



S.B. 289

126th General Assembly
(As Introduced)

Sens. Grendell, Wachtmann

BILL SUMMARY

- Requires the Public Health Council to adopt rules governing sewage treatment systems no sooner than May 6, 2007, rather than no later than May 6, 2006, as in current law.
- States that the rules adopted by the Council establishing standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of household sewage treatment systems cannot prohibit the siting of a discharging system on a parcel, provided that the specifications of the system do not conflict with provisions related to the National Pollutant Discharge Elimination System permit program, and prohibits the rules from applying to systems on certain platted parcels.
- Requires the Public Health Council and the Director of Health jointly to prepare a written report containing specified information and provide a copy to every member of the General Assembly not later than 30 days prior to the submission of a proposed rule by the Public Health Council under the Household and Small Flow On-site Sewage Treatment Systems Law to the Joint Committee on Agency Rule Review.
- States that a rule that is adopted by the Public Health Council or a board of health under that Law has no force or effect if the rule has a substantial negative financial impact on the public's ability to purchase housing.
- Requires the Director of Health to adopt rules that are developed with the Sewage Treatment System Technical Advisory Committee that establish standards and guidelines for use by the Director in approving or disapproving a sewage treatment system or components of a system for use in this state when approval is requested by a manufacturer rather than

develop such standards and guidelines without adopting rules as in current law.

CONTENT AND OPERATION

Public Health Council rules

Current law requires the Public Health Council to adopt rules governing sewage treatment systems not later than May 6, 2006. The bill instead requires that the rules be adopted no sooner than May 6, 2007. (Sec. 3718.02(A).) Under current law, the rules must require the appropriate board of health to approve or disapprove the use of a sewage treatment system and to conduct a site evaluation for any proposed installation of a system, prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of household sewage treatment systems that may be used in this state (siting and operation rules), prescribe criteria and procedures under which boards of health must issue installation and operation permits for systems, and establish other specified requirements.

The bill revises the requirements governing the siting and operation rules by stating that the standards for the siting of household sewage treatment systems cannot prohibit the siting of a discharging system on a parcel, provided that the specifications of the system do not conflict with provisions related to the National Pollutant Discharge Elimination System permit program established under the Water Pollution Control Law and rules adopted under it. In addition, the bill prohibits the rules from applying to a system on a parcel for which a plat is submitted for approval under the Plats Law or for which a division without a plat is submitted for approval under that Law on or before the effective date of the rules if the approval of the plat or division of the parcel without a plat is pending on or after that date. For purposes of such a system, the bill requires the Public Health Council to adopt rules that are identical to the rules that governed such a system and that were in effect on June 6, 2005. (Sec. 3718.02(B)(3).)

Report to General Assembly

The bill requires the Public Health Council and the Director of Health, not later than 30 days prior to the submission of a proposed rule by the Council under the Household and Small Flow On-site Sewage Treatment Systems Law to the Joint Committee on Agency Rule Review, jointly to prepare a written report and provide a copy of the report to every member of the General Assembly. The report must contain all of the following:

(1) A determination of the potential benefit that the adoption and implementation of the rule will have on the health, safety, and welfare of the public;

(2) A determination of the economic reasonableness of the rule;

(3) A determination of the technical feasibility of the rule;

(4) A determination of the financial impact that the rule may have on the public's ability to purchase housing; and

(5) A list of all systems that satisfy the requirements of that Law and the estimated cost of each system. In addition, if more than one system satisfies the requirements of that Law and the rule requires a system for which the estimated cost is more than other systems that satisfy the requirements of that Law, the report must contain an explanation of the reasons why the system is required. (Sec. 3718.02(C).)

Rules that have substantial negative financial impact on public's ability to purchase housing

The bill adds that if a rule that is adopted by the Public Health Council or a board of health under the above Law has a substantial negative financial impact on the public's ability to purchase housing, the rule has no force or effect (sec. 3718.02(D)).

Intent of General Assembly

The bill states that it is the intent of the General Assembly in amending the statutory requirements governing sewage treatment systems rules that rules adopted by the Public Health Council related to the siting, design, installation, operation, monitoring, maintenance, and abandonment of household sewage treatment systems cannot have a substantial negative impact on the public's ability to finance or purchase housing. The bill states that it is also the intent of the General Assembly that during the rule development and adoption processes for those rules, the Public Health Council must equally consider the financial impact that the rules may have on Ohio's citizens and the businesses located in the state and the environmental concerns that the rules are intended to address. Further, the bill states that it is the intent of the General Assembly that the rules must advance the availability of new or progressive sewage treatment system technology for the citizens of Ohio. (Section 3.)

Standards and guidelines for approving or disapproving certain systems

Current law creates the Sewage Treatment System Technical Advisory Committee and requires it, among other functions, to develop with the Director of Health and the Department of Health standards and guidelines for use by the Director in approving or disapproving a sewage treatment system or components of a system for use in this state (secs. 3718.03(F)(1) and 3718.05(E)). The Director, in approving or disapproving an application submitted by a manufacturer seeking approval for the use of a sewage treatment system or a component of a system that differs in design or function from systems or components the use of which is authorized in rules adopted by the Public Health Council, must use the standards and guidelines that the Committee developed with the Department for that purpose (sec. 3718.04).

The bill instead requires the Committee to develop with the Director and the Department rules that establish such standards and guidelines and requires the Director to adopt the rules in accordance with the Administrative Procedure Act (secs. 3718.03(F)(1) and 3718.05(E)). In developing the rules, the Committee must use scientific peer-reviewed papers concerning sewage treatment systems or components of a system and third-party evaluations of such systems or components using accepted protocols (sec. 3718.03(F)(1)). Accordingly, the bill requires the Director, in approving or disapproving an application as discussed above, to use the standards and guidelines established in those rules (sec. 3718.04).

HISTORY

ACTION	DATE
Introduced	03-09-06

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