

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 327 (LSC 127 1066-2)**

DATE: **February 19, 2008**

STATUS: **In House State Government**

SPONSOR: **Reps. J. McGregor, Skindell,
Webster**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **To amend and repeal sections of the Revised Code with regard to boards of health of city and general health districts**

State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential minimal effect	Potential minimal effect

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 through June 30, 2008.

- The bill specifies that ODH does not have to approve contracts between health districts if those contracts constitute for less than the provision of all health services. ODH currently reviews contracts for health districts. This provision may reduce the number of contracts reviewed by ODH. As a result, it is possible that there could be a minimal decrease in administrative expenditures.
- **Department of Health.** As a result of the creation of the Local Public Health Advisory Board, the Department of Health (ODH) could experience a minimal increase in administrative costs for ODH staff duties associated with the Advisory Board. These costs would be absorbed by ODH with the use of current appropriations.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
City Health District			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential net increase	Potential net increase	Potential net increase
General Health District			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential net increase	Potential net increase	Potential net increase
Counties			
Revenues	Potential minimal gain to county auditor for charge to place unpaid fines on tax lists	Potential minimal gain to county auditor for charge to place unpaid fines on tax lists	Potential minimal gain to county auditor for charge to place unpaid fines on tax lists
Expenditures	Potential decrease	Potential decrease	Potential decrease
Cities			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential decrease	Potential decrease	Potential decrease
Townships and Municipalities			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **City and general health districts.** The bill would require a person appointed as a health commissioner of a city health district to have the same qualifications as a general health district health commissioner. Since not all health commissioners in city health districts currently meet these standards it is possible that this provision could increase salary expenses for affected city health districts. However, the Association of Ohio Health Commissioners (AOHC) estimates that this cost will likely be minimal.
- **City and general health districts; counties.** The bill permits a board of health of a city or general health district to issue citations for nuisance abatement offenses. The issuance of a fine of \$50 for each violation will increase fee revenues for the health district. The amount of this increase is unknown. However, AOHC has stated that health districts expend much more than \$50 to deal with a nuisance abatement situation. On the other hand, allowing the health district to issue fines for nuisance abatement violations may result in a decrease in court costs, as it is possible that the issuance of a fine may cause an offender to take the necessary steps to abate the nuisance before prosecution becomes necessary. The county auditor is required 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 relating to nuisance abatement violations. This could result in some minimal administrative increases for the county. However, the bill allows a county auditor to charge a fee, not to exceed 3% of the unpaid fine, for placing the amount on the general tax list. As a result, this could help offset some of the costs incurred.
- **Counties.** The bill specifies that boards of health are taxing authorities for all purposes related to execution of health district operations, except they are not authorized to levy any tax. The bill specifies that for taxes proposed under this section on or after the effective date of this section, excluding a tax renewing or replacing a tax first levied before that date, a tax may be levied for both district operations and the expenses of housing district operations or

for either of those purposes individually. A board of health of a health district is a taxing authority, except that such a board is not authorized to levy a tax within or in excess of the ten-mill limitation. County commissioners will still place a levy on the ballot for a health district. The bill will allow new levies to be placed on the ballot for health programs and office space and utilities.

- **City and general health districts; cities and counties.** The bill also permits a board of county commissioners or legislative authority of a city to convey real property to the board of health or health department. The bill specifies that if real property is conveyed to a board of health, 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.
- **General health districts/municipalities and townships.** The bill eliminates the authority of the county budget commission to reduce a general health district appropriation measure. Current law provides that the general health district's other sources of revenue and any balance of funds retained from the previous year's appropriation reduce the district's appropriation measure. The bill eliminates these reductions. According to AOHC, the county budget commission would still have to approve a general health district's budget. Therefore, while a county budget commission can no longer reduce a particular general health district appropriation measure, the commission still has the ability to fix the aggregate or total appropriation. According to AOHC, assessments are made in April each year. The bill would allow health districts to carry over funding into the next year, which will help health districts pay for costs accrued in January through April. Also, the bill specifies that the aggregate appropriation, as fixed by the county budget commission, shall be apportioned by the county auditor among the townships and municipal corporations composing the health district on the basis of taxable valuations in such townships and municipal corporations. The county auditor, when making the auditor's semiannual apportionment of funds, shall retain at each semiannual apportionment one-half of the amount apportioned to each township and municipal corporation. Such moneys and all other sources of revenue of the health district, including the estimated balance from the previous appropriation and any interest earned on all other sources of revenue, shall be placed in a separate fund, which is the "district health fund." This provision may allow the health districts to keep interest from these carryover amounts.

Detailed Fiscal Analysis

The bill makes changes to the law governing health districts. According to the Association of Ohio Health Commissioners (AOHC), there are currently 132 health districts in the state. Local public health funding is, on average, "75% local funding sources (levies, inside millage and user/permit fees), 20% state sources (competitive grants, pass through federal monies and per capita subsidy from the Ohio Department of Health), and 4.3% federal or private sources (targeted federal grant monies, etc.)."¹

Funding city and general health districts

Appropriation measures

Currently, a general health district is required by law to 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. Also, the bill specifies that the aggregate appropriation, as fixed by the county budget commission, shall be apportioned by the county auditor among the townships and municipal corporations composing the health district on the basis of taxable valuations in such townships and municipal corporations. The county auditor, when making the auditor's semiannual apportionment of funds, shall retain at each semiannual apportionment one-half of the amount apportioned to each township and municipal corporation. Such moneys and all other sources of revenue of the health district, including the estimated balance from the previous appropriation and any interest earned on all other sources of revenue, shall be placed in a separate fund, which is the "district health fund." This provision may allow the health districts to keep interest from these carryover amounts.

Fiscal effect

According to AOHC, the county budget commission would still have to approve a general health district's budget. Therefore, while a county budget commission can no longer reduce a particular general health district appropriation measure, the commission still has the ability to fix the aggregate or total appropriation. There is also a provision that 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. According to AOHC, assessments are made in April each year. This provision will allow health districts to carry over funding into the next year, which

¹ <http://www.aohc.net/displaycommon.cfm?an=1&subarticlenbr=3>.

will help health districts pay for costs accrued in January through April. General health districts may be allowed to keep the interest on the carryover amounts.

Health district as subdivision and taxing authority

The bill specifies that boards of health are taxing authorities for all purposes related to execution of health district operations, except they are not authorized to levy any tax. The bill specifies that for taxes proposed under this section on or after the effective date of this section, excluding a tax renewing or replacing a tax first levied before that date, a tax may be levied for both district operations and the expenses of housing district operations or for either of those purposes individually. A board of health of a health district is a taxing authority, except that such a board is not authorized to levy a tax within or in excess of the ten-mill limitation.

Fiscal effect

County commissioners will still place a levy on the ballot for a health district. The bill will allow new levies to be placed on the ballot for health programs and office space and utilities.

Health commissioner

Currently, the board of health of a general health district or city health district must appoint a health commissioner. A health commissioner of a general health district 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. Currently, there are no qualifications for health commissioners of city health districts, nor is there a requirement regarding 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.

Fiscal effect

According to the AOHC, city health districts could realize an increase in costs. Since not all health commissioners in city health districts currently meet these standards this requirement could result in increased salary expenses for affected city health districts. However, AOHC estimates that this cost will likely be minimal.

Local Public Health Advisory Board

The bill creates the Local Public Health Advisory Board. The bill specifies that members of the Board will not receive compensation or reimbursement for travel or other expenses. 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 shall issue an annual report on the status of health districts in Ohio.

Fiscal effect

As a result of the creation of the Local Public Health Advisory Board, the Department of Health (ODH) could experience a minimal increase in administrative costs for ODH staff duties associated with the Advisory Board. These costs would be absorbed by ODH with the use of current appropriations.

Citations

Current law grants the board of health of a city or general health district the power to abate all nuisances within its jurisdiction. 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.

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 recipient of a citation may object by sending a written objection to the health commissioner within three days of receiving the citation. 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 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. 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. 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 fund 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, not to exceed 3% of the unpaid fine,

charged by the county auditor for placing the amount on the general tax list and duplicate and for the expenses of its collection. This amount is a lien on the real property and is charged and collected in the same manner as taxes on the list.

Fiscal effect

Currently, health districts do not issue fines for nuisance abatement type violations. If a nuisance abatement complaint is received, a sanitarian with the health district investigates. According to the General Health District in Clermont County, a "Notice of Violation" may be sent to the property owner, if the sanitarian decides it is appropriate to do so. A "Notice of Violation" will require corrective action and abatement of the health nuisance within a specified time limit. If the nuisance condition has not been abated by the deadline, and the property owner has been uncooperative, then the complaint may be referred to the Board of Health. The Board reviews the case file, and declares that a public health nuisance exists at the property. A letter is sent from the Board to the property owner ordering correction of the nuisance by a given time limit. If the nuisance condition has not been abated by the deadline given by the Board, and the property owner has not been cooperative, then the complaint may be referred to the county prosecuting attorney. The prosecuting attorney then sends a letter to the property owner informing the owner that legal action may be taken if the nuisance is not abated by a specified time limit. If the nuisance has still not been abated within the time limit given by the prosecuting attorney, then the sanitarian will ask the prosecuting attorney to begin legal proceedings against the property owner. The property owner may then be prosecuted in court.

The issuance of a fine of \$50 for each violation will increase fee revenues for the health district. The amount of this increase is unknown. However, AOHC has stated that health districts expend much more than \$50 to deal with a nuisance abatement situation. On the other hand, allowing the health district to issue fines for nuisance abatement violations may result in a decrease in court costs, as it is possible that the issuance of a fine may cause an offender to take the necessary steps to abate the nuisance.

The county auditor is required 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 relating to nuisance abatement violations. This could result in some minimal administrative increases for the county. However, the bill allows a county auditor to charge a fee, not to exceed 3% of the unpaid fine, for placing the amount on the general tax list. As a result, this could help offset some of the costs incurred.

Board of health as a body politic

Current law provides a variety of specific instances when a general or city health district may enter into contracts or acquire real property. A city health district also may contract with another city health district to provide public health services. A general health district may enter into a contract with a city or general health district to provide public health services, 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.

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. Currently, 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 a majority of the members of the legislative authority of said city or with the chairman of the district advisory council of another general health district with the approval of a majority of the members of the district advisory council. No contract is in effect until the Department of Health determines the health department or board of health providing such service is organized and equipped to provide adequate health service. The bill specifies that if a city health district or a general health district contracts with another health district for services that constitute less than the provision of all health services, the Department is not required to approve such a 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, on acceptance by that board or department. The bill specifies that if a board of county commissioners or the legislative authority of a city conveys such real property to a board of health or health 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.

Fiscal effect

According to AOHC, allowing a health district to become a body politic will give health districts the ability to enter into contracts or acquire real property. AOHC has stated that health districts currently enter into contracts, so this will be codifying current practice. The bill also permits a board of county commissioners or legislative authority of a city to convey real property to the board of health or health department. AOHC has stated that if real property is conveyed to the board of health, then the upkeep, maintenance, and utility costs will become the responsibility of the board of health instead of the county or city.

The bill specifies that ODH does not have to approve contracts between health districts if those contracts constitute for less than the provision of all health services. ODH currently reviews contracts for health districts. This provision may reduce the number of contracts reviewed by ODH. As a result, it is possible that there could be a minimal decrease in administrative expenditures.

Synopsis of Fiscal Changes

The notable differences between the accepted substitute version of the bill (LSC 127-1066-2) and its previous version (As Introduced) are listed below. Only those provisions with significant fiscal impact are discussed.

- The "As Introduced" version created the Local Public Health District Fund (Fund 5DP) consisting of no less than one dollar per year per resident of the state. The bill also specified that the unobligated and unexpended appropriation that exists on January 1, 2007 in GRF appropriation item 440-413, Local Health Department Support, would be required to be transferred into the new fund. The Director of the Office of Budget and Management was required to distribute the funds to local health districts on a per capita basis. Currently, state health district subsidy funds are appropriated in GRF appropriation item 440-413, Local Health Department Support. Am. Sub. H.B. 119 of the 127th General Assembly appropriated approximately \$3.8 million in both FY 2008 and FY 2009. However, Ohio's population is 11,353,140; therefore, in order to comply with the one dollar per year per resident requirement, the fund would have needed a total of approximately \$11.4 million per year. The substitute bill (LSC 127-1066-2) no longer includes this language. Thus, no additional state appropriations will be needed.
- The "As Introduced" version allowed the board of health of a city or general health district 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 was to be known as the "Health District Fiscal Officer." A city or general health district was allowed to continue to use county or city personnel as the board's treasurer and auditor. A Health District Fiscal Officer was to have all duties of a treasurer and an auditor and any other duties regarding the financial affairs of the health district. Allowing a health district to have an office that combined the duties of treasurer and auditor into one office would have allowed a health district to have control over their funds and over the interest earned on those funds. Counties, cities, etc. would have lost this interest. This provision was removed. Thus, these entities would retain the interest.
- The "As Introduced" version of the bill specified that local boards of health were taxing authorities and allowed them to levy taxes. The substitute bill (LSC 127-1066-2) designates boards as taxing authorities, but specifies that they cannot levy taxes. The bill will also allow new levies to be placed on the ballot for health programs and office space and utilities.

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