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Bill Analysis
Legislative Service Commission

Sub. H.B. 327

127th General Assembly
(As Reported by H. State Government & Elections)

Reps. J. McGregor, Skindell, Webster, Daniels, Flowers

BILL SUMMARY

Funding city and general health districts

- Designates health districts as "subdivisions," and boards of health as "taxing authorities," for the purposes of the statutes governing local governments' taxing, budgeting, spending, and borrowing powers, duties, and procedures, but specifies that they do not have the power to tax.
- Authorizes the board of health of a general health district that does not receive funding from its constituent townships and municipalities to adopt its appropriations under the procedural rules applicable to local governments.
- Permits health districts to carry over unexpended balances from prior-year appropriations without the balance being counted against the amount of the district's funding to be borne by townships and municipalities comprising the district.
- Eliminates the authority of a county budget commission to reduce a general health district appropriation measure.

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 not less than ten hours of continuing medical education in public health topics 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 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.

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.

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. 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 the district, from state subsidy funds, and the fees collected for certain services. The board of health of a general health district also may 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 designates boards of health as taxing authorities, but does not authorize them to levy taxes.

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 by April 1 of the current year. The appropriation measure must be submitted for review by the county budget commission, which is authorized to reduce any of the appropriation items. The total appropriation as approved by the budget commission is then used to determine the portion of the district's funding to be borne by the townships and municipalities comprising the district. The subdivisions bear whatever funding is not available from fees, a special tax levy, state or other third-party funding sources, and revenue carried over from the preceding year. These amounts are subtracted from the total appropriation and the remainder is apportioned among the subdivisions in proportion to their respective taxable property values. Each subdivision's apportioned share is subtracted from its semiannual distribution of property taxes from the county treasury and credited to the health district's "district health fund."

The bill establishes an alternative appropriations procedure for general health districts that do not receive funding from apportionments among the townships and municipalities comprising the district. The board of health of such a district may adopt its appropriation measure under the current procedure (as modified by the bill), or may adopt it in the manner prescribed under the law governing local governments' taxing, budgeting, and spending procedures (R.C. Chapter 5705., the "Tax Levy Law"). The Tax Levy Law requires subdivisions to adopt appropriation measures "on or about" January 1 each year--which is the first day of their fiscal year--but permits them to delay adoption until April 1 in order to receive more current revenue figures. During the interim, they operate under temporary appropriation measures. Health districts that follow the Tax Levy Law procedures therefore could adopt their final appropriation measures up to one year later than is required under current law. The Tax Levy Law also permits local governments to include an appropriation for unspecified contingent expenses of up to 3% of current expenses, whereas the health district budgeting law does not.

General health districts that receive some of their funding from township and municipal apportionments, or that elect not to adopt appropriation measures under the Tax Levy Law, may continue to adopt appropriation measures under the existing health district budgeting procedure, with some changes. One change is to eliminate the county budget commission's authority to reduce any of the district's appropriation items. However, budget commissions retain authority to approve or disapprove a board of health's changes in its appropriations, including increases, reductions, transfers, and creation of new items. Another change is to permit health districts to carry over unexpended balances from prior-year appropriations without the balance being counted against the amount of the district's funding to be borne by and apportioned among the townships and municipalities comprising the district.

Health district as subdivision and "taxing authority"

(R.C. 133.01, 3709.29, and 5705.01)

The bill declares boards of health to be taxing authorities "for all purposes related to the execution of health district operations," but states that they are not authorized to levy any tax. More specifically, the bill designates city and general health districts as "subdivisions," and the corresponding boards of health as "taxing authorities," for the purposes of the Tax Levy Law (R.C. Chapter 5705.), but states that they are not authorized to levy property taxes. (Generally, the Tax Levy Law establishes procedures and requirements governing the use of public funds, including the creation of funds, appropriation of money, spending controls, and the levy of property taxes.)

The effect of designating health districts as subdivisions and boards of health as taxing authorities, while prohibiting them from levying taxes, is not apparent. Under current law unchanged by the bill, boards of health continue to be designated as "district authorities" under the Tax Levy Law. A district authority is a governmental body that controls an institution or activity and that derives its revenue from two or more subdivisions; district authorities are subject to the same spending and appropriation procedures as are subdivisions (R.C. 5705.01(I) and 5705.41) except as is expressly provided otherwise in the general health district law (R.C. 3709.28 and 3709.29). The bill's designation apparently subjects boards of health to the procedures and requirements of the Tax Levy Law.

The bill also designates city and general health districts to be subdivisions, and the corresponding boards of health to be taxing authorities, for the purposes of the Public Securities Law, which governs local governments' borrowing authority. As with the designation under the Tax Levy Law, the effect of this designation is not apparent. On its face, it appears to confer authority to issue securities or otherwise borrow money as permitted by the Public Securities Law, but the exercise of that authority would appear to depend on a board of health's ability to generate or receive revenue to repay debt charges while lacking authority to levy taxes.

Special levy for general health districts

(R.C. 3709.29)

Under current law, if the revenue from any unvoted levy for a general health district is not sufficient to cover the district's expenses, the board of health must request that the board of county commissioners propose a property tax for the district's benefit by certifying the fact of the insufficiency to the board of county commissioners. If the board of health makes the certification, the board of county commissioners must resolve to propose a levy for the district's benefit. Revenue from the levy is to be used to provide funds allowing the board of health to "carry out [the board's] health program." Revenue from the levy may not be used by the district to purchase real property to house the district's operations, according to an opinion issued by the Attorney General (Op. Att'y Gen. No. 2000-048).

The bill permits the levy's purpose to be designated either for the district's operating expenses or specifically for expenses of housing the district's operations, or for both of those purposes, instead of for the district's "health program." The expenses of housing district operations includes any of the expenses health districts may undertake under current law (R.C. 3707.55) to provide facilities, including purchasing or leasing property or paying the county for any debt the county undertakes to finance facilities to house the health district's operations.

The change in the designation of the purpose applies only to levies proposed for the first time on or after the bill's effective date; it does not apply to a renewal or replacement of a levy in effect before the effective date.

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 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 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 not less than ten hours of continuing medical education in public health topics every two years.

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 appointed by the Association of Ohio Health Commissioners or a successor organization, at least one of whom is a registered sanitarian, and three appointed 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 from state

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

funds 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.

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). 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 (1) certified mail, (2) overnight delivery service, (3) hand delivery, (4) the county sheriff of the county in which the recipient resides or has a business in accordance with the Rules of Civil Procedure, or (5) other delivery method providing 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.

Starting on the 11th business day after the original citation, an additional citation may be issued each day of an uncorrected offense for up to 30 days.² Late penalties may also be assessed for an unpaid fine that is ten days late, following rules adopted by the board. Not later than 30 days after the later of receipt of a citation or conclusion of any appeal, the board of health may certify the amount of the unpaid fine and any late penalties to the county auditor 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 fine 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 fund³ 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, and any fee, not to exceed 3% of the unpaid fine, the auditor charges for placing the amount on the list and for expenses of its collection. This amount is a lien on the real property and is charged and collected in the same manner as real property taxes.

Board of health as a body politic

(R.C. 3709.08 (repealed and re-enacted), 3709.081, 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).

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

² 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).

³ 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.

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 under the Political Subdivision Tort Liability Law, contract and be contracted with, acquire real and personal property, and take or hold any donation of money, land, or personal property.

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.

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 having jurisdiction over all or a major part of the county or city, on acceptance by that board or department. If a board of county commissioners or the legislative authority of a city conveys such real property to a board or department, the board of county commissioners or legislative authority need not provide any additional office space, utilities, janitorial services, repair, or maintenance with respect to the real property. All expenses associated with the real property after the conveyance is the sole responsibility of the board of health or health department.

Contracts between health districts to obtain health services

Under current law, a general health district may enter into a contract for public health services with the chief executive of a city constituting a city health district, with the approval of the majority of the members of the legislative authority of that city, or with the chairperson of the district advisory council of a general health district, with the approval of a majority of the members of the district advisory council. The proposal must be made by the general health district seeking to contract for health services and must be approved by a majority of the members of the district advisory council and a majority of the members of the county budget commission. The state Department of Health also must approve such a contract. Under the bill, such a contract must be for all health services.

The bill enacts a new provision that authorizes a city constituting a city health district to enter into a contract for public health services with the chief executive of another city constituting a city health district, with the approval of the majority of the members of the legislative authority of that city, or with the chairperson of the district advisory council of a general health district, with the approval of a majority of the members of the district advisory council. The proposal must be made by the city seeking to contract, only for all health services, and must be approved by a majority of the members of the city legislative authority. The state Department of Health also must approve such a contract.

The bill specifies that neither the bill nor existing law prohibit a city constituting a city health district, or a general health district, from contracting with another city or health district for health services when those services constitute less than the provision of all health services. If a city constituting a city health district, or a general health district, contracts with another city or health district for services when these services constitute less than the provision of all health services, the state Department of Health is not required to approve the contract, as the Department is required to do when the contract is for the provision of all health services.

City charter and public health services

As noted above in "**Background: health districts**," current law allows a city to provide for the administration of public health in a different manner than provided in the statutes governing city health districts. The bill further provides that any city charter must prevail on all matters related to the administration of public health services addressed by the charter and ordinances adopted under it. (R.C. 3709.05(A).)

HISTORY

ACTION	DATE
Introduced	09-25-07
Reported, H. State Gov't & Elections	02-21-08

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