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Bill Analysis
Legislative Service Commission

H.B. 327
127th General Assembly
(As Introduced)

Reps. J. McGregor, Skindell, Webster

BILL SUMMARY

Funding city and general health districts

- Eliminates the authority of a county budget commission to reduce a general health district appropriation measure.
- Eliminates the requirement that a general health district's appropriation be reduced by amounts carried over from a previous year or amounts available to the health district from other sources of revenue.
- Permits a board of health of a city or general health district to become a subdivision and taxing authority.
- Requires a city or general health district that becomes a subdivision and taxing authority to comply with the Public Securities Law and Tax Levy Law.

Health commissioner

- Requires that a person appointed as health commissioner of a city health district have the same qualifications as a general health district health commissioner.
- 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 to 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 District Fund

- Renames state health district subsidy funds the "Local Public Health District Fund."
- Requires the Public Health Council to distribute Local Public Health District Funds to health districts at not less than \$1 per capita.
- Prohibits the distribution of funds from the Local Public Health District Fund to a health district that fails to meet minimum standards established by the Public Health Council.

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 on 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 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 one-third of the maximum fine that may be imposed for a minor misdemeanor (resulting in a \$50 fine for each offense under the bill).
- Establishes a procedure to object 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 as a body politic

- Broadens authority of a city or general health district to enter into contracts or to acquire and hold real property.

- Establishes specific requirements for contracts entered into by boards of health.
- Provides that no contract between a city or general health district and another health district may begin until the Department of Health determines that the health district is able to provide the contracted services.

CONTENT AND OPERATION

Background: health districts

(R.C. 3707.01 and 3709.01)

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) 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 particularly with regard to funding.

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 special 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 become a taxing authority.

Appropriation measures

(R.C. 3709.28 and 3709.29)

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. The bill eliminates the authority of the county budget commission to reduce a general health district appropriation measure. Current law also provides that the district's other sources of revenue and any balance of funds retained from the previous year's appropriation reduce the appropriation measure. The bill eliminates these reductions.

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 place a special levy on the ballot. The bill eliminates the special levy authority and permits a city or general health district to become a subdivision and taxing authority.¹

Health district as subdivision and taxing authority

(R.C. 133.01, 140.03, 319.282, 3709.29, 5705.01, 5705.31, 5709.40, 5709.73 and 5709.78)

The bill permits the board of health of a city or general health district to adopt a resolution declaring the health district to be a subdivision and the board of health to be a taxing authority. The resolution gives the board of health the privileges and duties described in the public securities law (R.C. Chapter 133.) and tax levy law (R.C. Chapter 5705.). The geographic extent of the district's taxing authority is the same territory as the townships and municipal corporations composing the city or general health district. However, the bill permits the board of health to exclude from a levy any township or municipal corporation that has agreed to contribute funds to the district health fund from a revenue source of the township or municipal corporation.

If a health district adopts a resolution under the bill and receives funds from both the townships and municipal corporations composing the health district and funds received as a taxing authority, the amounts obtained as a taxing authority

¹ Eliminating the special levy also eliminates the power of a public hospital agency to issue a levy under R.C. 140.03. A joint township hospital district, however, may continue to receive tax levy funds under R.C. 513.13.

must be included in the appropriation measure submitted to the county auditor.² Funds received as a taxing authority must be segregated from funds received as apportionments from townships and municipalities.

As a subdivision, a city or general health district will be subject to the states' Public Securities Law (R.C. Chapter 133.) and Tax Levy Law (R.C. Chapter 5705.). 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 principal and interest.³ The Tax Levy Law establishes requirements for the use of public funds. This includes requirements that certain funds (such as a general fund, a sinking fund, a bond retirement fund, and a special fund for each special levy) be created. The Tax Levy Law also prescribes the manner in which public funds may be appropriated; no state subdivision with taxing authority may make any expenditure of money unless it is done as provided in the Tax Levy Law. Only a city or general health district that adopts a resolution under the bill will be subject to the Public Securities and Tax Levy Law.

A board of health is not required to adopt the resolution and may continue to receive all funding through municipalities or the board of county commissioners. The bill does not allow a chartered municipality's board of health to become a taxing authority.

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.⁴ To be eligible for appointment as a health commissioner of a general health district, the person must be a licensed physician, dentist, veterinarian, podiatrist, or chiropractor, or the holder of a master's degree in public health or an equivalent degree. If the health commissioner is not a physician, the board must provide for "adequate medical

² Current law (and the bill) permits a board of county commissioners to reduce the district's apportionment by the amount of revenue available to the health district from another source (i.e., a tax levy or fees).

³ The bill provides that the auditor appointed under R.C. 3709.31 or 3709.311 (county or city auditor, or appointed fiscal officer) may be considered the fiscal officer for purposes of Chapter 133.

⁴ The health commissioner is charged with the enforcement of all sanitary laws and regulations in the district.

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 as a general health district health commissioner. 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.

Local Public Health District Fund

(R.C. 3701.342, 3709.011, and 3709.32)

Current law requires that the Public Health Council⁵ adopt rules to establish a formula for the distribution of state health district subsidy funds.⁶ Current law allows 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 District Fund" (R.C. 3709.011). The Public Health Council is to continue

⁵ 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.

⁶ These funds are provided to health districts to help meet public health needs.

to establish rules that provide for the distribution of local public health district 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 or failure to meet minimum standards set by the Public Health Council.

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 or a successor organization, three by the Association of Ohio Health Commissioners or a successor organization, at least one of whom is a registered sanitarian, and three by the Director of Health. The Public Health Council is required to adopt rules providing for the initial and subsequent terms of appointment and the duration of terms of appointment to the board. Members of the board will not receive compensation or reimbursement for travel or other expenses. The bill includes no provisions for the organization of the board, but includes 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 and 3709.311)

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 of health district funds. Expenses of the board of health are paid on the warrant of the appropriate county or city auditor.

Under the bill, the board of health of a city or general health district may elect to combine the duties of treasurer and auditor into one office, appointed by and under control of the board of health and serving at the board's pleasure. Such a position will 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 personnel as the board's treasurer and auditor.

A 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 a 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;⁷ and

(3) Submit to the board of health and health commissioner monthly, or more frequently as requested, a 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 it is not explicitly authorized to impose fines. The board may also remedy a nuisance and place the expense of the remedy on the tax list 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: creating a nuisance, 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 may be imposed for each offense. 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 the 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 providing written evidence of receipt. If

⁷ 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.

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.

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 tax list.

The bill ties the amount of the fine to one-third of the maximum fine that may be imposed for a minor misdemeanor (R.C. 2929.28(A)(2)(a)(v)). The current maximum is \$150. The resulting fine for each occurrence of a violation under the bill therefore is \$50. The bill provides that fines and any late penalties are to be retained and placed in the district health fund⁹ of the district in which the fine was imposed.

The bill requires the county auditor to place on the 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 is charged and collected in the same manner as taxes on the list.

Board of health as a body politic

(R.C. 3709.08 (repealed and re-enacted) and 3709.34)

Current law provides a variety of specific instances when 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 also may contract with another city health district to provide public health services (current 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).

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).

⁹ The "district health fund" is created in R.C. 3709.28 and is the fund in which the annual appropriations of a health district are placed.

The bill provides broad authority for a city or general health district to enter into contracts or acquire real property. The bill provides this authority by making a board of health of a city or general health district, for the purpose of the authority and duties provided for in the Health District Law, a body politic. Becoming a body politic allows a board of health to sue and be sued, contract and be contracted with, acquire real and personal property, and take or hold any donation.

The bill provides specific requirements for contracts entered into by boards of health. Each contract must:

- (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) Provide for the amount and character of goods or services; and
- (3) State the beginning date and length of the contract.

Under the bill, a contract between a city or general health district and another city or health district may not be put into effect until the Ohio Department of Health determines that the city or general health district is able to provide the services stipulated in the contract. A district providing services in another district through a contract has all the powers and duties of the board of health of the district in which the contract is being performed.

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.

HISTORY

ACTION	DATE
Introduced	09-25-07

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