

# Fiscal Note & Local Impact Statement

127<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
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BILL: **H.B. 327** DATE: **January 24, 2008**  
STATUS: **As Introduced** 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
<b>General Revenue Fund</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Transfer to Fund 5DP; Potential minimal increase	\$3.8 million transfer to Fund 5DP; Potential minimal increase	Potential minimal increase
<b>Local Public Health Fund (Fund 5DP – new)</b>			
Revenues	Gain due to transfer from the GRF	Gain of \$3.8 million due to transfer from the GRF	Potential gain dependent upon appropriations
Expenditures	Increase in amount equal to transfer from the GRF	\$3.8 million increase	Potential increase

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

- **Department of Health and Office of Budget and Management.** The bill creates 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 specifies 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. (LSC assumes the date in the bill will be changed.) The Director of the Office of Budget and Management is 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 need a total of approximately \$11.4 million per year. Fund 5DP would need additional cash and appropriation before the bill's requirement of one dollar per capita could be met.
- **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
<b>City Health District</b>			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential net increase	Potential net increase	Potential net increase
<b>General Health District</b>			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential net increase	Potential net increase	Potential net increase
<b>Counties</b>			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	Potential net decrease	Potential net decrease	Potential net decrease
<b>Cities</b>			
Revenues	Potential loss	Potential loss	Potential loss
Expenditures	Potential decrease	Potential decrease	Potential decrease
<b>Townships and Municipalities</b>			
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 creates 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 specifies 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. (LSC assumes the date in the bill will be changed.) The Director of the Office of Budget and Management is 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 need a total of approximately \$11.4 million per year. Fund 5DP would need additional cash and appropriation before the bill's requirement of one dollar per capita could be met.
- **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; cities and counties.** The bill 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. According to AOHC, allowing a health district to have an office that combines the duties of treasurer and auditor into one office would allow a health district to have control over their funds and over the interest earned on those funds. Since counties currently have control over the funds and the interest for a general health district, counties would lose the interest. According to the County Commissioners Association of Ohio (CCAO), the interest for these funds is a major source of revenue for counties. LSC assumes that the same scenario would apply for a city (in the case of a

city health district); thus, the city would also lose the interest. If a health district elected to have a Health District Fiscal Officer, a city or county would no longer be required to perform the related activities. Thus, administrative duties would decrease for a city or county. These duties are performed as part of a city/county auditor or treasurer's job; therefore, there will be no reduction in costs. Health districts could see an increase in administrative duties.

- **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.
- **Counties.** The ability to become a taxing authority will allow health districts to, among other things, borrow money or place a levy on a ballot. This provision could decrease administrative costs for county commissioners in regards to the work required of their office to prepare a levy to be placed on a ballot for a health district. It is assumed that health districts currently work with county commissioners when placing a levy on a ballot, so their administrative expenses should not be affected. However, this decrease would likely be negligible.
- **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. 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.
- **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 the CCAO, these provisions could have an effect on townships and villages. These entities provide some of the funding for general health districts. If the county budget commission is unable to reduce an appropriation measure, this could affect other services provided by townships and villages. Also, CCAO believes that eliminating the ability to reduce a general health district's appropriation by the available carryover and other sources of funding for general health districts could ultimately result in an increase in funding for general health districts. The AOHC disagrees with this assessment. 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.

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## ***Detailed Fiscal Analysis***

The bill makes a number of 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.)."<sup>1</sup>

### **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. The bill eliminates the special levy authority and permits a city or general health district to become a subdivision and taxing authority.

#### **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 will help health districts pay for costs accrued in January through April. The County Commissioners Association of Ohio (CCAO) takes a different stance on this issue. According to CCAO, these provisions could have an effect on counties, cities, townships, and villages. These entities provide some of the funding for general health districts. If the county budget commission is unable to reduce an appropriation measure, this could affect other services provided by counties, cities, townships, and villages. Also, CCAO believes that eliminating the ability to reduce a general health district's

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

appropriation by the available carryover and other sources of funding for general health districts could ultimately result in an increase in funding for general health districts.

### **Health district as subdivision and taxing authority**

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 and tax levy law. 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 must be included in the appropriation measure submitted to the county auditor. 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 state's Public Securities Law and Tax Levy Law. Only a city or general health district that adopts a resolution under the bill will be subject to the Public Securities Law 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.

### **Fiscal effect**

Currently, the county commissioners may place a levy on the ballot for a health district. The ability to become a taxing authority will allow health districts to, among other things, borrow money or place a levy on a ballot. According to AOHC, the health districts will still have limitations as to when a levy is placed on a ballot – a levy would most likely be placed on a primary or general election ballot. Ultimately, any levy must be approved by applicable voters. This provision could decrease administrative costs for county commissioners in regards to the work required of their office to prepare a levy to be placed on a ballot for a health district. This decrease would likely be negligible. It is assumed that health districts currently work with county commissioners when placing a levy on a ballot, so their administrative expenses should not be affected.

### **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 District Fund**

Currently, the Public Health Council is required to adopt rules to establish a formula for the distribution of state health district subsidy funds. The Council is allowed 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 bill creates the "Local Public Health District Fund" consisting of no less than one dollar per year per resident of the state. The fund is to be administered by OBM. The Public Health Council is to continue to establish rules that provide for the distribution of local public health district funds.

### **Fiscal effect**

The bill creates 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 specifies 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. (LSC assumes the date in the bill will be changed.) The Director of the Office of Budget and Management is 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 need a total of approximately \$11.4 million per year. Fund 5DP would need additional cash and appropriation before the bill's requirement of one dollar per capita could be met.

### **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 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 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.

#### **Fiscal officer**

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. The bill specifies that 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." 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.

#### **Fiscal effect**

According to AOHC, allowing a health district to have an office that combines the duties of treasurer and auditor into one office would allow a health district to have control over their funds and over the interest earned on those funds. Since counties currently have control over the funds and the interest for a general health district, counties would lose the interest. According to CCAO, the interest for these funds is a major source of revenue for counties. LSC assumes that the same scenario would apply for a city (in the case of a city health district); thus the city would also lose the interest.

If a health district elected to have a Health District Fiscal Officer, a city or county would no longer be required to perform the related activities. Thus, administrative duties would decrease for a city or county. These duties are performed as part of a city/county auditor or treasurer's job; therefore, there will be no reduction in costs. Health districts could see an increase in administrative duties.

## 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. 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.

**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. 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.

**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 a health district's contract may not be put into effect until ODH determines that the city or general health district is able to provide the services stipulated in the contract. ODH currently reviews contracts for health districts so this will have no fiscal effect.

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