



H.B. 569

126th General Assembly
(As Introduced)

Reps. Oelslager, Setzer, Blasdel, Trakas, Ujvagi, DeGeeter, Hughes, Williams, C. Evans, Boccieri, Martin, Calvert, J. McGregor, Chandler, Perry, D. Evans, Yuko, Harwood, DeBose, Fessler, Wolpert, Combs, Brown, Cassell

BILL SUMMARY

- Requires persons that are responsible for the direct or indirect discharge of untreated sewage or partially treated sewage onto land or into the waters of the state to provide notification of the discharge to the Director of Environmental Protection, each applicable board of health, at least one radio station and one television station that broadcasts in each county where the discharge occurred or is occurring, and a newspaper of general circulation in each county where the discharge occurred or is occurring.
- Establishes additional notification requirements applicable to counties, municipal corporations, and other political subdivisions that are responsible for combined sewage systems or sewerage systems from which discharges occur, including requirements governing the posting of signs notifying the public of a direct or indirect discharge of untreated or partially treated sewage.
- Requires the Director to establish a permanent toll-free telephone hotline for recording information concerning the contents of notifications received under the bill.
- Requires the Director, upon the receipt of notification under the bill, to establish a recording on the toll-free telephone hotline, notify electronically persons that have requested to be notified, and post the notification on the Environmental Protection Agency's web site.
- Requires the Director to adopt rules governing the toll-free hotline, the electronic notification list, and annual reports of direct and indirect

discharges of untreated sewage or partially treated sewage and establishing any other criteria, guidelines, and procedures that the Director determines are necessary to administer the bill.

- Establishes water testing requirements that apply after a discharge of untreated or partially treated sewage into the waters of this state occurs.
- Requires persons that are responsible for systems that may discharge untreated or partially treated sewage into the waters of the state to annually inform each municipal corporation within whose geographical boundaries are located waters that may be affected by a discharge of the option to receive a notification of the discharge.

CONTENT AND OPERATION

Notifications of discharges of partially treated and untreated sewage

Ohio's Water Pollution Control Law prohibits the discharge of partially treated sewage and untreated sewage. However, that Law does not establish any specific notification procedures should such a discharge take place. According to the Environmental Protection Agency, individual national pollutant discharge elimination system (NPDES) permits may contain certain notification requirements, and the Agency may enter into consent decrees that establish notification requirements with persons discharging partially treated or untreated sewage. However, there are no statewide statutory requirements governing notification.

The bill provides that not later than 24 hours after the direct or indirect discharge of untreated sewage or partially treated sewage onto land or into the waters of the state¹ begins, the person that is responsible for the system from which the discharge occurred or is occurring must notify the Director of Environmental Protection, each applicable board of health, at least one radio station and one television station that broadcasts in each county where the discharge occurred or is occurring, and a newspaper of general circulation in each

¹ Under current law, "waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters (sec. 6111.01(H), not in the bill).

county where the discharge occurred or is occurring (sec. 6111.051(B)(1)). Under the bill, "partially treated sewage" means any treated or untreated sewage from a combined sewage system or a sewerage system that satisfies at least one of the following:

- (1) The sewage has not undergone primary and secondary treatment;
- (2) The sewage is discharged from a combined sewage system or a sewerage system; or
- (3) The sewage is located on the surface of the land (sec. 6111.051(A)(1)).

"System" is defined by the bill to mean a combined sewage system or a sewerage system. "Combined sewage system" is defined to mean a system that conveys sewage in dry weather to a treatment works and that conveys sewage and storm water during wet weather to a treatment works or a combined sewage overflow relief point that is specifically authorized by a NPDES permit issued under the Water Pollution Control Law. Finally, the bill defines "storm water" to mean storm water runoff, snow melt runoff, and surface runoff and drainage. (Sec. 6111.051(A)(4), (2), and (3).)

The notification required by the bill must include a statement by telephone or in another manner required by the Director that a discharge occurred or is occurring, the number for the toll-free telephone hotline established by the Director under the bill (see below), and a statement explaining the general health effects from exposure to untreated or partially treated sewage and general actions that a person may take to avoid such exposure (sec. 6111.051(B)(1)). Not later than 24 hours after the conclusion of the discharge, the person that is responsible for the system from which the discharge occurred must submit to the Director, each applicable board of health, and each radio station, television station, and newspaper to which the notification was submitted a statement in writing or in another manner required by the Director that contains all of the following:

- (1) The volume and quality of the discharge as measured pursuant to procedures and methods approved by the Director;
- (2) The reason for the discharge;
- (3) The location of the outfall and the location of the land, water, or both that received the discharge;
- (4) The times that the discharge began and ended as determined using procedures approved by the Director;

(5) A verification of compliance with the requirements of the person's NPDES permit and applicable state and federal statutes and regulations; and

(6) An explanation of the general health effects from exposure to untreated or partially treated sewage and general actions that a person may take to avoid such exposure (sec. 6111.051(B)(2)).

Requirements pertaining to local governments

Under the bill, if the person that is responsible for a system from which a discharge occurred or is occurring is a county, municipal corporation, or other political subdivision (local government) that maintains a web site, the local government must post on the web site the number for the toll-free telephone hotline established by the Director under the bill (see below) and the other notification information that the bill requires dischargers to submit as discussed above. In addition, the local government must post a map that shows the location of every outfall of the system for which the local government is responsible and a history of the discharges from the system. The bill requires the information to be maintained on the web site so that it continues to be accessible to the public. (Sec. 6111.051(F)(1).)

Further, a local government that is responsible for a system from which a discharge occurred or is occurring must post a prominent sign within the territorial boundaries of the county or municipal corporation, or other political subdivision, as applicable, at each access point to affected water, including boat ramps, bridges, parks, and school yards, and on land that is adjacent to affected water at locations that are determined by the local government to be most likely to provide notice to persons who may come into direct contact with the affected water. However, if an access point to, or land that is adjacent to, affected water is located on private property or on property that is outside the territorial boundaries of the county, municipal corporation, or other political subdivision, as applicable, the local government must offer to provide the sign to the owner of the private property or to the political subdivision within whose territorial boundaries the access point or land is located. The sign must contain the following language or language that is equivalent in meaning: "Caution--Sewage or Wastewater Pollution. Sewage or wastewater may be in this water during and for several days after periods of rainfall or snow melt. People who swim in, wade in, or ingest this water may become sick. For more information, please contact [name, telephone number, and, if available, web site address of the person responsible for the system] or call the Ohio Environmental Protection Agency's hotline [number for the toll-free telephone hotline]." (Sec. 6111.051(F)(2) and (3).)

Requirements pertaining to Director of Environmental Protection

Under the bill, when the Director of Environmental Protection receives notification of and a statement concerning a direct or indirect discharge of untreated sewage or partially treated sewage onto land or into the waters of the state, the Director must immediately record on the toll-free telephone hotline established under the bill (see below) information concerning the contents of the notification and statement and retain the information on the hotline for two days after receipt of the statement. In addition, the Director must notify electronically every person that has requested to be on the electronic notification list established in rules adopted under the bill (see below) and post the notification and statement on the Environmental Protection Agency's web site. (Sec. 6111.051(C).)

The bill requires the Director to establish a permanent toll-free telephone hotline for recording the information concerning the contents of a notification and a statement that are required to be submitted under the bill and post the number of the hotline on the Agency's web site. The bill also requires the Director to post on the Agency's web site a map that shows the location of every outfall of each combined sewage system in the state. In addition, the Director must post on the web site a history of discharges from each combined sewage system in the state. (Sec. 6111.051(D)(2).)

Under the bill, the Director must adopt rules in accordance with the Administrative Procedure Act that do all of the following:

(1) Establish procedures to disseminate the toll-free telephone hotline number that is established under the bill in a manner that effectively informs the public;

(2) Establish an electronic notification list for persons that wish to be kept informed when notifications of direct or indirect discharges of untreated sewage or partially treated sewage are submitted under the bill. The rules must allow a person to register on the Agency's web site, or to register using another method that is acceptable to the Director, to receive an electronic notification.

(3) Require a person that is responsible for a system to prepare an annual report that includes the number and volume of each direct and indirect discharge of untreated sewage or partially treated sewage from the system onto land or into the waters of the state. The rules must prescribe the form of the annual report and the method by which a report may be submitted, which may include electronic transmission of the required information.

(4) Establish any other criteria, guidelines, and procedures that the Director determines are necessary to administer the bill. (Sec. 6111.051(E).)

Water quality testing

Under the bill, if a discharge of untreated sewage or partially treated sewage into the waters of this state occurs, the person that is responsible for the system from which the discharge occurred must test the impacted waters for the presence of untreated sewage or partially treated sewage using e. coli or another more accurate indicator of untreated sewage or partially treated sewage that is approved by the Director and report the findings to each applicable board of health and the Director. Each applicable board of health must specify the location or locations of the testing. However, the number of test locations for a discharge cannot exceed ten. (Sec. 6111.051(G).)

Annual notification of municipal corporations

The bill requires a person that is responsible for a system that may discharge untreated sewage or partially treated sewage into the waters of the state to annually inform each municipal corporation within whose geographical boundaries are located waters that may be affected by a discharge of the option to receive a notification and a statement in the manner provided under the bill. If such a municipal corporation provides a written request to receive notification, the person that is responsible for a system must provide a notification and a statement to the municipal corporation that contains the information specified in the bill's notification requirements. (Sec. 6111.051(H).)

Miscellaneous provisions

The bill states that its provisions regarding actions that are required of the Director, notifications by local governments, water quality testing, and annual notification of municipal corporations do not apply to discharges of untreated sewage or partially treated sewage into ground water (sec. 6111.051(I)). Further, the bill states that it does not authorize the discharge of untreated sewage or partially treated sewage onto land or into the waters of the state or limit any person from bringing legal action under the Water Pollution Control Law and rules adopted under it (sec. 6111.051(J)).

Penalties

Under the Water Pollution Control Law, anyone who violates certain provisions related to the issuance of permits and the discharge of wastes into the waters of the state must pay a civil penalty of not more than \$10,000 per day of violation. In addition, a violator is subject to a criminal penalty of not more than \$25,000 or imprisonment for not more than one year, or both. (Secs. 6111.07, 6111.09, and 6111.99, not in the bill.) Because the bill's provisions are located in the relevant portion of that Law, the civil and criminal penalties apply to violators

of the bill's requirements. Current law governing the investigation of violations and the issuance of injunctions also applies to the bill's provisions (secs. 6111.05 and 6111.07, not in the bill).

HISTORY

ACTION	DATE
Introduced	04-20-06

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