



H.B. 267

123rd General Assembly
(As Introduced)

**Reps. Krebs, Logan, Bender, Brading, Krupinski, D. Miller, Opfer,
Terwilleger**

BILL SUMMARY

- Permits a board of county commissioners to prohibit certain household sewage disposal systems in unincorporated areas of the county.
- Requires the Ohio Public Works Commission to consider unnecessary duplication of public infrastructure, and to give priority, to the extent possible for improvement projects for the year 2003 and thereafter, to "certified well-planned counties," when granting financial assistance from the State Capital Improvements Program or the Local Transportation Improvement Program for local improvement projects.
- Requires the notification of the Director of Agriculture when land in an agricultural security area is to be appropriated by eminent domain.
- Reduces the Ohio estate tax for certain farmland under specified circumstances.
- Provides for the issuance of farmland preservation license plates to collect monies for the purchase of agricultural easements.

CONTENT AND OPERATION

County regulation of household sewage disposal systems

The bill permits a board of county commissioners, in accordance with specified rules (see below), to adopt a resolution prohibiting the installation and operation of household sewage disposal systems in the area or areas of the unincorporated territory of the county that are designated in the resolution. The resolution and the associated rules do not apply to any household sewage disposal system in existence, or for which an installation permit has been issued by a board

of health under sanitary rules of the Public Health Council, prior to the adoption of the resolution or rules. (Sec. 317.061(A) and (C).) A "**household sewage disposal system**" is a complete sewage disposal system, other than a disposal system for which a permit is required under the Water Pollution Control Law, that (1) is installed on a single parcel of land for use at a single-family, two-family, or three-family dwelling and (2) receives sewage for treatment and ultimate disposal (sec. 307.061(D)(1)).

A board of county commissioners may adopt rules in preparation for the adoption of such a resolution prohibiting household sewage disposal systems. Those rules may establish the following: (1) scientific criteria for the identification of an area or areas in which the installation and operation of household sewage disposal systems should be prohibited because of soil conditions or other physical characteristics that make the operation of those systems unacceptable in that area or areas, (2) procedures for the designation of that area or areas, including public notice and hearings, (3) criteria and procedures for the establishment of limited exceptions to the prohibition against installing and operating household sewage disposal systems in a designated area or areas, and (4) areas that reasonably can be served, within a time period specified by the board, by a sewerage system that is required by current law to be approved by the Director of Environmental Protection. (Sec. 307.061(B) and (D)(2).)

New agricultural terms: "agricultural security area" and "certified well-planned county"

The bill proposes changes relating to the *preservation of farmland* in various areas of law. To do so, the bill defines some new terms relevant to farmland areas that apply in several provisions of the bill and are necessary to know at the outset in order to understand the proposed changes. Those terms are as follows:

An "**agricultural security area**" is an area of farmland to which all of the following apply (sec. 303.024(A)(2)):

(1) The area of farmland is placed in an *agricultural district* under the Agricultural District Law, which generally requires the area to be composed of a total of not less than ten acres or to have produced during a specified three-year period an average yearly gross income of at least \$2,500 from agricultural activities.¹

¹ *The Agricultural District Law permits a person who owns agricultural land to apply to a county auditor to place the land in an agricultural district for five years. During the*

(2) The area is valued and assessed for real property tax purposes in accordance with its *current agricultural use value* under the Real Estate Tax Assessment Law (secs. 5713.30 to 5713.38).

(3) The farmland is located within a district *zoned for agriculture* or as an *agricultural supportive* area.

A "***certified well-planned county***" means a county that has a comprehensive plan that has all the following (sec. 303.024(A)(3) and (B)):²

(1) The plan *classifies soil* within the county into soil classes designated by the Department of Natural Resources.

(2) The plan *designates* the area or areas of unincorporated county territory *where household sewage disposal systems are prohibited*.³

(3) The plan designates *agricultural security areas* "where appropriate."

(4) The plan "considers and *recognizes*" the importance of *mineral deposits* (other than coal and peat) for economic growth.⁴

preceding three calendar years, the applicant's land must have been devoted exclusively to agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with a federal agency. Once land is in an agricultural district, certain protections from agriculture-related nuisance suits, special procedures for eminent domain proceedings, and exemptions from assessments for sewer, water, or electrical service are available. (R.C. Chapter 929.)

² *The County Zoning Law requires zoning regulations to be adopted in accordance with a "comprehensive plan." The Revised Code does not further describe any specifics regarding this plan. (Sec. 303.02.)*

³ See "**County regulation of household sewage disposal systems**," above.

⁴ *The bill does not explain how a plan "considers and recognizes" the importance of mineral deposits for economic growth, so it is unclear what a plan must contain to meet this requirement.*

Limitations on granting certain state financial assistance for infrastructure improvements

Background

The Ohio Public Works Commission (OPWC) distributes financial assistance to political subdivisions for the improvement of their basic infrastructure systems through the State Capital Improvements Program and the Local Transportation Improvement Program. Funding for the State Capital Improvements Program comes from the proceeds of general revenue bonds issued by the state. Eligible improvements for financial assistance from that program include roads, bridges, wastewater treatment systems, water supply systems, solid waste disposal facilities, flood control systems, and storm water and sanitary collection, storage, and treatment facilities. Funding for the Local Transportation Improvement Program comes from one cent per gallon of the state's motor vehicle fuel excise tax. Eligible improvements for financial assistance from that program include roads and bridges. (Secs. 164.01(A), 164.05, 164.08, and 164.14.)⁵

For the purpose of allocating the assistance available under these programs, the state is divided into 19 districts, each of which encompasses one or more counties. In each district, there is a district public works integrating committee. To apply for assistance under one of the infrastructure improvement programs, a county, municipal corporation, township, sanitary district, or regional water and sewer district applies to its district public works integrating committee. The committee evaluates the application it receives and selects projects to submit to the OPWC Director for approval. (Secs. 164.03 to 164.06 and 164.14.)

Changes proposed by the bill

The bill places limitations on the OPWC Director and the district public works integrating committees when they respectively evaluate which improvement projects will receive or be recommended to receive financial assistance from the State Capital Improvements Program or the Local Transportation Improvement Program. They essentially must determine (among other factors) that an improvement project will *not create unnecessary duplication of public infrastructure* and, to the extent possible when approving financial assistance for improvement projects or when reviewing and selecting improvement projects to be recommended for financial assistance *for the year 2003 and beyond*, they must

⁵ *Financial assistance may take the form of loans, grants, or local debt support and credit enhancements.*

give priority to projects within counties that are certified well-planned counties.⁶ (Secs. 164.05(A)(1)(f) and (K), 164.06(B), 164.14(F), and 303.024(B).)

Notification before appropriating farmland

The bill essentially requires any agency (public or private) that has eminent domain authority, as a *condition* of appropriating farmland *within an agricultural security area* under the Appropriation of Property Law, to provide the Director of Agriculture with a written notice of the proposed appropriation at least 30 days prior to commencing the appropriation proceedings (sec. 163.041).⁷

Ohio estate tax deduction

The bill provides that the value of *qualified real property* (in this case, property that is located in an agricultural security area) must be deducted from the value of the taxable estate for Ohio estate tax purposes if *all* the heirs of the qualified real property file a timely *election for the deduction* with the probate court, which must forward a copy of the election to the Tax Commissioner and maintain certain records with respect to the election.⁸ In accordance with rules that the Tax Commissioner must prescribe, the owner of qualified real property must file an annual report with the Tax Commissioner, establishing that no part of the property ceased to be qualified real property. If the property ceases to be qualified real property, a *recapture tax* must be imposed, equal to the amount of the estate tax saved, and the property owner must pay that amount plus interest from nine months after the date of the election. If only a part of the property ceases to be qualified real property, the probate court must apportion the recapture tax in proportion to the value of that part of the property that is no longer qualified real property. The recapture tax is due six months after the date the property ceases to be qualified real property and must be paid by the person who owns the property on that date. If it is not paid, it becomes a lien upon the property until paid. (Secs. 5731.012 and 5731.38.)

⁶ See "**New agricultural terms: 'agricultural security area' and 'certified well-planned county'**," above.

⁷ See "**New agricultural terms: 'agricultural security area' and 'certified well-planned county'**," above.

⁸ See "**New agricultural terms: 'agricultural security area' and 'certified well-planned county'**," above. A person with a contract to purchase an interest of an heir is treated as the heir with respect to that interest (sec. 5731.012(B)).

License plates for farmland preservation

The bill establishes and provides for the issuance of farmland preservation license plates. It requires the Office of Farmland Preservation in the Department of Agriculture to design identifying words or markings to be inscribed on these plates, but the words or markings must be approved by the Registrar of Motor Vehicles. A recipient of farmland preservation license plates must pay a *contribution* to the state Agricultural Easement Purchase (AEP) Fund in addition to regular license fees and motor vehicle tax payments, plus *an additional "voluntary" fee* of no more than \$10 to compensate the Bureau of Motor Vehicles for additional services required to issue the license plates. The amount of the AEP Fund contribution is to be determined by the Office of Farmland Preservation, but cannot exceed \$40. (Sec. 4503.261.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-23-99	p. 346

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