treatment system appeals board that is established in accordance with this section. 1106  
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<u>(B) A property owner that wishes to appeal to a sewage treatment system appeals board shall file the appeal with the board of health within whose jurisdiction the property owner's land is located. Upon receipt of a filing, the board of health shall send the filing of the appeal to the chairperson of the sewage treatment system appeals board for the county in which the board of health has jurisdiction.</u>	1108 1109 1110 1111 1112 1113 1114
<u>(C)(1) Not later than ninety days after the effective date of this section, a sewage treatment system appeals board shall be appointed for each county as follows:</u>	1115 1116 1117
<u>(a) One member shall be appointed by the health commissioner of the general health district having jurisdiction in the county.</u>	1118 1119
<u>(b) One member shall be appointed by the judge of the probate court of the county having the longest continuous service as a judge of the probate court.</u>	1120 1121 1122
<u>(c) One member shall be appointed by the director of health.</u>	1123
<u>(2) Terms of appointment to a sewage treatment system appeals board shall be for two years. Members may be reappointed. Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member was appointed shall hold office for the remainder of that term.</u>	1124 1125 1126 1127 1128 1129
<u>(3) The person appointed by the judge of the probate court shall serve as chairperson of the board. A majority vote of the members of the board is necessary to take action on any matter. The chairperson of the board shall designate the time and location for a hearing before the board. Members of the board shall serve without compensation.</u>	1130 1131 1132 1133 1134 1135
<u>(4) A board of health shall send an appeal that has been filed with the board of health under division (B) of this section to the sewage treatment system appeals board immediately after the</u>	1136 1137 1138

<u>appeal has been filed. Not later than forty-five days after a</u>	1139
<u>hearing before a sewage treatment system appeals board, the board</u>	1140
<u>shall issue a written decision concerning an appeal before the</u>	1141
<u>board.</u>	1142
<u>(5) The judge of the probate court who made an appointment to</u>	1143
<u>the board under this section shall establish due process</u>	1144
<u>procedures to be used by the applicable sewage treatment system</u>	1145
<u>appeals board appointed under this section for the purpose of</u>	1146
<u>hearing appeals regarding orders and decisions of a board of</u>	1147
<u>health. All appeals before the applicable sewage treatment system</u>	1148
<u>appeals board shall be conducted in accordance with those</u>	1149
<u>procedures. The procedures may include filing fees applicable to</u>	1150
<u>appeals conducted by the sewage treatment system appeals board.</u>	1151
<u>(D) An appeal before a sewage treatment system appeals board</u>	1152
<u>is final, and no further appeal may be taken.</u>	1153
<b>Sec. 6117.51.</b> If the board of health of the health district	1154
within which a new public sewer construction project is proposed	1155
or located passes a resolution stating that the reason for the	1156
project is to reduce or eliminate an existing health problem or a	1157
hazard of water pollution, the board of county commissioners of	1158
the county, by resolution, may order the owner of any premises	1159
located in a sewer district in the county, the owner's agent,	1160
lessee, or tenant, or any other occupant of the premises to	1161
connect the premises to the sewer for the purpose of discharging	1162
sewage or other waste that the board determines is originating on	1163
the premises, to make use of the connection, and to cease the	1164
discharge of the sewage or other waste into a cesspool, ditch,	1165
private sewer, privy, septic tank, semipublic disposal system as	1166
defined in division (B)(1)(a) of section 3709.085 of the Revised	1167
Code, or other outlet if the board finds that the sewer is	1168
available for use and is accessible to the premises following a	1169

determination and certification to the board by a registered professional engineer designated by it as to the availability and accessibility of the sewer. This section does not apply to any of the following:	1170 1171 1172 1173
(A) Any discharge authorized by a permit issued under division (J) of section 6111.03 of the Revised Code other than a discharge to or from a semipublic disposal system as defined in division (B)(1)(a) of section 3709.085 of the Revised Code;	1174 1175 1176 1177
(B) Wastes resulting from the keeping of animals;	1178
(C) Any premises that are not served by a common sewage collection system when the foundation wall of the structure from which sewage or other waste originates is more than <u>two</u> <u>three</u> hundred feet from the nearest boundary of the right-of-way within which the sewer is located;	1179 1180 1181 1182 1183
(D) Any premises that are served by a common sewage collection system when both the foundation wall of the structure from which the sewage or other waste originates and the common sewage collection system are more than <u>two</u> <u>three</u> hundred feet from the nearest boundary of the right-of-way within which the public sewer is located;	1184 1185 1186 1187 1188 1189
(E) Any dwelling house located on property that is listed on the county's agricultural land tax list as being valued for tax purposes as land devoted exclusively to agricultural use under section 5713.31 of the Revised Code, when the foundation wall of the dwelling house is <u>two</u> <u>three</u> hundred feet or less from the nearest boundary of the right-of-way within which the sewer is located, if both of the following also apply:	1190 1191 1192 1193 1194 1195 1196
(1) The sewer right-of-way for the property on which the dwelling house is located was obtained by appropriation due to a public exigency pursuant to division (B) of section 307.08, 6101.181, 6115.211, 6117.39, or 6119.11 of the Revised Code.	1197 1198 1199 1200

(2) The local health department has certified that the 1201  
household sewage disposal system is functioning properly. 1202

The board shall not direct an order under this section to a 1203  
resident tenant unless it determines that the terms of the tenancy 1204  
are such that the owner lacks sufficient rights of access to 1205  
permit the owner to comply with the terms of the order. 1206

An owner, agent, lessee, tenant, or occupant shall comply 1207  
with the order of the board within ninety days after the 1208  
completion of service of the order upon that person as provided in 1209  
this section. The board, upon written application filed prior to 1210  
the expiration of the ninety-day period, may waive compliance with 1211  
any order either temporarily or permanently and conditionally or 1212  
unconditionally. 1213

In its resolution, the board shall direct its clerk, or the 1214  
clerk's designee, to serve its order upon the owner, agent, 1215  
lessee, tenant, or occupant. Service of the order shall be made 1216  
personally, by leaving the order at the usual place of residence 1217  
with a person of suitable age and discretion then residing 1218  
therein, or by certified mail addressed to the owner, agent, 1219  
lessee, tenant, or occupant at that person's last known address or 1220  
to the address to which tax bills are sent. If it appears by the 1221  
return of service or the return of the order forwarded by 1222  
certified mail that the owner, agent, lessee, tenant, or occupant 1223  
cannot be found, that person shall be served by publication of the 1224  
order once in a newspaper of general circulation within the 1225  
county, or if that person refuses service, that person shall be 1226  
served by ordinary mail addressed to that person's last known 1227  
address or to the address to which tax bills are sent. The return 1228  
of the person serving the order or a certified copy of the return, 1229  
or a returned receipt for the order forwarded by certified mail 1230  
accepted by the addressee or anyone purporting to act for the 1231  
addressee, is prima-facie evidence of the service of the order 1232

under this section. The return of the person attempting to serve 1233  
the order, or the return to the sender of the order forwarded by 1234  
certified mail with an indication on the return of the refusal of 1235  
the addressee to accept delivery, is *prima-facie* evidence of the 1236  
refusal of service. 1237

No owner, agent, lessee, tenant, or occupant shall violate an 1238  
order issued under this section. Upon request of the board, the 1239  
prosecuting attorney shall prosecute in a court of competent 1240  
jurisdiction any owner, agent, lessee, tenant, or occupant who 1241  
violates an order issued under this section. Each day that a 1242  
violation continues after conviction for the violation of an order 1243  
issued under this section and the final determination thereof is a 1244  
separate offense. The court, for good cause shown, may grant a 1245  
reasonable additional period of time for compliance after 1246  
conviction. 1247

Any owner, agent, lessee, tenant, or occupant violating an 1248  
order issued under this section also may be enjoined from 1249  
continuing in violation. Upon request of the board, the 1250  
prosecuting attorney shall bring an action in a court of competent 1251  
jurisdiction for an injunction against the owner, agent, lessee, 1252  
tenant, or occupant violating an order. 1253

The Ohio water development authority created under section 1254  
6121.02 of the Revised Code, in addition to its other powers, has 1255  
the same power and shall be governed by the same procedures in a 1256  
waste water facilities service area, or in any area adjacent to a 1257  
public sewer operated by the authority, as a board of county 1258  
commissioners in a county sewer district under this section, 1259  
except that the authority shall act by order, and the attorney 1260  
general, upon request of the authority, shall prosecute any person 1261  
who violates an order of the authority issued under this section. 1262

**Section 2.** That existing sections 711.05, 711.10, 3718.01, 1263

3718.02, 3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 6117.51 1264  
of the Revised Code are hereby repealed. 1265

**Section 3.** Notwithstanding any provision of law to the 1266  
contrary, Chapter 3701-29 of the Ohio Administrative Code adopted 1267  
pursuant to Section 120.02 of Am. Sub. H.B. 119 of the 127th 1268  
General Assembly, as amended by Am. Sub. H.B. 1 and Sub. H.B. 363 1269  
of the 128th General Assembly, shall remain in effect as it exists 1270  
on the effective date of this act until it is superseded by the 1271  
rules that are required to be adopted under section 3718.02 of the 1272  
Revised Code as amended by this act. The rules that are required 1273  
to be adopted under that section as amended by this act shall not 1274  
take effect prior to January 1, 2012. 1275

**Section 4.** Not later than thirty days after the effective 1276  
date of this section, the Governor, President of the Senate, and 1277  
Speaker of the House of Representatives shall appoint the new 1278  
members to the Sewage Treatment System Technical Advisory 1279  
Committee that are required to be appointed under section 3718.03 1280  
of the Revised Code as amended by this act. 1281

The Governor shall appoint the person representing a 1282  
statewide organization representing townships for an initial term 1283  
of one year. Thereafter, the person appointed to that position 1284  
shall be appointed to a three-year term as required by section 1285  
3718.03 of the Revised Code. 1286

The President of the Senate shall appoint the person who is 1287  
required to have demonstrated experience in the design of 1288  
household sewage treatment systems for an initial term of two 1289  
years. Thereafter, the person appointed to that position shall be 1290  
appointed to a three-year term as required by section 3718.03 of 1291  
the Revised Code. 1292

The Speaker of the House of Representatives shall appoint the 1293

person that is required to be a registered professional engineer 1294  
with experience in sewage treatment systems for an initial term of 1295  
three years. Thereafter, the person appointed to that position 1296  
shall be appointed to a three-year term as required by section 1297  
3718.03 of the Revised Code. 1298

**Section 5.** That Section 3 of Am. H.B. 416 of the 127th 1299  
General Assembly be amended to read as follows: 1300

**Sec. 3.** (A) Not later than three months after the effective 1301  
date of this section, the Director of Natural Resources shall 1302  
convene an advisory board consisting of the following persons with 1303  
an interest in the Great Lakes-St. Lawrence River Basin Water 1304  
Resources Compact: 1305

(1) The Director of Natural Resources or the Director's 1306  
designee, who shall serve as chairperson of the advisory board; 1307

(2) The Director of Environmental Protection or the 1308  
Director's designee; 1309

(3) The Director of Development or the Director's designee; 1310

(4) The following members appointed by the Governor: 1311

(a) One water quality expert from the faculty or staff of an 1312  
Ohio college or university; 1313

(b) One representative of a statewide environmental advocacy 1314  
organization; 1315

(c) One representative of a local environmental advocacy 1316  
organization in the Lake Erie Basin; 1317

(d) One representative of a sustainable economic development 1318  
organization in the Lake Erie Basin; 1319

(e) One representative of the travel and tourism industry; 1320

(f) One representative of the electric utility industry; 1321

(g) One representative of a county government in the Lake Erie Basin.	1322
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(5) The following members appointed by the President of the Senate:	1324
(a) Two members of the Senate who shall not be members of the same political party;	1326
(b) One representative of the bottled water industry;	1328
(c) One representative of a statewide land conservation advocacy organization;	1329
(d) One representative of agricultural interests in the Lake Erie Basin;	1331
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(e) One representative of the aggregates industry;	1333
(f) One representative of the pulp and paper industry;	1334
(g) One representative of a large manufacturer with a facility located within the Lake Erie Basin;	1335
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(h) One member of the public.	1337
(6) The following members appointed by the Speaker of the House of Representatives:	1338
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(a) Two members of the House of Representatives who shall not be members of the same political party;	1340
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(b) One representative of a municipal government in the Lake Erie Basin;	1342
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(c) One expert in hydrogeology from the faculty or staff of an Ohio college or university;	1344
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(d) One representative of a locally based organization in the Lake Erie Basin that assists in the development and implementation of a plan for the protection and management of surface and ground water resources in a watershed;	1346
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(e) One representative of a fish and wildlife advocacy organization;	1350
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(f) One representative of residential developers;	1352
(g) One representative of the chemical industry;	1353
(h) One representative of the petroleum industry with a facility located within the Lake Erie Basin.	1354
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All appointments shall be made to the advisory board not later than thirty days after the effective date of this section.	1356
The advisory board shall meet on a regular basis. Vacancies on the advisory board shall be filled in the manner provided for original appointments. Members of the advisory board shall receive no compensation for serving on the board. The Department of Natural Resources shall provide technical support to the advisory board.	1357
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(B) The advisory board shall be convened for the purpose of developing recommendations for legislation that is necessary to implement and effectuate the requirements and purposes of the Great Lakes-St. Lawrence River Basin Water Resources Compact. The recommendations shall address, but not be limited to, the following:	1363
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(1) The evaluation and recommendation of the threshold levels to be included in the implementing legislation for regulating new or increased water withdrawals in the state, considering at least all of the following:	1369
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(a) The number of withdrawals that will be regulated;	1373
(b) The relative impact of those withdrawals;	1374
(c) The practicality of regulating those withdrawals;	1375
(d) The alternatives that are available in the establishment of a permitting program in order to meet the water management objectives of this state.	1376
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(2) The establishment of requirements regarding the review of	1379

lists of existing water users in the portion of the Great Lakes-St. Lawrence River Basin that is in this state;	1380
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(3) The establishment of a process for use by persons that wish to appeal their inclusion in the list of existing water users;	1382
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(4) The establishment of conservation objectives with respect to the Great Lakes-St. Lawrence River Basin Water Resources Compact and the development of the state's water conservation and efficiency programs;	1385
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(5) The method for determining the capacity of existing facilities as required in Section 4.12.2 of the Great Lakes-St. Lawrence River Basin Water Resources Compact.	1389
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(C) The advisory board shall present its final recommendations to the Governor and the General Assembly not later than <del>eighteen months after the effective date of this section</del> <u>December 15, 2010</u> . It is the intent of the General Assembly that the recommendations of the advisory board will represent a consensus of the board's members regarding the issues presented to and discussed by the board. However, if a consensus cannot be reached on any or all of the issues before the board, one or more minority opinions may accompany the recommendations of the board.	1392
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(D) Upon submission of its recommendations under division (C) of this section, the advisory board shall cease to exist.	1401
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<b>Section 6.</b> That existing Section 3 of Am. H.B. 416 of the 127th General Assembly is hereby repealed.	1403
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