*Jeffery A. Bernard* *Legislative Service Commission*

# S.B. 339

126th General Assembly
(As Introduced)

**Sen. Austria**

## BILL SUMMARY

***Funding city and general health districts***

- Eliminates the authority of a county budget commission to reduce a general health district appropriation measure.
- Permits the board of health of a city or general health district to have a special levy placed on the ballot.

***Health commissioner***

- Requires that a person appointed as health commissioner of a city health district have the same qualifications a general health district health commissioner must have.
- Requires both the medical director and the health commissioner, if a physician, to receive ten hours of continuing medical education every two years.
- Requires a full-time employee be designated as the acting authority of a health district in the health commissioner's absence, if the health commissioner is part-time.

***Local Public Health Department Fund***

- Renames state health district subsidy funds the "Local Public Health Department Fund."
- Requires the Public Health Council to distribute Local Public Health Department Funds to health districts at not less than $1 per capita.

***Local Public Health Advisory Board***

- Creates the Local Public Health Advisory Board.
- Requires the board to advise the Director of Health on the funding of local public health programs and performance standards and to complete an annual report.

***Fiscal officer***

- Permits a board of health of a city or general health district to appoint a fiscal officer to act as both the treasurer and auditor of the health district.

***Citations***

- Permits a board of health of a city or general health district to authorize sanitarians to issue citations for certain offenses.
- Sets each fine resulting from a citation issued by a sanitarian at $40 for each occurrence of an offense.
- Establishes a procedure for objecting to a fine.
- Requires the county auditor to place on the general tax list any unpaid fines from citations issued by a board appointed sanitarian.

***Board of health contracts and real property***

- Provides standards under which a board of health may enter into a contract for another entity to furnish services on behalf of the health district.
- Permits a board of county commissioners or legislative authority of a city to convey real property to a board of health.

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## CONTENT AND OPERATION

***Background: health districts***

(R.C. 3707.01 and 3709.01 (not in the bill))

The state is divided into health districts, which are generally governed by boards of health or health departments. Current law provides for two broad types of health districts: city and general. Each city comprises a city health district, and

the townships and villages in each county comprise a general health district. Though similar, city and general health districts have different statutorily defined authorities and duties.

Larger health districts may be formed based on the two basic types. Two contiguous cities may form a single city health district. Two general health districts may combine to form a single general health district, or a general health district may combine with a city health district to create a single *general* health district (not a *city* health district).

Under Ohio's home rule doctrine, a chartered municipality may organize the city's board of health independently from statute, and the municipality is considered neither a city nor general health district (R.C. 3709.05 (not in the bill)) although some statutes apply. Statutes that apply to these municipalities refer to "the authority having the duties of a board of health under section 3709.05 of the Revised Code."

The bill makes a number of changes to the law governing health districts.

***Funding city and general health districts***

The board of health of a city or general health district currently receives funding from the townships and municipalities that comprise it, from state subsidy funds, and the fees collected for certain services. The board of health of a general health district may also receive funding through a levy imposed by the board of county commissioners on behalf of the health district. The bill makes changes to current health district funding and permits a board of health to have a special levy placed on the ballot.

***Appropriation measures***

(R.C. 3709.28, 3709.29, and 5705.01)

A general health district is required by current law to annually adopt and submit to the county auditor an itemized appropriation measure for the upcoming fiscal year. The county budget commission has authority to reduce any item in the appropriation measure and is prohibited from increasing any budget item or aggregate of all items. The bill eliminates the authority of the county budget commission to reduce a general health district appropriation measure and is silent on the authority to increase any item or aggregate of items.

The county auditor is required to appropriate the funds detailed in the appropriation measure to the health district. If the funds are deemed insufficient, current law permits the board of county commissioners to have a special levy placed on the ballot.

The bill removes the authority of the board of county commissioners to have a special levy placed on the ballot on behalf of the county's general health district. Instead, the bill provides that, in the event that funds are insufficient, the board of health of a city or general health district is authorized to have a special levy placed on the ballot.

The requirements imposed under current law on a board of county commissioners to have a levy placed on the ballot apply, under the bill, to the city or general health district's board of health. By a two-thirds vote, the board may adopt a resolution stating the insufficiency of funds. The resolution must specify the amount of the increase to be raised by the levy and the duration of the increase. The resolution must be filed with the board of elections by 4 p.m., 75 days prior to the election and must conform with current law's approval process for levies (R.C. 5705.191) and ballot certification procedures (R.C. 5705.25) (see **COMMENT**).

The bill does not allow a chartered municipality's board of health to have a special levy placed on the ballot.

***Health commissioner***

(R.C. 3709.11 and 3709.14)

Current law requires the board of health of a general health district or city health district to appoint a health commissioner.[1] To be eligible for appointment as a health commissioner of a general health district, the person must be a physician, dentist, veterinarian, podiatrist, or chiropractor, or the holder of a master's degree in public health or equivalent degree. If the health commissioner is not a physician, the board must provide for "adequate medical direction of all personal health and nursing services" by employing a physician as a medical director. Current law provides no qualifications for health commissioners of city health districts, nor does it require employment of medical directors.

The bill requires that a person appointed as a health commissioner of a city health district have the same qualifications a general health district health commissioner must have. In addition, the bill provides that if the health commissioner of a city or general health district is appointed on a part-time status, a full-time employee must be designated as the acting authority in the commissioner's absence. The bill also requires both the medical director of the city or general health district and the health commissioner, if a physician, to complete ten hours of continuing medical education in public health every two years.

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[1] *The health commissioner is charged with the enforcement of all sanitary laws and regulations in the district.*

***Local Public Health Department Fund***

(R.C. 3701.342 and 3709.011)[2]

Current law requires that the Public Health Council[3] adopt rules to establish a formula for the distribution of state health district subsidy funds.[4] Current law and the bill allow the Public Health Council to create a formula that denies a health district funds if it does not meet minimum standards set by the Council. It also permits the formula to provide a higher funding level to a district meeting optimal standards. The Director of Health must certify the amount payable under the formula, but is not to make a payment unless:

(1) The district's board provides information on services and costs as requested by the Director;

(2) The certificate of the district's board has been endorsed by the Director;

(3) The board complies with Public Health Council rules; and

(4) The district has provided adequate local funding for public health services.

The bill renames the state health district subsidy funds the "Local Public Health Department Fund" (R.C. 3709.011). The Public Health Council is to continue to establish rules that provide for the distribution of Local Public Health Department Funds, but the bill prescribes that the distribution cannot be less than $1 per capita. Under the bill, the director of health may still deny payment for failure to meet the four requirements listed above.

***Local Public Health Advisory Board***

(R.C. 3701.15 and 3701.36)

The bill creates the Local Public Health Advisory Board. The Board is to consist of nine members: three appointed by the Ohio Association of Boards of Health, three by the Association of Ohio Health Commissioners, and three by the Director of Health. The Public Health Council is required to adopt rules providing

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[2] *A technical name change to R.C. 3709.32 will be added to a future version of the bill.*

[3] *The Public Health Council is part of the Ohio Department of Health. The Council is responsible for adopting statewide rules and standards for the preservation and maintenance of public health.*

[4] *These funds are provided to health districts to help meet public health needs.*

for the initial and subsequent terms of appointment and the duration of terms of appointment to the board. Members of the Board are not to receive compensation or reimbursement for travel or other expenses. The bill includes no provisions for the organization of the Board. It does include requirements for filling vacancies that may occur on the Board.

The Board is to advise the Director of Health on the funding of local public health programs, achievement of performance standards for health districts, and other health district matters. The Board is required to complete and submit an annual report to the Director of Health, who is in turn required to include it when giving the director's yearly report to the Governor.

***Fiscal officer***

(R.C. 3709.31, 3709.311, and 5705.01)

Current law provides that the treasurer of a city and auditor of a city (in the case of a city health district) or county treasurer and county auditor (in the case of a general health district) are the treasurer and auditor for health district funds. Expenses of the board of health are paid on the warrant of the appropriate county auditor or auditor of the city.

Under the bill, the board of health of a city or general health district may elect to combine the duties of the treasurer and auditor into one office, appointed by and under control of the board of health. The position is to be known as the health district fiscal officer (R.C. 3709.311). A city or general health district may continue to use county or city officers as the board's treasurer and auditor.

The health district fiscal officer has all duties of a treasurer and an auditor and any other duties regarding the financial affairs of the health district. In addition, the bill requires the fiscal officer to do all of the following:

(1) Maintain a complete system of accounts of the financial transactions and revenues of the health district;

(2) Examine the correctness of each expenditure of the health district and draw warrants for payments of such expenditures only when approved by the health commissioner and board of health;[5]

[5] *The authority to both audit vouchers and draw warrants is typically separated to reduce the incidence of fraud. As the bill is currently drafted, the fiscal officer has both powers.*

(3) Submit to the board of health and health commissioner a monthly, or more frequent as requested, statement of the health district's revenues and expenditures.

***Citations***

(R.C. 319.282, 3709.092, and 3709.15)

Current law grants the board of health of a city or general health district the power to abate all nuisances within its jurisdiction (R.C. 3707.01, not in the bill). It may by order compel persons to remove such nuisances and issue a citation, but is not explicitly authorized to impose fines. The board may also remedy a nuisance and place the expense of the remedy as a lien on property (R.C. 3707.02, not in the bill).

The bill permits a board of health to authorize a board appointed sanitarian to issue citations for the following offenses: littering, creating a nuisance,[6] open dumping, or an animal bite reported to the board, if the animal's owner has failed to follow reporting requirements regarding vaccination of domestic animals against rabies. A fine of $40 may be imposed for each offense.[7] The citation must include the following information: the offense, the date on which the citation is issued, and the amount of the fine. The citation must also inform the recipient of the procedure to object to the fine and the penalty for failure to pay the fine.

The recipient of a citation may object by sending a written objection to the health commissioner within three days of receiving the citation. The health commissioner may approve or disapprove the objection. The bill provides that an objection to a citation, and health commissioner's approval or rejection of the objection, may be delivered by certified mail, overnight delivery service, hand, county sheriff, or other delivery method with written evidence of receipt. If the objection is approved or the health commissioner fails to act, the fine and any late penalties are void. If the health commissioner disapproves the objection, the recipient of the citation may appeal to the court of common pleas of the county in which the recipient resides, the business is located, or the citation was issued.

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[6] *The bill refers to R.C. 3701.01; it should refer to R.C. 3707.01. The reference will be corrected in a future version of the bill.*

[7] *The bill does not specify where the fine is to be deposited.*

Starting on the 11th day after the original citation, an additional citation may be issued each day of an uncorrected offense for 30 days.[8] Late penalties may also be assessed for an unpaid fine that is ten days late, following rules adopted by the board. After 30 days, the board of health may certify the fine to be placed on the general tax list.

The bill requires the county auditor to place on the general tax list any unpaid fines and late payment penalties due as a result of citations issued by a board of health. This amount is a lien on the real property and will be charged and collected in the same manner as taxes on the list.

***Board of health contracts***

(R.C. 3709.221 and 3709.34)

Current law provides a variety of specific instances in which a general or city health district may enter into contracts or acquire real property (R.C. 3707.55, 3709.085, 3709.23, and 3709.281). A city health district may also contract with another city health district to provide public health services (R.C. 3709.08). A general health district may enter into a contract with a city or general health district to provide public health services under R.C. 3709.081 and 3709.281, but an Attorney General opinion states that such a contract may not exist unless the city district is wholly in the county of the general health district (OAG No. 83-067).

The bill provides additional authority for the board of health of a city or general health district to enter into contracts. It specifies that a board of health may enter into a contract under which an individual, political subdivision, or public or private entity is to furnish services authorized by the law governing health districts on behalf of a city or general health district.

Each contract entered into under the authority provided by the bill must do all of the following:

(1) State the amount of money or proportion of expenses paid by the health district under the contract and how that expense is to be paid;

(2) Specify the amount and character of service to be provided;

(3) State the beginning date and length of contract;

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[8] *The bill is not clear on the issue of whether an additional citation may be issued for a total of 30 days or for only 20 days (from the 11th day through the 30th day). A future version of the bill could clarify the intent.*

(4) Include any other agreements made by the parties to the contract. (See **COMMENT**.)

The bill also specifies that the board may recruit and promote local financial support from public and private sources for health services authorized by the law governing health districts.

***Real property***

Current law permits a board of county commissioners or legislative authority of a city to furnish quarters for a board of health or health department. The bill does not change this authority, but permits a board of county commissioners or legislative authority of a city to convey real property to the board of health or health department, on acceptance by that board or department.

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## COMMENT

***Board of health levies***

The bill does not subject a city or general health district to the state's public securities law (R.C. Chapter 133.) or tax levy law (Chapter 5705.), in the event the board adopts a resolution to have a special levy placed on the ballot. The public securities law details the power to issue securities, purposes for which they may be issued, legislative authorization and voter approval, manner of sale, and payment of principle and interest. The tax levy law establishes requirements for the use of public funds.

***Contracts***

The bill (R.C. 3709.221) establishes new requirements for city health districts entering into certain contracts. Since these differ from requirements of current law (R.C. 3709.08) that are not changed by the bill, the requirements may conflict.

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## HISTORY

| ACTION | DATE |
|---|---|
| Introduced | 05-23-06 |

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