

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: Sub. S.B. 201 DATE: May 20, 1998
STATUS: As Reported by Senate Energy, Natural Resources and Environment SPONSOR: Sen. Oelslager
LOCAL IMPACT STATEMENT REQUIRED: No — Permissive
CONTENTS: Changes formation procedures for regional sewer and water districts

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
Municipalities, Counties, and Townships			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential negligible increase	Potential negligible increase
Local Health Districts			
Revenues	- 0 -	Potential minimal gain	Potential minimal gain
Expenditures	- 0 -	- 0 -	- 0 -

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



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 reappointed 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 an incentive 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 incentive 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 being voluntarily inspected 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 couple 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.

□ *LBO staff: Erica Burnett, Budget/Policy Analyst*

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Appendix A

Ohio LHDs Participating in HB 110 Program*

<u>Local Health District</u>	<u>Status of HB 110 Program</u>
1. Adams County	Interested in Program
2. Allen County	Participating
3. Ashtabula County	Participating
4. Champaign County	Participating
5. City of Akron	Contract Expired, EPA Has Not Received Renewal
6. City of Columbus	Participating
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	Interested in Program
14. Geauga County	Participating
15. Greene County	Participating
16. Hamilton County	Contract in Progress
17. Jefferson County	Participating
18. Knox County	Contract Expired, EPA Has Not Received Renewal
19. Lake County	Participating
20. Logan County	Participating
21. Lorain County	Participating
22. Marion County	Participating
23. Mahoning County	Participating
24. Medina County	Participating
25. Morrow County	Participating
26. Perry County	Interested in Program
27. Pickaway County	Participating
28. Richland County	Contract in Progress
29. Ross County	Interested in Program
30. Shelby County	Participating
31. Stark County	Participating
32. Summit County	Participating
33. Trumbull County	Participating
34. Union County	Participating

* As reported by Ohio EPA