

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: Am. Sub. S.B. 201 DATE: December 16, 1998

STATUS: As Passed by the House SPONSOR: Sen. Oelslager

LOCAL IMPACT STATEMENT REQUIRED: No — Permissive

CONTENTS: Changes formation procedures for regional sewer and water districts; allows a board of health to charge a fee for certain inspections of semipublic disposal systems; requires the county prosecutor to act as legal advisor to townships; allows certain political subdivisions to distribute newsletters with limits to content; requires property tax ballots to state if a ballot being voted on applies in the year of the vote; requires school boards to conduct public hearings for certain changes in its inside millage; and changes notification language regarding the 2½% rollback for residential property.

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
Counties			
Revenues	- 0 -	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Minimal increase	Minimal increase
Municipalities			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential negligible increase	Potential negligible increase
Municipalities served by the Medina Municipal Court			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential minimal increase or decrease	
Townships			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Prevention of potential increases	Prevention of potential increases	Prevention of potential increases
Local Health Districts			
Revenues	- 0 -	Potential minimal gain	Potential minimal gain
Expenditures	- 0 -	- 0 -	- 0 -



Certain political subdivisions			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential minimal increase	Potential minimal increase
School Districts			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential minimal increase	Potential minimal increase

Regional water and sewer districts

- The political subdivisions that signed a petition of remonstrance must conduct a feasibility study of water and sewer projects if a judge determines that the study is necessary before the final order. The signers may contract out for a separate entity to conduct the feasibility study. The cost of contracting with a separate entity is indeterminate, due to variability in the complexity of the project and the cost of the contractor.
- The political subdivisions that signed the petition of remonstrance must hold and provide written notice of a public meeting to electors who reside in the territory of the proposed district.
- A member of a board of trustees who has been removed may appeal within 30 days to the court of common pleas.

Semi-public disposal systems

- Local health districts participating in the HB 110 Program with the Ohio EPA may increase fee revenues by collecting inspection fees from non-permitted semipublic disposal systems.

County prosecutors to provide advice to townships

- Minimal cost increase for counties to provide legal advice to township boards and commissions.
- Potential savings to townships that might otherwise have to incur costs to contract for independent legal advice for township boards and commissions.

Medina municipal court

- The bill could result in increased or decreased expenditures, or have no fiscal effect, depending upon the rate at which Medina city chooses to compensate the Clerk of Courts of the Medina Municipal Court. These costs would be permissive to Medina city, but not to the county or the other 15 local governments served by the Medina Municipal Court.

Political Subdivisions: Newsletters

- There would probably be costs associated with producing and distributing newsletters for the affected political subdivisions.

All Taxing Districts

- Ballot language would indicate the year that a property tax issue will first apply.

School Districts

- By requiring school districts to hold public hearings and publish notifications of intent to change the allocation of inside millage when such changes result in increased taxes, school districts may incur minimal increased costs.

Counties: Tax Notification for Non-owner occupied Property

- Because of the confusing nature of the tax year, the change from the county auditor providing the date to the property owner providing the date could result in some confusion and compliance problems. Violations carry jail time and fines.

Emergency Clause

- The bill declares an emergency. Thus, its provisions could still become effective in the 1998, and some fiscal effects could be experienced in 1998.

Detailed Fiscal Analysis

Petition of Remonstrance

Each year there are three to four regional water or sewer districts proposed in the state. Municipal corporations, counties, and/or townships may sign a petition of remonstrance after having been authorized by the legislative authority of the political subdivision. The legislative authority of any municipality, board of county commissioners of any county, and the board of trustees of any township may act in behalf of any part of their respective political subdivision.

Prior to filing a petition of remonstrance, the political subdivisions shall hold a public meeting regarding the petition. If a combination of municipal corporations, counties, or townships signed the petition, the signers shall jointly hold the public meeting. At the meeting, a representative of the political subdivisions shall present a preliminary study of the reasons for the proposed establishment of the district. The signer or signers of the petition shall provide written notice of the public meeting to each elector residing in the territory of the proposed district. The cost of providing written notice will depend on the number of electors that reside in the proposed district territory.

Removal of members of boards of trustees of regional water or sewer district

Under this bill, for malfeasance, nonfeasance or malfeasance in office, members of the board of trustees may be removed from the water or sewer district by the participating political subdivision that appointed the member. The member would be notified of the removal and given the option of appearing before the appointing authority or before the appointing authority in a public hearing. The member may request an appeal in the common pleas court of establishment within thirty days following the removal.

The grandfathering clause in Section 6119.071 (3) is applicable to the removal provisions in this bill, so that boards of trustees of regional water or sewer districts that are appointed or re-appointed to the board on or after the effective date of this bill are exempted.

Feasibility Study

Prior to granting a final order, this bill requires the political subdivisions that signed the petition of remonstrance to conduct a feasibility study of a water or sewer project or improvement if a judge determines that the study is necessary. If the court has ordered such a study, a final order shall not be granted prior to receiving the feasibility study. If the political subdivisions conduct the study, costs should be very minimal. However, under this bill, the political subdivisions have the option to contract out for such a study. This cost is indeterminate, due to variability in the complexity of the project and the cost of the contractor. The same contractor for the feasibility study may be used for the construction of the project or improvement so long as there remains a separate bidding process for each award, which should not make a difference in the cost.

Semipublic Disposal Systems

By implementing House Bill 110 in 1984, Ohio EPA's HB110 program was created. The program is a contractual partnership between Local Health Districts (LHDs) and Ohio EPA, whereby the LHDs conduct, on behalf of Ohio EPA, inspection and enforcement services for commercial sanitary waste treatment/disposal systems (semi-publics) discharging between 0 to 25,000 gallons per day. Each LHD has discretion whether to participate in the voluntary HB 110 program. The HB 110 program is useful because Ohio EPA lacks the resources to investigate all systems in Ohio. Additionally, due to the proximity, the multitude of facilities, and the availability of resources, oversight of operations for sanitary waste disposal at semi-publics may best be accomplished locally by qualified personnel. To date, there are thirty LHDs participating in the HB 110 program. Please see Appendix A for a list of current and potential LHDs.

The HB 110 program allows LHDs to investigate complaints and to ensure compliance with Ohio's water pollution control laws and Ohio EPA's permit to install conditions. To offset costs of local oversight, ORC Section 3709.085 authorizes LHDs to charge fees for inspection services to be paid by the semi-publics that are permitted by Ohio EPA. The fees vary depending on the type and size of the discharge. Most fees are less than \$300 per year.

Under the authority given in Chapter 3745 of the Revised Code, semi-public system fees to the Ohio EPA depend on what type and how much discharge is involved with the semi-public. All semi-public systems must obtain a permit to install, and the fee is \$200 if the system discharges between 5,000 to 25,000 gallons per day; \$100 if the system discharges between 1,000 to 5,000 gallons per day; and the fee is waived if the system discharges less than 1,000 gallons per day. If the system will involve wastewater treatment works, an additional fee is assessed. This fee is \$100 plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, 2000, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, 2000, except that the total fee shall not exceed fifteen thousand dollars through June 30, 2000 and five thousand dollars on and after July 1, 2000. In addition to the installation fees, the system may also pay an annual discharge fee of \$180 if the system discharges more than 5,000 gallons per day.

Under current law, the LHDs may only charge a fee to those semi-publics that are permitted to install or discharge through the Ohio EPA. The HB 110 program authorizes the LHDs to inspect and collect fees from these permitted semi-publics only, and the voluntary inspection of non-permitted semi-publics is at the discretion of each LHD. The LHDs have not had authority to collect fees from all other semi-publics that are either exempt or are not permitted. There are several reasons that some semi-publics are not permitted. The obvious reason is that some systems are out of compliance with Ohio EPA because they have failed to obtain a permit. Another reason may be that some systems are older than the permitting program at Ohio EPA. This is especially true for the systems that do not discharge more than 5,000 gallons per day, for example septic systems and leach fields, because they would have only required a permit to install and would not fall under the annual discharge permits. Therefore in theory, in order to collect fees, a LHD required those semi-publics that are not permitted or out of compliance to obtain a permit from Ohio EPA, and/or notify Ohio EPA of the semi-publics that are out of compliance.

Under the provisions in this bill, the LHDs may no longer have a requirement to report and require semi-publics to comply with Ohio EPA rules and regulations. This bill will allow LHDs to charge inspection fees to all semi-publics, regardless if they are permitted through Ohio EPA. Because this provision may remove the requirement for LHDs to require non-permitted semi-publics to obtain an Ohio EPA permit, it is speculated that the number of semi-publics out of compliance will remain constant and may even increase. It is unclear if this will decrease the potential fee revenue that Ohio EPA could collect for these systems if they were required to obtain Ohio EPA permits under current law.

This provision will probably slightly increase the revenues received by the participating LHDs by giving them the authority to collect fees on non-permitted systems. Many LHDs are already voluntarily inspecting these non-permitted systems, and this will give the LHDs a means to recover the costs of these inspections. Some LHDs have reported that they have already been collecting fees, and this bill will give them the proper authority to continue doing so. In addition, a few LHDs, such as Adams County, Gallion County, Perry County, and Ross County would be more inclined to participate in the HB 110 program if this provision is implemented.

Legal Advice by County Prosecutors

ORC section 309.09 requires the county prosecutor to be the legal adviser for all township officers. A recent Attorney General's opinion stated that current law does not authorize the county prosecutor to provide legal representations and advice to a township board in the manner similar to the requirements for the provision of legal representation and advice to a county board. The bill requires county prosecutors to serve as the legal adviser to township boards and commissions. The bill declares an emergency putting its provisions into effect immediately.

Costs for providing advise to township boards and commissions could be minimal, as county prosecutors were generally providing such assistance before the Attorney General's opinion, and county prosecutors already advise all other township officials. The requirement in the bill should not significantly add to the services already being provided to townships by the county prosecutor. Currently, there are only a small number of boards, particularly the township zoning commission and zoning board of appeals, which might require legal advice from the county prosecutor.

The bill could prevent townships from having to make expenditures to contract for legal services for any township board or commission that requires legal advice, especially representation in the court system. The result could be a reduction in certain township's legal expenditures.

Compensation of Mayor's Court Magistrate

The bill allows mayor's court magistrates to enter contract agreements with municipalities. This change permits the magistrates to contract with courts instead of relying on salaried agreements. Contracting will allow magistrates to deduct work-related expenses from their federal income tax. The proposed legislation will not necessarily affect the compensation paid by municipalities. It provides another option for municipalities.

Medina Municipal Court

The bill would permit the Medina Municipal Court to continue to have its Clerk of Court appointed, regardless of the population of the territory served by the court. This change would make local compensation costs permissive for the City of Medina, which would be responsible for appointing the Clerk and setting the Clerk's annual compensation. The Medina municipal court serves a territory that includes 16 municipalities and townships, of which the municipalities would have to pay a portion of the compensation costs set by the legislative authority of Medina city. The local governments are Briarwood Beach, Brunswick, Brunswick Hills Township, Chatham, Chippewa-on-the-Lake, Granger, Hinckley, Lafayette, Litchfield, Liverpool, Medina, Medina Township, Montville, Spencer, Spencer Township, and York Township.

Under current law, the local governments served by the Court must pay three-fifths of the Clerk's compensation and Medina county must pay two-fifths of those costs. The population of the territory served by the Medina municipal court is approaching more than 100,000. Under law, municipal court territories greater than 100,000 must have an elected Clerk and must compensate the Clerk at 85% of the municipal judge's salary, which is set by state statute. The bill changes current law excluding the Medina municipal court from this compensation requirement and allowing the Clerk to continue to be appointed even after the population of the Court's territory exceeds 100,000. This change could result in increased or decreased expenditures, or have no fiscal effect, depending upon the rate at which Medina city chooses to compensate the Clerk. These costs would be permissive to Medina city, but not to the county or the other 15 local governments served by the Medina municipal court.

Newsletters for Political Subdivisions

This bill allows certain political subdivisions to use public monies to distribute newsletters or use other means to communicate information about the organization and restricts language used in such communication. By its definition of political subdivision, the legislation would apply to political subdivisions other than charter municipalities and charter counties. Charter municipal corporations are not included in the bill due to home rule privileges under Article XVIII, Section 7 of the Ohio Constitution. Similarly, home rule in counties (currently adopted only by Summit County) is authorized by Article X, Sections 3 and 4, of the Ohio Constitution. Townships have authority to publish newsletters through Section 505.07 of the Ohio Revised Code.

Costs to the entities would be related to copying, postage, purchasing computer software, and other administrative activities associated with disseminating information. These costs could be substantial, depending on the distribution amounts and frequency

The following is a sample cost analysis of distributing newsletters:

Fre- quency	Paper cost/unit	Equipment cost per unit	Postage/unit	# of Newsletters	Total Annual Cost
Monthly	\$0.02	\$0.02	\$0.32	300	\$1,296

Ballot Language for Proposed Property Taxes - Date a Tax Levy First Applies

For most property tax levies, the ballot language does not state the year the tax will first be levied. Property tax bills are calculated at the end of December for the current year and are generally collected in two payments during the next year. The bill that is printed at the end of December will include most tax levies that were adopted during the current year. Therefore, a levy that is adopted in February and one adopted in November will appear for the first time on the January tax bill for real property taxpayers. This can create confusion among the taxpayers since the first tax payment after the February election does not increase while the first payment after the November election will increase. This bill attempts to alleviate that confusion by requiring ballot language indicating whether a levy applies in the same year the tax is voted on. This change in ballot language does not have a fiscal impact.

Notice of Plans to Change Inside Millage

Property taxes in Ohio can be authorized by a local taxing district (inside millage) or approved by a vote of the individuals in the district. Under current law, real property tax rates on *voter approved levies* are reduced to insure that inflationary increases in the value of property do not result in higher tax payments. This reduced tax rate is known as the effective rate of taxation. In the case of school districts, the tax rate for inside millage plus the effective tax rate on voted millage can not fall below 20 mills when these taxes are used to pay for current operating expenses. This is commonly referred to as the 20-mill floor and it does not include emergency, bond, or permanent improvement levies.

On average, local school districts have 4.6 inside mills dedicated to current operating expenses. However, districts are not required to use inside millage for operating expenses and some districts have opted to dedicate all or a portion of their inside millage to pay for permanent improvements or debt service. If a district is currently using voted general operating millage to pay for permanent improvements or debt service, the district can realign its inside millage to pay for all or a part of these expenses. Since a school district's total effective rate for operating millage can not fall below 20 mills, if this district is also at the 20-mill floor and has additional voted operating mills above its effective rate on voted operating mills, realigning inside millage increases the total tax rate. The following table outlines the changes to total millage rates in a district at the 20-mill floor before and after realigning inside millage.

	Authorized Rate	Beginning Effective Rates	After Adjustment	New Effective Rates
Inside Operating Millage	5	5	3	3
Voted Operating Millage	20	15	15	17
Other Inside Millage	0	0	2	2
“Floor” Millage	25	20	18	20
Total Effective Tax Rate	--	20	20	22

Under current law, a school district is not required to notify district citizens of plans to realign inside millage. The bill would require school districts that are shifting the allocation of inside millage away from operating expenses to some other purpose to hold a public hearing

devoted to that topic. In addition, the district would be required to publish the date and time of the hearing in the local newspaper with a statement that the proposal may result in an increase in the amount of real property taxes levied. While almost all districts can theoretically switch the allocation of inside mills, only about one-half of all districts -- the districts at or near¹ the 20-mill floor -- would realize an increase in tax revenues from a change in inside millage allocation. In addition, the district must also have non-operating expenses that are being funded with general operating millage. Finally, these districts must choose to realign inside millage. If a district meets all three of these requirements, they will incur some increased costs associated with publishing newspaper notifications and conducting a public hearing. However, these costs are expected to be minimal.

Notification to the County Auditor when property is not owner occupied

Owner occupied residential housing is eligible for a 2 ½% reduction of the total property tax due. Included in the bill is a notice explaining to homeowners a requirement to notify the county auditor if the property is not an owner occupied residence. Under current law, the auditor is required to enter a date proper deadline for providing the auditor with this notice. This bill changes the entry of a full date on the notice to read as “March 31 of the year following the year for which the taxes are due.” Real property taxes are assessed (due) one year prior to the distribution of the tax bill to homeowner. The bill a homeowner receives on January 1, 1999 is for taxes due as of January 1, 1998. Legally, the ‘year following the year the taxes are due’ is 1999. However, the homeowner may interpret the year taxes are due to mean the year he/she is required to forward a payment to the auditor (1999), thereby interpreting the notification requirement to occur one year later then is intended (2000).

Failure to meet the notification requirements is punishable as a fourth degree misdemeanor subject to a fine up to \$250, a jail sentence up to 30 days, and the homeowner would be required to repay the amount by which the taxes were reduced plus any interest that may apply. It is anticipated this change in language could cause confusion and may result in an increase in the number of violations.

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¹ “Near” to the 20 mill floor is relative to a district’s inside millage and the number of mills a district chooses to reallocate. For a tax increase to occur, the number of inside mills that are reallocated must be greater than the district’s effect rate less 20 mills. Therefore, in one case a district at 24 mills realigning 5 inside mills will realize a tax increase. Another district at 24 mills realigning 3 mills will not realize an immediate tax increase.

Appendix A

*Ohio LHDs Participating in HB 110 Program**

<u>Local Health District</u>	<u>Status of HB 110 Program</u>
1. Adams County	Reviewing Contract
2. Allen County	Participating
3. Ashtabula County	Renewal in Progress
4. Champaign County	Participating
5. City of Akron	Renewal Pending
6. City of Columbus	Renewal Due
7. Clermont County	Participating
8. Clinton County	Renewal Pending
9. Cuyahoga County	Participating
10. Delaware County	Participating
11. Fairfield County	Participating
12. Franklin County	Participating
13. Gallion County	Reviewing Contract
14. Geauga County	Renewal In Progress
15. Greene County	Renewal Due
16. Hamilton County	Reviewing Contract
17. Holmes County	New – Signed Contract
18. Jefferson County	Participating
19. Knox County	Renewal Pending
20. Lake County	Participating
21. Logan County	Participating
22. Lorain County	Participating
23. Marion County	Participating
24. Mahoning County	Participating
25. Medina County	Participating
26. Morrow County	Participating
27. Perry County	Reviewing Contract
28. Pickaway County	Participating
29. Richland County	Renewal Pending
30. Ross County	Reviewing Contract
31. Shelby County	Renewal Due
32. Stark County	Participating
33. Summit County	Participating
34. Trumbull County	Participating
35. Union County	Renewal Due

* As reported by Ohio EPA