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H.B. 692
(1_136_3084-2)
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 692's Bill Analysis](#)

Version: In House Health

Primary Sponsors: Reps. Pizzulli and John

Local Impact Statement Procedure Required: No

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Highlights

- The Ohio Department of Health (ODH) will realize administrative and possibly staffing costs to review and process registrations for installers, service providers, and septage haulers. On the other hand, local boards of health will realize a reduction in administrative costs and a corresponding loss of associated fees as the registration processing shifts to ODH. Registration fees will be deposited into the General Operations Fund (Fund 4700) and 75% of revenues will be distributed to local boards of health.
- Local boards of health may realize costs to update operation and maintenance (O&M) programs currently in place due to the bill's changes regarding site evaluation, soil analysis, and sewage treatment system (STS) permits.
- ODH will also realize training costs to provide annual training to local boards of health on soil analysis. The bill allows training to be conducted electronically.
- ODH may realize administrative costs for the STS Technical Advisory Committee to hear and decide board of health decisions concerning STSs. Local boards of health may realize a decrease in appeals costs.

Detailed Analysis

The bill makes several changes to the law regarding sewage treatment systems (STSs) and household sewage treatment systems (HSTSs). This includes shifting responsibility for registering installers, services providers, and septage haulers from local boards of health to the Ohio Department of Health (ODH), as well as making changes to provisions regarding site evaluation, soil analysis, and STS permits.

Registration of installers, service providers, and septage haulers

The bill shifts responsibility for registering installers, services providers, and septage haulers from local boards of health to ODH. The bill requires each installer, service provider, and septage hauler to submit an application for registration before January 1 of each year, unless such application is for initial registration. The bill also requires ODH to establish a timeline for when an applicant for initial registration is registered for the subsequent registration period. Additionally, ODH must establish fee amounts to be collected for annual registrations and a prorated fee for initial registrations.

Fiscal effect

Under current law, contractors submit their registration application, amongst other required materials, to the local board of health in the county where they will be performing services. Local boards charge a fee to process the application. Local boards review, approve, and process the registration applications. ODH will realize administrative costs to review and process these applications. There are a significant number of these contractors in the state, so it is possible that ODH may need additional staff to perform these duties.¹ On the other hand, local boards of health will see a reduction in administrative costs and a corresponding loss of associated revenues since they will no longer be responsible for these duties.

Fees collected by ODH will be deposited into the General Operations Fund (Fund 4700). The revenue may be used in part to help with the administration and enforcement of these duties. However, at least 75% of the revenue will be distributed to boards in accordance with an established subsidy formula.

Site evaluation, soil analysis, and permits

Currently, the ODH Director adopts various rules related to STSs including a requirement that local boards of health conduct a site evaluation for any proposed STS installation. The bill specifies that this includes a soil analysis for any STS used as the primary system on a property. However, the bill prohibits rules from requiring a soil analysis for a replacement area or a newly created lot. If a soil analysis is not conducted, a board of health may provide a notification statement to the property owner stating this. However, under the bill, the rules authorize a board of health to conduct a soil analysis on a newly created lot when limitations exist at the location that may prevent an STS from being installed on the lot. The bill, through rule, authorizes a board of health to require a soil analysis if a household sewage treatment system (HSTS) is proposed to be installed in a disturbed area that lacks any in-situ soil in order to determine if an HSTS can be installed in the area. Additionally, the bill requires ODH to provide annual soil analysis training for local health departments, which may be conducted electronically.

The bill requires a board of health to conduct an education assessment (rather than inspection) of an STS no later than a year after its installation, which may be scheduled with the owner of the STS. The bill authorizes, rather than requires, each board of health to develop a program for the administration of maintenance requirements regarding STSs, including requirements and procedures under which a property owner may demonstrate the required maintenance of a system in lieu of having an inspection conducted when an inspection otherwise

¹ See [Bond Lists of Installers, Service Providers and Septage Haulers](#).

is required. However, the bill specifies that providing proof does not preclude a local board of health from conducting compliance inspections for the purpose of oversight of such maintenance or from requiring the payment of an operation permit fee.

The bill also changes the law regarding permits related to STSs. Under the bill, no board of health shall prohibit the installation of an STS on a slope so long as the STS meets the design criteria prescribed by rules and the installation does not pose a risk to contractor safety. A board of health cannot require a permit if an STS is repaired and the repair meets specified conditions. However, a permit is required under specified circumstances, such as when the soil absorption component of an STS is altered or replaced. Finally, if a soil analysis is not conducted, a board of health is permitted to provide a notification stating this.

Fiscal effect

Operations and maintenance (O&M) programs are used by boards of health to administer the maintenance requirements specified in rule by ODH. The bill authorizes, rather than requires, boards to develop these programs. However, it is assumed that most boards would continue to administer these programs. As a result, there could be costs to update each board's O&M program that is currently in place. As a result of the bill's changes, it is possible that fewer permits may be issued, and fewer soil evaluations may be conducted, in specified circumstances. Any other impacts will depend on how the rules are implemented and how this differs from current practice at the local level. For instance, what will an educational assessment for an STS entail versus the current duties related to an STS original inspection 12 months after an STS installation. Additionally, ODH will realize rule promulgation costs to update their rules concerning STSs and HSTs.

Lastly, ODH will also realize costs to provide annual soil analysis training to local boards of health. This can be conducted electronically though, which could lessen some costs.

Appeals

The bill also requires the five members of the STS Technical Advisory Committee appointed by the Governor to hear and decide any appeal of a hearing by a board of health related to the board's decision regarding an STS. Currently, a county STS appeals board or the applicable court of common pleas hears these cases. Under the bill, appeals will be filed in writing with ODH within ten days of receiving written notice of the board of health's decision.

Fiscal effect

ODH will realize administrative costs to process STS appeals. Additionally, ODH will realize costs to provide meeting space for any appeal hearing and to provide any assistance to the members. However, members serve without compensation for attending committee meetings. On the other hand, local boards of health will no longer realize costs associated with these appeals.

Background

HSTs are common in rural areas with no access to a centralized sewer system. ODH regulates HSTs and STSs and provides technical assistance and training to local boards of health. However, boards of health are responsible for permitting and inspecting STSs in their jurisdictions. Boards are required to develop an O&M program to monitor HSTs and STSs. As part of this program, all HSTs must have a permit issued by the appropriate board. Boards are

also involved if a new HSTS is constructed or an existing system is significantly altered or replaced.² There are several fees associated with this process, including applying for an HSTS installation or alteration permit and paying the prescribed fee.³ Boards are authorized to inspect any HSTS if there is a good-faith complaint regarding the system, probable cause, or proof that required maintenance of the system has not been provided.⁴ Additionally, boards are authorized to inspect without prior notice any HSTS that the board has probable cause to believe poses a threat to public health.

Boards determine fee amounts based on the costs of performing services and are generally permitted to establish a uniform system of fees to pay the costs of services provided.⁵ Furthermore, boards of health are required to establish fees for the purpose of carrying out the duties relating to HSTSs and all such fees collected are required to be deposited into a special fund of the district and used only to carry out related duties.⁶ Fees are calculated based on the actual costs of providing services in the previous fiscal year. A portion of certain HSTS fees for installation or alteration of HSTSs collected by a local health department are transferred to ODH to pay for their administrative costs.⁷

Synopsis of Fiscal Effect Changes

The As Introduced version of the bill made several changes to the law regarding sewage treatment systems (STSs) and household sewage treatment systems (HSTSs). The bill did the following: (1) eliminated the requirement for a board of health to conduct an initial inspection of an STS within one year of installation, (2) prohibited a board from conducting mandatory annual inspections of an STS, inspections conducted without probable cause that the system is endangering or threatening to endanger public health, and inspections conducted without a good-faith complaint regarding the system, (3) prohibited the Ohio Department of Health (ODH) rules from requiring a board of health to conduct a soil evaluation at the site of a proposed STS unless the board has a good-faith reason to conduct a soil evaluation that is in the interest of public health and safety, and (4) prohibited a board from imposing certain requirements or prohibitions regarding the installation and design of an HSTS. As a result, the number of sewage treatment inspections may have been reduced, which would have resulted in a decrease in inspection costs and related fee revenues. ODH would have realized minimal costs to update administrative rules.

The substitute bill (I_136_3084-2) removes or modifies the provisions discussed directly above and makes several other changes to the law regarding STSs and HSTSs. The substitute bill shifts responsibility for registering installers, services providers, and septage haulers from local boards of health to ODH. ODH will realize an increase in administrative and possibly staffing costs to evaluate registration applications. Local boards will realize a decrease in administrative costs

² R.C. 3718.02 and Ohio Administrative Code (O.A.C.) 3701-29-19.

³ O.A.C. 3701-29-09.

⁴ O.A.C. 3701-29-23.

⁵ R.C. 3709.09.

⁶ R.C. 3718.06.

⁷ O.A.C. 3701-29-05.

and associated fee revenues due to this shift. The bill also requires ODH to provide annual soil analysis training for boards of health, which will result in training costs for the agency. Additionally, the bill changes the appeal process for a board of health decision regarding STSs. ODH would realize new administrative costs to handle appeals of these decisions and local boards will realize a decrease in costs.

The substitute bill also makes several different changes surrounding site evaluation, soil analysis, and STS permits. This could result in costs to update a board's O&M program.