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Bill Analysis
Legislative Service Commission

Sub. H.B. 25*

125th General Assembly

(As Reported by S. Energy, Natural Resources, and Environment)

Reps. Gibbs, Grendell, Peterson, Seitz, Otterman, McGregor, Core, Gilb, Hollister, Niehaus, Setzer, Wagner, DeBose, Domenick, Skindell, Carmichael, Aslanides, Buehrer, Cates, Chandler, Cirelli, Clancy, Collier, Flowers, Hoops, Hughes, Kearns, Koziura, S. Patton, Reidelbach, Taylor, Wolpert

BILL SUMMARY

- Authorizes a board of county commissioners to adopt and include regulations in its building code to protect existing surface and subsurface drainage for property that is not subject to the Subdivision Law.
- Requires regulations not to be inconsistent with, more stringent than, or broader in scope than standards adopted by the Natural Resource Conservation Service in the United States Department of Agriculture concerning drainage or rules adopted by the Environmental Protection Agency for reducing, controlling, or mitigating storm water runoff from construction sites, where applicable.
- Eliminates the Residential Construction Advisory Committee.

CONTENT AND OPERATION

Building code regulations

Current law

Under current law, a board of county commissioners may adopt and enforce a building code applicable only to single-family, two-family, and three-family dwellings within the unincorporated territory of the county; other structures are

* *This analysis was prepared before the report of the Senate Energy, Natural Resources, and Environment Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

regulated by the state building code. County building codes may apply throughout the unincorporated territory of the county or only in specified districts of that unincorporated territory. If districts are established, the regulations (including service charges) generally must be uniform within all districts.¹ (Sec. 307.37(A)(1).)

County building code regulations cannot "go beyond the scope of" regulating the safety, health, and sanitary conditions of buildings. A person adversely affected by the adoption, amendment, or repeal of a regulation may appeal to the court of common pleas on the ground that: (1) the regulation or its revision is unreasonable or unlawful, or (2) the regulation was improperly adopted, amended, or repealed. (Sec. 307.37(A)(1).)

The bill

Surface and subsurface drainage regulations. The bill permits a county to adopt and include in its building code regulations that provide for a review of the "specific" effects that a proposed new construction may have on any existing surface or subsurface drainage. "Proposed new construction" is defined as a proposal to erect, construct, repair, alter, redevelop, or maintain a single-family, two-family, or three-family dwelling or any structure that is regulated by the Ohio Building Code (sec. 307.37(A)). The regulations cannot apply to: (1) any property that has been approved with or without a plat by a platting authority in accordance with the Subdivision Law (see "**Regulations applicable to division of parcel without plat,**" below), or (2) any property for which a plat is submitted, or for which a proposed division is submitted without a plat, if approval of the submitted plat or proposed division is pending on the bill's effective date. The regulations may require reasonable drainage mitigation and reasonable alteration of a proposed new construction before a building permit is issued in order to prevent or correct any adverse effects that the proposed new construction may have on existing surface or subsurface drainage. "Subsurface drainage" does not include household sewage disposal systems as defined by current law. The regulations cannot be inconsistent with, more stringent than, or broader in scope than standards adopted by the Natural Resource Conservation Service in the United States Department of Agriculture concerning drainage or rules adopted by the Environmental Protection Agency for reducing, controlling, or mitigating storm water runoff from construction sites, where applicable. In addition, the regulations must allow a person who is registered under the Architects Law or the Professional Engineers and Professional Surveyors Law to prepare and submit

¹ *An exception is made for areas located in a flood hazard area or Lake Erie coastal erosion area. In those cases, more stringent regulations may be imposed to prevent or reduce flooding or erosion.*

relevant plans and other documents for review, provided that that person is authorized to prepare the plans and other documents pursuant to the person's registration. (Sec. 307.37(B)(3)(a), (d), and (e) and Section 3 of the bill.)

The drainage regulations may authorize the board of county commissioners, in enforcing the regulations and after obtaining the advice of the county engineer, to enter into an agreement with the county engineer, or another qualified person or entity, to carry out any necessary inspections. The persons or entities also would evaluate what, if any, alterations are necessary to prevent or correct any adverse effects that a proposed new construction may have on existing surface or subsurface drainage. (Sec. 307.37(B)(3)(c).)

As under existing law for violations of other county building code regulations, a violation of a proposed drainage regulation can result in a fine of not more than \$300. Each day during which an illegal construction continues may be considered a separate offense. (Sec. 307.37(D); sec. 307.99(C)--not in the bill.)

Regulations applicable to division of parcel without plat. Under current law, for a proposed division of a parcel without a plat under the Subdivision Law, the authority having approving jurisdiction must approve the proposed division within seven working days after submission of the proposed division if the authority is satisfied that the proposed division is not contrary to applicable platting, subdividing, zoning, or access management regulations. The bill adds that the approving authority also must be satisfied that the proposed subdivision is not contrary to surface and subsurface drainage regulations adopted under the bill. (Sec. 711.131.)

Required elements of drainage regulations. The bill provides that if a board of county commissioners adopts drainage regulations, the regulations must include a procedure for the review of a proposed new construction prior to the issuance of a building permit. The purpose of the review is to examine the specific effects the proposed new construction may have on existing surface or subsurface drainage. (Sec. 307.37(B)(3)(b).)

The procedure for the review must include a meeting with interested parties, generally within 30 days after an application for a building permit is filed or a review is requested or by an extension of time that has been agreed to in writing by the applicant. That meeting must be scheduled within five days after the application is filed or a review is requested, and the review, including the issuance of any orders by the board of county commissioners regarding necessary reasonable drainage mitigation and necessary reasonable alterations to the proposed new construction to prevent or correct any adverse effects on existing surface or subsurface drainage, must be completed within 30 days after that filing or request or within two days after the meeting if any extension of time is agreed

to in writing by the applicant. The procedure also must provide for: (1) written notice of the meeting to be mailed to the applicant by regular mail at least seven days before the scheduled meeting date, and (2) a written statement, provided to the applicant at the meeting or in an order for alterations to a proposed new construction, informing the applicant of the right to seek appellate review of a denial of a building permit until the proposed new construction is altered. (Sec. 307.37(B)(3)(b).)

If the review is not completed within the 30-day period or any extended period agreed to by the applicant, the proposed new construction will be deemed to have no adverse effects on existing surface or subsurface drainage, and, accordingly, those effects cannot be a valid basis for a denial of a building permit (sec. 307.37(B)(3)(b)(iii)).

Elimination of the Residential Construction Advisory Committee

Under current law, the Residential Construction Advisory Committee exists within the Department of Commerce to perform specified functions regarding building codes for residential buildings. It consists of eight persons appointed by the Director of Commerce. The bill repeals the law creating the Advisory Committee (repeal of sec. 4740.14 in Section 2 of the bill).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-31-03	p. 83
Reported, H. Energy & Environment	03-06-03	pp. 214-215
Passed House (96-0)	03-18-03	pp. 259-260
Reported, S. Energy, Natural Resources, & Environment	---	---

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