

(123rd General Assembly)
(Senate Bill Number 198)

AN ACT

To amend sections 1541.99, 3709.085, 3745.01, 6111.04, and
6117.51 and to repeal section 1541.21 of the Revised
Code to abolish special sanitary districts.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1541.99, 3709.085, 3745.01, 6111.04, and 6117.51 of the Revised Code be amended to read as follows:

Sec. 1541.99. (A) Whoever violates sections 1541.09 to ~~1541.21, inclusive, 1541.20~~ of the Revised Code; or any rules ~~and regulations~~ of the division of parks and recreation shall be fined not less than ten nor more than one hundred dollars.

Sec. 3709.085. (A) The board of health of a city or general health district may enter into a contract with any political subdivision or other governmental agency to obtain or provide all or part of any services, including, but not limited to, enforcement services, for the purposes of Chapter 3704. of the Revised Code, the rules adopted and orders made pursuant thereto, or any other ordinances or rules for the prevention, control, and abatement of air pollution.

(B)(1) As used in division (B)(2) of this section:

(a) "Semipublic disposal system" means a disposal system that treats the sanitary sewage discharged from publicly or privately owned buildings or places of assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment, but does not include a disposal system that treats sewage in amounts of more than twenty-five thousand gallons per day; a disposal system for the treatment of sewage that is exempt from the requirements of section 6111.04 of the Revised Code pursuant to division (F) of that section; or a disposal system for the treatment of industrial waste.

(b) Terms defined in section 6111.01 of the Revised Code have the same meanings as in that section.

(2) The board of health of a city or general health district may enter into a contract with the environmental protection agency to conduct on behalf of the agency inspection or enforcement services, for the purposes of Chapter

6111. and section 1541.24 of the Revised Code and rules adopted thereunder, for the disposal or treatment of sewage from single family, two family, or three family dwellings located in special sanitary districts designated by section 1541.21 of the Revised Code, for the disposal or treatment of sewage from semipublic disposal systems, or for both. The board of health of a city or general health district may charge a fee established pursuant to section 3709.09 of the Revised Code to be paid by the owner or operator of a semipublic disposal system or the owner or resident of any such dwelling located in a special sanitary district for inspections conducted by the board pursuant to a contract entered into under division (B)(2) of this section, except that the board shall not charge a fee for those inspections conducted at any manufactured home park, recreational vehicle park, recreation camp, or combined park-camp that is licensed under section 3733.03 of the Revised Code.

Sec. 3745.01. There is hereby created the environmental protection agency, headed by the director of environmental protection. The agency, under the supervision of the director, shall administer the laws pertaining to chemical emergency planning, community right-to-know, and toxic chemical release reporting; the cessation of chemical handling operations; the prevention, control, and abatement of air and water pollution; public water supply; comprehensive water resource management planning; and the disposal and treatment of solid wastes, infectious wastes, construction and demolition debris, hazardous waste, sewage, industrial waste, and other wastes. The director may do all of the following:

(A) Provide such methods of administration, appoint such personnel, make such reports, and take such other action as may be necessary to comply with the requirements of the federal laws and regulations pertaining to chemical emergency planning, community right-to-know, and toxic chemical release reporting; air and water pollution control; public water supply; water resource planning; and waste disposal and treatment;

(B) Procure by contract the temporary or intermittent services of experts or consultants, or organizations thereof, when those services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(C) Advise, consult, cooperate, and enter into contracts or agreements with any other agencies of the state, the federal government, other states, and interstate agencies; and with affected groups, political subdivisions, and industries in furtherance of the purposes of section 1541.21 and this chapter and Chapters 3704., 3714., 3734., 3751., 3752., 6109., and 6111. of the Revised Code;

(D) Establish advisory boards in accordance with section 121.13 of the Revised Code;

(E) Accept on behalf of the state any grant, gift, or contribution made for toxic chemical release reporting, air or water pollution control, public water supply, water resource planning, waste disposal or treatment, or related purposes, and expend it for those purposes;

(F) Make an annual report to the governor and the general assembly on activities and expenditures as well as recommendations for such additional legislation as ~~he~~ the director considers appropriate to carry out ~~his~~ the director's duties or accomplish the purposes of this section.

The agency shall utilize the laboratory facilities of the department of health and other state institutions and agencies to the maximum extent that ~~such~~ the utilization is practicable, economical, and technically satisfactory.

The director shall maintain and keep available for public inspection, at ~~his~~ the director's principal office, a current register of all applications filed for permits, leases, licenses, variances, certificates, and approval of plans and specifications and of publicly owned treatment works pretreatment programs under ~~his~~ the director's jurisdiction, hearings pending, ~~his~~ the director's final action thereon, and the dates on which ~~such~~ the filings, hearings, and final actions occur. The director shall maintain and keep available for public inspection at ~~his~~ the director's principal office all plans, reports, and other documents required to be filed with the emergency response commission under Chapter 3750. of the Revised Code and rules adopted under it, and all reports and other documents required to be filed with ~~him~~ the director under Chapter 3751. of the Revised Code and rules adopted under it, subject to the requirements of those chapters and rules adopted under them for the protection of trade secrets and confidential business information from disclosure to persons not authorized under those laws to receive trade secret or confidential business information.

Sec. 6111.04. No person shall cause pollution or place or cause to be placed any sewage, industrial waste, or other wastes in a location where they cause pollution of any waters of the state, ~~and any such~~. Such an action is hereby declared to be a public nuisance, except in ~~such~~ cases where the director of environmental protection has issued a valid and unexpired permit, or renewal thereof, as provided in sections 6111.01 to 6111.08 of the Revised Code, or an application for renewal is pending.

No person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, industrial waste, or other wastes in excess of the permissive discharges specified under such an existing permit without first receiving a permit from

the director to do so.

No person who is discharging or causing the discharge of any sewage, industrial waste, or other wastes into the waters of the state shall continue or cause the continuance of ~~such~~ the discharge; without first obtaining a permit ~~therefore~~ THEREFOR issued by the director. The director shall prescribe by rule a reasonable filing period within which applications may be filed to obtain permits for existing discharges that have not been authorized by permit.

The director may require the submission of such plans, specifications, and other information as ~~he deems~~ the director considers relevant in connection with the issuance of permits.

This section does not apply to any of the following:

(A) Waters used in washing sand, gravel, other aggregates, or mineral products; when ~~such~~ the washing and the ultimate disposal of the water used in ~~such~~ the washing, including any sewage, industrial waste, or other wastes contained in ~~such~~ the waters, are entirely confined to the land under the control of the person engaged in the recovery and processing of ~~such~~ the sand, gravel, other aggregates, or mineral products, and do not result in the pollution of waters of the state;

(B) Water, gas, or other material injected into a well to facilitate, or ~~which~~ that is incidental to, the production of oil, gas, artificial brine, or water derived in association with oil or gas production and disposed of in a well, in compliance with a permit issued under Chapter 1509. of the Revised Code, or sewage, industrial waste, or other wastes injected into a well in compliance with an injection well operating permit. This division does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

(C) Application of any materials to land for agricultural purposes or runoff of ~~such~~ the materials from ~~such~~ that application or pollution by animal waste or soil sediment, including attached substances, resulting from farming, silvicultural, or earthmoving activities regulated by Chapter 307. or 1515. of the Revised Code. This division does not authorize, without a permit, any discharge from a treatment works for treating animal wastes having a controlled direct discharge into the waters of the state, or any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

(D) The excrement of domestic and farm animals defecated on land or runoff therefrom into any waters of the state. This division does not authorize, without a permit, any discharge that is prohibited by, or for which

a permit is required by, regulation of the United States environmental protection agency.

(E) The discharge of sewage, industrial waste, or other wastes into a sewerage system tributary to a treatment works. This division does not authorize any discharge into a publicly owned treatment works in violation of a pretreatment program applicable to ~~such the~~ publicly owned treatment works.

(F) Septic tanks or any other disposal systems for the disposal or treatment of sewage from single-family, two-family, or three-family dwellings in compliance with the sanitary code and section ~~1541.21 or~~ 3707.01 of the Revised Code. This division does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

The holder of a permit issued under section 402 (a) of the "Federal Water Pollution Control Act" need not obtain a permit for a discharge authorized by ~~such the~~ permit until its expiration date. The director ~~of environmental protection~~ shall administer and enforce ~~such those~~ permits within this state; and may modify the terms and conditions thereof in accordance with division (J) of section 6111.03 of the Revised Code.

Sec. 6117.51. If the board of health of the health district within which a new public sewer construction project is proposed or located passes a resolution stating that the reason for ~~such the~~ project is to reduce or eliminate an existing health problem or a hazard of water pollution ~~or, if the project is within a special sanitary district designated under section 1541.21 of the Revised Code, if the director of environmental protection certifies that the reason for such project is to reduce or eliminate an existing health problem or a hazard of water pollution,~~ the board of county commissioners of ~~such the~~ county ~~may~~, by resolution, ~~may~~ order the owner of any premises located in a sewer district in the county, ~~his the owner's~~ agent, lessee, or tenant, or any other occupant of the premises; to connect the premises to the sewer for the purpose of discharging sewage or other waste that the board determines is originating on the premises, to make use of the connection, and to cease the discharge of the sewage or other waste into a cesspool, ditch, private sewer, privy, septic tank, semipublic disposal system as defined in division (B)(1)(a) of section 3709.085 of the Revised Code, or other outlet if the board finds that the sewer is available for use and is accessible to the premises following a determination and certification to the board by a registered professional engineer designated by it as to the availability and accessibility of the sewer. This section does not apply to any of the following:

(A) Any discharge authorized by a permit issued under division (J) of section 6111.03 of the Revised Code; other than a discharge to or from a semipublic disposal system as defined in division (B)(1)(a) of section 3709.085 of the Revised Code;

(B) Wastes resulting from the keeping of animals;

(C) Any premises that are not served by a common sewage collection system when the foundation wall of the structure from which sewage or other waste originates is more than two hundred feet from the nearest boundary of the right of way within which the sewer is located;

(D) Any premises that are served by a common sewage collection system when both the foundation wall of the structure from which the sewage or other waste originates and the common sewage collection system are more than two hundred feet from the nearest boundary of the right-of-way within which the public sewer is located.

The board shall not direct an order under this section to a resident tenant unless it determines that the terms of the tenancy are such that the owner lacks sufficient rights of access to permit the owner to comply with the terms of the order.

An owner, agent, lessee, tenant, or occupant shall comply with the order of the board within ninety days after the completion of service of the order upon ~~him~~ that person as provided in this section. The board ~~may~~, upon written application filed prior to the expiration of the ninety-day period, may waive compliance with any order either temporarily or permanently and conditionally or unconditionally.

In its resolution, the board shall direct its clerk, or ~~his~~ the clerk's designee, to serve its order upon the owner, agent, lessee, tenant, or occupant. Service of the order shall be made personally, by leaving the order at the usual place of residence with ~~some~~ A person of suitable age and discretion then residing therein, or by certified mail addressed to the owner, agent, lessee, tenant, or occupant at ~~his~~ that person's last known address or to the address to which tax bills are sent. If it appears by the return of service or the return of the order forwarded by certified mail that the owner, agent, lessee, tenant, or occupant cannot be found, ~~he~~ that person shall be served by publication of the order once in a newspaper of general circulation within the county, or if ~~he~~ that person refuses service, ~~he~~ that person shall be served by ordinary mail addressed to ~~him~~ at his that person's last known address or to the address to which tax bills are sent. The return of the person serving the order or a certified copy of the return, or a returned receipt for the order forwarded by certified mail accepted by the addressee or anyone purporting to act for ~~him~~ the addressee, is prima-facie evidence of the

e of the order under this section. The return of the person attempting to serve the order, or the return to the sender of the order forwarded by certified mail with an indication on the return of the refusal of the addressee to accept delivery, is prima-facie evidence of the refusal of service.

No owner, agent, lessee, tenant, or occupant shall violate an order issued under this section. Upon request of the board, the prosecuting attorney shall prosecute in a court of competent jurisdiction any owner, agent, lessee, tenant, or occupant who violates an order issued under this section. Each day that a violation continues after conviction for the violation of an order issued under this section and the final determination thereof is a separate offense. The court ~~may~~, for good cause shown, may grant a reasonable additional period of time for compliance after conviction.

Any owner, agent, lessee, tenant, or occupant violating an order issued under this section ~~may~~ also may be enjoined from continuing in violation. Upon request of the board, the prosecuting attorney shall bring an action in a court of competent jurisdiction for an injunction against the owner, agent, lessee, tenant, or occupant violating an order.

The Ohio water development authority created under section 6121.02 of the Revised Code, in addition to its other powers, has the same power and shall be governed by the same procedures in a waste water facilities service area, or in any area adjacent to a public sewer operated by the authority, as a board of county commissioners in a county sewer district under this section, except that the authority shall act by order, and the attorney general, upon request of the authority, shall prosecute any person who violates an order of the authority issued under this section.

SECTION 2. That existing sections 1541.99, 3709.085, 3745.01, 6111.04, and 6117.51 and section 1541.21 of the Revised Code are hereby repealed.

SECTION 3. The Director of Environmental Protection shall transfer to the appropriate boards of health all information relating to permits, plans, and approvals that was acquired by the director in accordance with rules adopted under section 1541.21 of the Revised Code, as that section existed prior to the effective date of this act. As used in this section, "board of health" means the board of health of a city or general health district created by or under the authority of Chapter 3709. of the Revised Code or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the _____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____