

**As Introduced**

**128th General Assembly  
Regular Session  
2009-2010**

**H. B. No. 141**

**Representative Dodd**

**Cosponsors: Representatives Okey, Wachtmann, Weddington, Letson,  
Boyd, Luckie**

**—**

**A B I L L**

To amend sections 711.05, 711.10, 3718.01, 3718.02, 1  
3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 2  
6117.51 and to enact sections 3718.011, 3718.023, 3  
3718.024, 3718.025, and 3718.041 of the Revised 4  
Code, to amend sections 711.05 and 711.10 of the 5  
Revised Code, which are scheduled to take effect 6  
on July 1, 2009, to amend Section 120.05 of Am. 7  
Sub. H.B. 119 of the 127th General Assembly, and 8  
to repeal Sections 120.01 and 120.02 of Am. Sub. 9  
H.B. 119 of the 127th General Assembly to revise 10  
the Household Sewage and Small Flow On-Site Sewage 11  
Treatment Systems Law, and to declare an 12  
emergency. 13

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 711.05, 711.10, 3718.01, 3718.02, 14  
3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 6117.51 be 15  
amended and sections 3718.011, 3718.023, 3718.024, 3718.025, and 16  
3718.041 of the Revised Code be enacted to read as follows: 17

**Sec. 711.05.** (A) Upon the submission of a plat for approval, 18

in accordance with section 711.041 of the Revised Code, the board 19  
of county commissioners shall certify on it the date of the 20  
submission. Within five days of submission of the plat, the board 21  
shall schedule a meeting to consider the plat and send a written 22  
notice by regular mail to the fiscal officer of the board of 23  
township trustees of the township in which the plat is located and 24  
the board of health of the health district in which the plat is 25  
located. The notice shall inform the trustees and the board of 26  
health of the submission of the plat and of the date, time, and 27  
location of any meeting at which the board of county commissioners 28  
will consider or act upon the proposed plat. The meeting shall 29  
take place within thirty days of submission of the plat, and no 30  
meeting shall be held until at least seven days have passed from 31  
the date the notice was sent by the board of county commissioners. 32  
The approval of the board required by section 711.041 of the 33  
Revised Code or the refusal to approve shall take place within 34  
thirty days from the date of submission or such further time as 35  
the applying party may agree to in writing; otherwise, the plat is 36  
deemed approved and may be recorded as if bearing such approval. 37

(B) The board may adopt general rules governing plats and 38  
subdivisions of land falling within its jurisdiction, to secure 39  
and provide for the coordination of the streets within the 40  
subdivision with existing streets and roads or with existing 41  
county highways, for the proper amount of open spaces for traffic, 42  
circulation, and utilities, and for the avoidance of future 43  
congestion of population detrimental to the public health, safety, 44  
or welfare, but shall not impose a greater minimum lot area than 45  
forty-eight hundred square feet. Before the board may amend or 46  
adopt rules, it shall notify all the townships in the county of 47  
the proposed amendments or rules by regular mail at least thirty 48  
days before the public meeting at which the proposed amendments or 49  
rules are to be considered. 50

The rules may require the board of health to review and 51  
comment on a plat before the board of county commissioners acts 52  
upon it and may also require proof of compliance with any 53  
applicable zoning resolutions, and with rules governing household 54  
sewage treatment systems, as a basis for approval of a plat. Where 55  
under section 711.101 of the Revised Code the board of county 56  
commissioners has set up standards and specifications for the 57  
construction of streets, utilities, and other improvements for 58  
common use, the general rules may require the submission of 59  
appropriate plans and specifications for approval. The board shall 60  
not require the person submitting the plat to alter the plat or 61  
any part of it as a condition for approval, as long as the plat is 62  
in accordance with general rules governing plats and subdivisions 63  
of land, adopted by the board as provided in this section, in 64  
effect at the time the plat was submitted and the plat is in 65  
accordance with any standards and specifications set up under 66  
section 711.101 of the Revised Code, in effect at the time the 67  
plat was submitted. 68

(C) The ground of refusal to approve any plat, submitted in 69  
accordance with section 711.041 of the Revised Code, shall be 70  
stated upon the record of the board, and, within sixty days 71  
thereafter, the person submitting any plat that the board refuses 72  
to approve may file a petition in the court of common pleas of the 73  
county in which the land described in the plat is situated to 74  
review the action of the board. A board of township trustees is 75  
not entitled to appeal a decision of the board of county 76  
commissioners under this section. 77

**Sec. 711.10.** (A) Whenever a county planning commission or a 78  
regional planning commission adopts a plan for the major streets 79  
or highways of the county or region, no plat of a subdivision of 80  
land within the county or region, other than land within a 81  
municipal corporation or land within three miles of a city or one 82

and one-half miles of a village as provided in section 711.09 of 83  
the Revised Code, shall be recorded until it is approved by the 84  
county or regional planning commission under division (C) of this 85  
section and the approval is endorsed in writing on the plat. 86

(B) A county or regional planning commission may require the 87  
submission of a preliminary plan for each plat sought to be 88  
recorded. If the commission requires this submission, it shall 89  
provide for a review process for the preliminary plan. Under this 90  
review process, the planning commission shall give its approval, 91  
its approval with conditions, or its disapproval of each 92  
preliminary plan. The commission's decision shall be in writing, 93  
shall be under the signature of the secretary of the commission, 94  
and shall be issued within thirty-five business days after the 95  
submission of the preliminary plan to the commission. The 96  
disapproval of a preliminary plan shall state the reasons for the 97  
disapproval. A decision of the commission under this division is 98  
preliminary to and separate from the commission's decision to 99  
approve, conditionally approve, or refuse to approve a plat under 100  
division (C) of this section. 101

(C) Within five calendar days after the submission of a plat 102  
for approval under this division, the county or regional planning 103  
commission shall schedule a meeting to consider the plat and send 104  
a notice by regular mail or by electronic mail to the fiscal 105  
officer of the board of township trustees of the township in which 106  
the plat is located and the board of health of the health district 107  
in which the plat is located. The notice shall inform the trustees 108  
and the board of health of the submission of the plat and of the 109  
date, time, and location of any meeting at which the county or 110  
regional planning commission will consider or act upon the plat. 111  
The meeting shall take place within thirty calendar days after 112  
submission of the plat, and no meeting shall be held until at 113  
least seven calendar days have passed from the date the planning 114

commission sent the notice. 115

The approval of the county or regional planning commission, 116  
the commission's conditional approval as described in this 117  
division, or the refusal of the commission to approve shall be 118  
endorsed on the plat within thirty calendar days after the 119  
submission of the plat for approval under this division or within 120  
such further time as the applying party may agree to in writing; 121  
otherwise that plat is deemed approved, and the certificate of the 122  
commission as to the date of the submission of the plat for 123  
approval under this division and the failure to take action on it 124  
within that time shall be sufficient in lieu of the written 125  
endorsement or evidence of approval required by this division. 126

A county or regional planning commission may grant 127  
conditional approval under this division to a plat by requiring a 128  
person submitting the plat to alter the plat or any part of it, 129  
within a specified period after the end of the thirty calendar 130  
days, as a condition for final approval under this division. Once 131  
all the conditions have been met within the specified period, the 132  
commission shall cause its final approval under this division to 133  
be endorsed on the plat. No plat shall be recorded until it is 134  
endorsed with the commission's final or unconditional approval 135  
under this division. 136

The ground of refusal of approval of any plat submitted under 137  
this division, including citation of or reference to the rule 138  
violated by the plat, shall be stated upon the record of the 139  
county or regional planning commission. Within sixty calendar days 140  
after the refusal under this division, the person submitting any 141  
plat that the commission refuses to approve under this division 142  
may file a petition in the court of common pleas of the proper 143  
county, and the proceedings on the petition shall be governed by 144  
section 711.09 of the Revised Code as in the case of the refusal 145  
of a planning authority to approve a plat. A board of township 146

trustees is not entitled to appeal a decision of the commission 147  
under this division. 148

A county or regional planning commission shall adopt general 149  
rules, of uniform application, governing plats and subdivisions of 150  
land falling within its jurisdiction, to secure and provide for 151  
the proper arrangement of streets or other highways in relation to 152  
existing or planned streets or highways or to the county or 153  
regional plan, for adequate and convenient open spaces for 154  
traffic, utilities, access of firefighting apparatus, recreation, 155  
light, and air, and for the avoidance of congestion of population. 156  
The rules may provide for their modification by the commission in 157  
specific cases where unusual topographical and other exceptional 158  
conditions require the modification. The rules may require the 159  
board of health to review and comment on a plat before the 160  
commission acts upon it and also may require proof of compliance 161  
with any applicable zoning resolutions, and with rules governing 162  
~~household~~ sewage treatment systems, as a basis for approval of a 163  
plat. 164

Before adoption of its rules or amendment of its rules, the 165  
commission shall hold a public hearing on the adoption or 166  
amendment. Notice of the public hearing shall be sent to all 167  
townships in the county or region by regular mail or electronic 168  
mail at least thirty business days before the hearing. No county 169  
or regional planning commission shall adopt any rules requiring 170  
actual construction of streets or other improvements or facilities 171  
or assurance of that construction as a condition precedent to the 172  
approval of a plat of a subdivision unless the requirements have 173  
first been adopted by the board of county commissioners after a 174  
public hearing. A copy of the rules shall be certified by the 175  
planning commission to the county recorders of the appropriate 176  
counties. 177

After a county or regional street or highway plan has been 178

adopted as provided in this section, the approval of plats and 179  
subdivisions provided for in this section shall be in lieu of any 180  
approvals provided for in other sections of the Revised Code, 181  
insofar as the territory within the approving jurisdiction of the 182  
county or regional planning commission, as provided in this 183  
section, is concerned. Approval of a plat shall not be an 184  
acceptance by the public of the dedication of any street, highway, 185  
or other way or open space shown upon the plat. 186

No county or regional planning commission shall require a 187  
person submitting a plat to alter the plat or any part of it as 188  
long as the plat is in accordance with the general rules governing 189  
plats and subdivisions of land, adopted by the commission as 190  
provided in this section, in effect at the time the plat is 191  
submitted. 192

A county or regional planning commission and a city or 193  
village planning commission, or platting commissioner or 194  
legislative authority of a village, with subdivision regulation 195  
jurisdiction over unincorporated territory within the county or 196  
region may cooperate and agree by written agreement that the 197  
approval of a plat by the city or village planning commission, or 198  
platting commissioner or legislative authority of a village, as 199  
provided in section 711.09 of the Revised Code, shall be 200  
conditioned upon receiving advice from or approval by the county 201  
or regional planning commission. 202

(D) As used in this section, "business day" means a day of 203  
the week excluding Saturday, Sunday, or a legal holiday as defined 204  
in section 1.14 of the Revised Code. 205

**Sec. 3718.01.** As used in this chapter: 206

(A) "Alter" means to change by making substantive 207  
replacements of, additions to, or deletions in the design or 208  
materials or to change the location of an existing sewage 209

treatment system.	210
(B) <u>"Bedrock" means hard or soft rock stratum that underlies the soil and other unconsolidated material or that is exposed at the surface.</u>	211 212 213
(C) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.	214 215 216 217
<del>(C)</del> (D) "Domestic septage" means the liquid or solid material removed from a sewage treatment system, portable toilet, or type III marine sanitation device as defined in 33 C.F.R. 159.3. "Domestic septage" does not include grease removed from a grease trap.	218 219 220 221 222
<del>(D)</del> (E) <u>"Gray water recycling systems" means systems that treat and reuse wastewater discharged from lavatories, bathtubs, showers, clothes washers, and laundry sinks that does not contain food wastes or bodily wastes.</u>	223 224 225 226
(F) "Household sewage treatment system" means any sewage treatment system, or part of such a system, that receives sewage from a single-family, two-family, or three-family dwelling.	227 228 229
<del>(E)</del> (G) <u>"Infiltrative surface" means the point or area of application of treated or partially treated sewage to the soil or sand fill for purposes of treatment, dispersal, or both.</u>	230 231 232
(H) "Inspection" means the on-site evaluation or analysis of the <del>functioning</del> <u>design, installation, and operation</u> of a sewage treatment system.	233 234 235
<del>(F)</del> (I) "Installer" means any person who engages in the business of installing or altering or who, as an employee of another, installs or alters any sewage treatment system.	236 237 238
<del>(G)</del> (J) <u>"Limiting condition" means a restrictive soil layer,</u>	239

bedrock, a water table, or ground water that limits or precludes 240  
the treatment or dispersal of sewage in the soil of a property 241  
where a household sewage treatment system is located. 242

(K) "Manufacturer" means any person that manufactures sewage 243  
treatment systems or components of systems. 244

~~(H)~~(L) "Person" has the same meaning as in section 1.59 of 245  
the Revised Code and also includes any state, any political 246  
subdivision of a state, and any department, division, board, 247  
commission, agency, or instrumentality of a state or political 248  
subdivision. 249

~~(I)~~(M) "Sanitary sewerage system" means pipelines or 250  
conduits, pumping stations, force mains, and all other 251  
constructions, devices, appurtenances, and facilities that convey 252  
sewage to a central sewage treatment plant and that are required 253  
to obtain a permit under Chapter 6111. of the Revised Code. 254

~~(J)~~(N) "Septage hauler" means any person who engages in the 255  
collection, transportation, disposal, and land application of 256  
domestic septage. 257

~~(K)~~(O) "Service provider" means any person who services, but 258  
does not install or alter, sewage treatment systems. 259

~~(I)~~(P) "Sewage" means liquid waste containing animal or 260  
vegetable matter in suspension or solution that originates from 261  
humans and human activities. "Sewage" includes liquids containing 262  
household chemicals in solution commonly discharged from a 263  
residence or from commercial, institutional, or other similar 264  
facilities. 265

~~(M)~~(Q) "Sewage treatment system" means a household sewage 266  
treatment system, a small flow on-site sewage treatment system, or 267  
both, as applicable. 268

~~(N)~~(R) "Small flow on-site sewage treatment system" means a 269

system, other than a household sewage treatment system, that 270  
treats not more than one thousand gallons of sewage per day and 271  
that does not require a national pollutant discharge elimination 272  
system permit issued under section 6111.03 of the Revised Code or 273  
an injection well drilling or operating permit issued under 274  
section 6111.043 of the Revised Code. 275

(S) "Soil" means the naturally occurring pedogenically 276  
developed and undeveloped regolith overlying bedrock. 277

(T) "Vertical separation distance" means the distance of the 278  
infiltrative surface of the distribution system of a soil 279  
absorption system, or component thereof, to a limiting condition 280  
in the soil. 281

(U) "Water table" means the surface of the saturated zone 282  
below which all interconnected voids are filled with water and at 283  
which the pressure is atmospheric. 284

**Sec. 3718.011.** For purposes of this chapter, a sewage 285  
treatment system is causing a public health nuisance if any of the 286  
following situations occurs: 287

(A) The sewage treatment system is not operating in the 288  
manner for which it was designed due to mechanical failure or 289  
another type of system malfunction, including, but not limited to, 290  
the inability of the sewage treatment system to accept wastewater 291  
at the rate for which the system was designed thereby preventing 292  
or limiting the use of plumbing fixtures due to mechanical failure 293  
or hydraulic overloading. 294

(B) The sewage treatment system is discharging wastewater 295  
from the system's soil absorption components in an amount that 296  
exceeds the absorptive capacity of the soil resulting in ponding, 297  
seepage, or other discharge of effluent to surface or ground 298  
water. Evidence of the situation described in this division shall 299

be collected by standard investigative methods and a standard 300  
scoring process of site conditions, including, but not limited to, 301  
dye testing, visual observations of ponded effluent, detection of 302  
sewage odors, or water quality sampling. 303

(C) The sewage treatment system is discharging wastewater 304  
into surface water so that the surface water fails to meet water 305  
quality standards established for a surface water body in 306  
accordance with rules adopted under section 6111.041 of the 307  
Revised Code, or, with respect to systems authorized under the 308  
NPDES permit program established under Chapter 6111. of the 309  
Revised Code and rules adopted under it, the system routinely 310  
exceeds the effluent discharge standards specified in a permit 311  
issued under that program. 312

(D) Wastewater from a sewage treatment system causes 313  
identified contamination of ground water so that primary drinking 314  
water standards are exceeded in violation of Chapter 3745-81 of 315  
the Administrative Code. 316

**Sec. 3718.02.** ~~(A) Not later than one year after the effective~~ 317  
~~date of this section, the~~ The public health council, in accordance 318  
with Chapter 119. of the Revised Code, shall adopt, and 319  
subsequently may amend and rescind, rules of general application 320  
throughout the state to administer this chapter. Rules adopted 321  
under division (A) of this section shall do at least all of the 322  
following: 323

(1) Require that the appropriate board of health approve or 324  
disapprove the ~~use~~ installation, operation, and alteration of a 325  
sewage treatment system if it is not connected to a sanitary 326  
sewerage system~~†~~. The rules shall provide that the disapproval of 327  
the installation, operation, or alteration of a sewage treatment 328  
system may be appealed in accordance with Chapter 2506. of the 329  
Revised Code by the person seeking approval of the installation, 330

operation, or alteration of the system. 331

(2) Require ~~that~~ a board of health, or other person as 332  
established by rule, to conduct a site evaluation for any proposed 333  
installation of a sewage treatment system; 334

(3) Prescribe standards for the siting, design, installation, 335  
operation, monitoring, maintenance, and abandonment of ~~household~~ 336  
sewage treatment systems that may be used in this state and for 337  
the progressive or incremental alteration, repair, or replacement 338  
of existing sewage treatment systems. The standards shall include 339  
at a minimum all of the following: 340

(a) Soil absorption specifications; and vertical separation 341  
distances. 342

(i) Soil absorption specifications established in rules shall 343  
include standards regarding the sizing of sewage treatment systems 344  
in use in the state. 345

(ii) In establishing soil absorption specifications and 346  
vertical separation distances, the rules shall identify those soil 347  
conditions or vertical separation distances that present a low or 348  
moderate risk of inadequate treatment or dispersal of sewage from 349  
sewage treatment systems. For low and moderate risk systems, the 350  
required vertical separation distance shall not exceed eighteen 351  
inches. 352

In addition, the rules shall identify those soil conditions 353  
that present a high risk of inadequate treatment or dispersal of 354  
sewage. For such high risk conditions, the vertical separation 355  
distance shall be set at a depth from twenty-four to thirty-six 356  
inches and shall not be lowered unless a reduction of vertical 357  
separation is granted in accordance with rules adopted under 358  
division (A)(3)(a)(iii) of this section. 359

(iii) The rules shall provide that no reduction in vertical 360  
separation distances shall be approved by the director of health 361

for any sewage treatment system, or component thereof, until the 362  
director has submitted the proposed reduction to the sewage 363  
treatment system technical advisory committee created in section 364  
3718.03 of the Revised Code for review and recommended approval. 365  
Any reduction that decreases the vertical separation to less than 366  
twelve inches shall require pretreatment of the sewage. 367

(iv) The rules shall provide that a board of health may 368  
petition the director to increase the vertical separation distance 369  
for a sewage treatment system when conditions present a high risk 370  
of inadequate treatment or dispersal of sewage. The rules also 371  
shall provide that the director may approve such a request upon a 372  
demonstration by the board of health that unusual or unique local 373  
conditions relating to terrain, bedrock, water table, soil 374  
fragments, or soil textures require the establishment of greater 375  
vertical separation distances within the jurisdiction of the board 376  
of health or a portion thereof. If, under the rules, the director 377  
approves a greater vertical separation distance, the approval is 378  
subject to appeal in accordance with Chapter 119. of the Revised 379  
Code. The rules shall allow a person who is denied permission by a 380  
board of health to install or replace a sewage treatment system on 381  
the ground that an appropriate vertical separation distance cannot 382  
be achieved the opportunity to appeal that decision of the board 383  
of health in accordance with Chapter 2506. of the Revised Code. 384

385  
(b) Specifications for ~~discharging systems that do not~~ 386  
~~conflict with provisions related to~~ the quality of treated sewage 387  
effluent from household sewage treatment systems that is applied 388  
to soil on the property where a household sewage treatment system 389  
is located. The specifications established in the rules for the 390  
quality of effluent from ~~discharging~~ systems shall comply with 391  
discharge requirements imposed by the national pollutant discharge 392  
elimination system permit program established ~~in~~ under section 393

6111.03 of the Revised Code and rules adopted under it+\_. 394

(c) Requirements for the maintenance of a system according to 395  
the manufacturer's instructions, if available, including mandatory 396  
requirements for service contracts or other arrangements that 397  
assure regular maintenance and upkeep of the system; 398

(d) Requirements and procedures under which a person may 399  
demonstrate the required maintenance of a system in lieu of having 400  
an inspection conducted when an inspection otherwise is required. 401

The rules also shall require that a system that has been or 402  
is sited or installed prior to or on the effective date of the 403  
rules and that is operating on that date shall be deemed approved 404  
unless the system is declared to be a public health nuisance by a 405  
board of health. 406

(4) Prescribe procedures for notification to boards of health 407  
of the approval of a sewage treatment system or components of a 408  
system by the director of health under section 3718.04 of the 409  
Revised Code; 410

(5) Prescribe criteria and procedures under which boards of 411  
health shall issue installation ~~and~~ permits, operation permits, 412  
and alteration permits for sewage treatment systems. The rules 413  
shall require as a condition of an installation permit that the 414  
installer of a system must warrant that the system was installed 415  
in accordance with all applicable rules and design requirements. 416  
In addition, the rules shall require a board of health, not later 417  
than sixty days after the issuance of an installation, operation, 418  
or alteration permit, to ~~certify to~~ notify the director ~~on a form~~ 419  
~~provided by the director~~ that the permit was issued. The rules 420  
shall require the notification to be in a format prescribed by the 421  
director and to include information related to the issuance of the 422  
permit. With the assistance of the department of health, a board 423  
of health, to the extent practicable, shall computerize the 424

process of the issuance of permits for sewage treatment systems. 425

(6) Require a board of health to inspect a sewage treatment 426  
system not later than ~~eighteen~~ twelve months after its 427  
installation to ensure that the system is operating properly. The 428  
rules shall require a board of health, not later than sixty days 429  
after the inspection, to certify to the director on a form 430  
provided by the director that the inspection was performed. 431

(7) Require each board of health to develop a program for the 432  
enforcement of maintenance requirements established in rules 433  
adopted under division (A)(3)(c) of this section. The rules shall 434  
authorize a board of health, upon reasonable prior notice, to 435  
inspect any sewage treatment system if there is a complaint 436  
regarding the system or there is probable cause for the 437  
inspection. In addition, the rules shall authorize a board of 438  
health to inspect a sewage treatment system without prior notice 439  
in any instance in which the board has probable cause to believe 440  
that the system is endangering or threatening to endanger public 441  
health. The rules shall allow a board of health to continue an 442  
inspection program that was established by the board prior to the 443  
effective date of the rules. 444

(8) Require a board of health to register installers, service 445  
providers, and septage haulers that perform work within the health 446  
district; prescribe criteria and procedures for the registration; 447  
and prescribe criteria for a demonstration of competency as a part 448  
of the registration. The rules shall establish uniform statewide 449  
bonding requirements or other financial security requirements for 450  
installers, service providers, and septage haulers as a condition 451  
of registration within any health district. The rules shall 452  
establish a methodology by which the required amount of a bond or 453  
other security may be calculated for each installer, service 454  
provider, and septage hauler. The methodology, at a minimum, shall 455  
consider the number of systems installed or serviced and the type 456

of system installed or serviced by an installer, service provider, or septage hauler on an annual basis. The rules shall provide that no board of health shall require an additional or different bond or security requirement as a condition of registration beyond the bonding and security requirements established in the rules adopted under division (A)(8) of this section.

The rules shall establish a cost methodology for determining the fee for the registration of an installer, service provider, or septage hauler in any health district.

~~(8)~~(9) Prescribe requirements for the collection, transportation, disposal, and land application of domestic septage in this state from a sewage treatment system;

~~(9)~~(10) Require boards of health to maintain records that are determined necessary to ascertain compliance with this chapter and the rules adopted under it;

~~(10)~~(11) Require a ~~board of health and~~ the manufacturer of a sewage treatment system, ~~when possible,~~ that is authorized for use in this state in rules adopted under this section or that is approved for use in this state under section 3718.04 of the Revised Code to provide instructions for the operation and maintenance of the system. The rules shall ~~authorize the instructions to be posted on the department of health's web site and the manufacturer's web site~~ provide that a board of health may require a copy of a manufacturer's instructions for the operation and maintenance of a system to be filed with the board prior to the installation and use of the system in the health district in which the board has jurisdiction. In addition, the rules shall require a board of health and a manufacturer to provide a copy of the operation and maintenance instructions, if available, when a board of health or a manufacturer receives a written request for instructions.

~~(11)~~(12) Prescribe criteria for the provision of written 489  
evidence of compliance with rules pertaining to household sewage 490  
treatment for purposes of sections 711.05 and 711.10 of the 491  
Revised Code; 492

~~(12)~~(13) Prescribe standards for the siting, design, 493  
installation, operation, monitoring, maintenance, and abandonment 494  
of small flow on-site sewage treatment systems that may be used in 495  
this state; 496

(14) Prescribe minimum criteria and procedures under which 497  
boards of health may establish household sewage treatment district 498  
management programs for the purpose of providing a responsive 499  
approach toward preventing or solving sewage treatment problems 500  
resulting from household sewage treatment systems within the 501  
districts established under the program. For purposes of division 502  
(A)~~(12)~~(14) of this section, a board of health may enter into a 503  
contract with any entity to administer a household sewage 504  
treatment district management program. 505

~~(13) Prescribe standards for the siting, design,~~ 506  
~~installation, operation, monitoring, maintenance, and abandonment~~ 507  
~~of small flow on-site sewage treatment systems that may be used in~~ 508  
~~this state.~~ 509

(15) Prescribe standards for the use of subsurface drains to 510  
remove any subsurface water from an area to be used for soil 511  
absorption of sewage in the soil of a sewage treatment system; 512

(16) Authorize a board of health to require a property owner 513  
whose property is serviced by a sewage treatment system to connect 514  
to an available central sewer system under any of the following 515  
circumstances and conditions: 516

(a) The central sewer system is located not more than three 517  
hundred feet from the structure owned by the property owner 518  
measured from the foundation of the structure to the right-of-way 519

where the central sewer system is located. 520

(b) There is an administrative or judicial order requiring connection to a central sewer system. 521  
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(c) The property is the subject of a sewer assessment process initiated by a county, municipal corporation, or other political subdivision. 523  
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The rules shall provide that after a property owner is required to connect to a central sewer system, the property owner is prohibited from installing, replacing, or continuing to use a sewage treatment system. The rules shall establish exceptions for extenuating circumstances that allow a property owner to continue to use a sewage treatment system. 526  
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The rules shall provide that if a property owner is required to connect to a central sewer system, a board of health shall afford the property owner a period of time not to exceed three years to install the connection to the central sewer system. The rules shall authorize a board of health to require connection to a central sewer system within an expedited time frame if a sewage treatment system owned by a property owner is causing a public health nuisance and the cost of connection to a central sewer system is not excessive. 532  
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Governmental entities constructing central sewer systems shall construct the central sewer systems in a manner that minimizes the distance between the foundations of the structures to be serviced by the central sewer system and the connecting point of the central sewer system. The rules shall provide that a property owner that is required under rules to connect to a municipal central sewer system not be required to submit to annexation by the municipal corporation as a condition of connecting to the municipal central sewer system. 541  
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A board of health shall not require the connection to a 550

central sewer system under rules adopted under division (A)(16) of 551  
this section if a board of county commissioners has adopted a 552  
resolution requiring connection under section 6117.51 of the 553  
Revised Code. 554

(17) Prescribe standards for the inspection of septage 555  
hauling truck tanks by boards of health, including, but not 556  
limited to, tank seal safety specifications; 557

(18) Establish standards and testing methods to ensure that 558  
all septic tanks, other disposal component tanks, dosing tanks, 559  
pump vaults, household sewage treatment disposal system holding 560  
tanks and privy vaults, or other applicable sewage disposal system 561  
components manufactured after the effective date of this section 562  
and used in this state are watertight and structurally sound; 563

(19) Require a board of health to give notice and an 565  
opportunity for a hearing to an affected property owner regarding 566  
any of the following: 567

(a) The denial of an installation, operation, or alteration 568  
permit for a sewage treatment system; 569

(b) The imposition of a condition on the installation of a 570  
sewage treatment system; 571

(c) The required replacement of a sewage treatment system. 572

The rules also shall establish procedures for giving such 573  
notice and for conducting the hearing required in rules adopted 574  
under division (A)(19) of this section. 575

(20) Prescribe standards for the regulation of gray water 576  
recycling systems; 577

(21) Prohibit a sewage treatment system from causing a public 578  
health nuisance; 579

(22) Define economic impact for purposes of division (B) of 580

this section and section 3718.022 of the Revised Code. 581

The council may adopt other rules under division (A) of this 582  
section that it determines are necessary to implement this chapter 583  
and to protect the public health and welfare. 584

At least sixty days prior to adopting a rule under division 585  
(A) of this section, the council shall provide boards of health 586  
and any other interested parties an opportunity to comment on the 587  
rule. 588

(B)(1) In accordance with section 3709.20 or 3709.21 of the 589  
Revised Code, as applicable, and subject to review by and approval 590  
of the director under division (C) of section 3718.05 of the 591  
Revised Code, a board of health may adopt rules necessary for the 592  
public health providing for more stringent standards ~~governing~~ 593  
~~household sewage treatment systems, installers, service providers,~~ 594  
~~or septage haulers~~ than those established in rules of the public 595  
health council adopted under division (A) of this section. ~~A~~ In 596  
proposing or adopting the rules, a board of health shall consider 597  
and document the economic impact of the rules on property owners 598  
within the applicable health district. 599

(2) ~~A~~ A board that intends to adopt ~~such~~ rules shall notify the 600  
department of health of the proposed rules and submit a copy of 601  
the proposed rules at least ninety days prior to the proposed date 602  
of adoption. The director shall approve or disapprove any such 603  
proposed rule within ninety days after receiving ~~notice of it~~ 604  
~~under this division~~ a copy of the proposed rule from the board of 605  
health. ~~If the director fails to approve or disapprove a proposed~~ 606  
~~rule within ninety days after receiving notice of it, the proposed~~ 607  
~~rule shall be deemed approved.~~ 608

(3) In reviewing a proposed rule, the director shall approve 609  
the rule if all of the following apply: 610

(a) The proposed rule does not conflict with a rule adopted 611

by the public health council. 612

(b) The proposed rule is authorized by division (B) of this section. 613  
614

(c) The proposed rule is no less stringent than rules adopted by the public health council. 615  
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(d) The proposed rule does not require design changes to a sewage treatment system, or component thereof, that differ from the design authorized in rules adopted under division (A) of this section or approved by the director under section 3718.04 of the Revised Code. 617  
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(e) The proposed rule does not require operation or maintenance procedures for a sewage treatment system that conflict with procedures authorized in rules adopted under division (A) of this section or approved by the director under section 3718.04 of the Revised Code or that conflict with operation or maintenance instructions provided by the manufacturer of the system to the director. 622  
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(4) If a board of health fails to submit a proposed rule to the director or fails to demonstrate that the board has considered the economic impact of the proposed rule, the rule shall have no force or effect and is not enforceable. 629  
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**Sec. 3718.023.** (A) A board of health shall approve or deny the installation, operation, or alteration of sewage treatment systems the use of which has been authorized in rules adopted under section 3718.02 of the Revised Code or that have been approved for use in this state by the director of health under section 3718.04 of the Revised Code. The board shall approve an installation, operation, or alteration only in the health district in which the board has jurisdiction. A board shall approve the installation, operation, or alteration of a sewage treatment 633  
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system through the issuance of a permit in accordance with rules 642  
adopted under section 3718.02 of the Revised Code. A board shall 643  
not approve the installation, operation, or alteration of a sewage 644  
treatment system if the installation, operation, or alteration is 645  
not appropriate for the site at which the use of the system is or 646  
is proposed to be located. In determining whether to approve or 647  
disapprove the installation, operation, or alteration of a sewage 648  
treatment system, a board shall consider and document the economic 649  
impact on the property owner, the state of available technology, 650  
and the nature and economics of various alternatives. In addition, 651  
the board shall ensure that a system, when installed and 652  
maintained properly, will not create a public health nuisance, 653  
shall ensure that a system will maintain long-term treatment of 654  
sewage, and shall require a system to comply with the requirements 655  
established in division (B) of this section and other applicable 656  
requirements of this chapter. 657

The board shall permit a property owner to select a sewage 658  
treatment system for use by the property owner from those systems 659  
that have been approved for use in the state, from the least 660  
expensive system to the most expensive system, and a property 661  
owner may select any such system regardless of its cost, provided 662  
that the system selected will comply with all applicable 663  
requirements and standards established under this chapter and 664  
rules adopted under it. 665

(B) A board of health shall ensure that the design and 666  
installation of a soil absorption system prevents public health 667  
nuisances and will maintain long-term treatment of sewage. In 668  
addition, a board of health shall ensure that a sewage treatment 669  
system that is installed after the effective date of this section 670  
shall not discharge into a ditch, stream, pond, lake, natural or 671  
artificial waterway, drain tile, or other surface water or onto 672  
the surface of the ground unless authorized by a national 673

pollutant discharge elimination system permit issued under Chapter 674  
6111. of the Revised Code and rules adopted under it. In addition, 675  
a board shall ensure that a sewage treatment system shall not 676  
discharge into an abandoned well, a drainage well, a dry well, a 677  
cesspool, a sinkhole, or another connection to ground water. If a 678  
household sewage treatment system serving a two- or three-family 679  
dwelling or a small flow on-site sewage treatment system is 680  
classified as a class V injection well, a board of health shall 681  
ensure that the system complies with rules adopted under section 682  
6111.043 of the Revised Code and with Chapter 3745-34 of the 683  
Administrative Code. 684

(C) For purposes of the approval or denial of the 685  
installation, operation, or alteration of a sewage treatment 686  
system under this section, "economic impact" means all of the 687  
following, as applicable: 688

(1) The cost to the property owner for the installation of 689  
the proposed sewage treatment system; 690

(2) The cost of an alternative system that, when installed 691  
and maintained properly, will not create a public health nuisance 692  
compared to the proposed sewage treatment system; 693

(3) The costs of repairing the sewage treatment system as 694  
opposed to replacing the system with a new system. 695

**Sec. 3718.024.** The director of health in cooperation with a 696  
board of health shall assess the familiarity of the board's staff 697  
with best management practices in the use of sewage treatment 698  
systems, as necessary, and conduct appropriate training to educate 699  
the board's staff in those best management practices and in the 700  
use of any new sewage treatment system technology that is 701  
recommended for use by the sewage treatment system technical 702  
advisory committee created in section 3718.03 of the Revised Code. 703

Sec. 3718.025. The environmental protection agency shall not 704  
require a board of health to enter into a memorandum of 705  
understanding or any other agreement with the agency regarding the 706  
issuance of national pollutant discharge elimination system 707  
permits for off-lot household sewage treatment systems. Rather, a 708  
representative of a board of health may meet with a person who 709  
intends to install such a system to determine the feasibility of 710  
the system and refer the person to the agency to secure a national 711  
pollutant discharge elimination system permit for the system if 712  
needed. The environmental protection agency shall make revisions 713  
to any applicable general national pollutant discharge elimination 714  
system permits, issued pursuant to the federal Water Pollution 715  
Control Act as defined in section 6111.01 of the Revised Code, so 716  
that such a memorandum of understanding is not required. A board 717  
of health voluntarily may enter into a memorandum of understanding 718  
with the environmental protection agency to implement a general 719  
national pollutant discharge elimination system permit. The agency 720  
shall work with boards of health to facilitate securing national 721  
pollutant discharge elimination system permits on behalf of 722  
property owners in counties without a memorandum of understanding. 723

Sec. 3718.03. (A) There is hereby created the sewage 725  
treatment system technical advisory committee consisting of the 726  
director of health or the director's designee and ~~ten~~ thirteen 727  
members who are knowledgeable about sewage treatment systems and 728  
technologies. The director or the director's designee shall serve 729  
as committee secretary and may vote on actions taken by the 730  
committee. Of the ~~ten~~ thirteen members, ~~four~~ five shall be 731  
appointed by the governor, ~~three~~ four shall be appointed by the 732  
president of the senate, and ~~three~~ four shall be appointed by the 733  
speaker of the house of representatives. 734

(1) Of the members appointed by the governor, one shall 735  
represent academia and shall be active in teaching or research in 736  
the area of on-site wastewater treatment, one shall be a 737  
representative of the public who is not employed by the state or 738  
any of its political subdivisions and who does not have a 739  
pecuniary interest in ~~household~~ sewage treatment systems, one 740  
shall be ~~an~~ a registered professional engineer ~~from~~ employed by 741  
the environmental protection agency, ~~and~~ one shall be selected 742  
from among soil scientists in the division of soil and water 743  
conservation in the department of natural resources, and one shall 744  
be a representative of a statewide organization representing 745  
townships. 746

(2) Of the members appointed by the president of the senate, 747  
one shall be a health commissioner who is a member of and 748  
recommended by the association of Ohio health commissioners, one 749  
shall represent the interests of manufacturers of ~~household~~ sewage 750  
treatment systems, ~~and~~ one shall represent installers and service 751  
providers, and one shall be a person with demonstrated experience 752  
in the design of sewage treatment systems. 753

(3) Of the members appointed by the speaker of the house of 754  
representatives, one shall be a health commissioner who is a 755  
member of and recommended by the association of Ohio health 756  
commissioners, one shall represent the interests of manufacturers 757  
of ~~household~~ sewage treatment systems, ~~and~~ one shall be a 758  
sanitarian who is registered under Chapter 4736. of the Revised 759  
Code and who is a member of the Ohio environmental health 760  
association, and one shall be a registered professional engineer 761  
with experience in sewage treatment systems. 762

(B) Terms of members appointed to the committee shall be for 763  
three years, with each term ending on the same day of the same 764  
month as did the term that it succeeds. Each member shall serve 765  
from the date of appointment until the end of the term for which 766

the member was appointed. 767

Members may be reappointed. Vacancies shall be filled in the 768  
same manner as provided for original appointments. Any member 769  
appointed to fill a vacancy occurring prior to the expiration date 770  
of the term for which the member was appointed shall hold office 771  
for the remainder of that term. A member shall continue to serve 772  
after the expiration date of the member's term until the member's 773  
successor is appointed or until a period of sixty days has 774  
elapsed, whichever occurs first. The applicable appointing 775  
authority may remove a member from the committee for failure to 776  
attend two consecutive meetings without showing good cause for the 777  
absences. 778

(C) The technical advisory committee annually shall select 779  
from among its members a chairperson and a vice-chairperson ~~and a~~ 780  
The secretary ~~to~~ shall keep a record of its proceedings. A 781  
majority vote of the members of the full committee is necessary to 782  
take action on any matter. The committee may adopt bylaws 783  
governing its operation, including bylaws that establish the 784  
frequency of meetings. 785

(D) Serving as a member of the sewage treatment system 786  
technical advisory committee does not constitute holding a public 787  
office or position of employment under the laws of this state and 788  
does not constitute grounds for removal of public officers or 789  
employees from their offices or positions of employment. Members 790  
of the committee shall serve without compensation for attending 791  
committee meetings. 792

(E) A member of the committee shall not have a conflict of 793  
interest with the position. For the purposes of this division, 794  
"conflict of interest" means the taking of any action that 795  
violates any provision of Chapter 102. or 2921. of the Revised 796  
Code. 797

(F) The sewage treatment system technical advisory committee shall do all of the following:

(1) Develop with the department of health standards ~~and,~~ guidelines, and protocols for approving or disapproving a sewage treatment system or components of a system under section 3718.04 of the Revised Code~~+. Any guideline requiring the submission of scientific information or testing data shall specify, in writing, the protocol and format to be used in submitting the information or data.~~

(2) Develop with the department an application form to be submitted to the director by an applicant for approval or disapproval of a sewage treatment system or components of a system and specify the information that must be included with an application form;

(3) ~~Advise~~ Make recommendations to the director on regarding the approval or disapproval of an application sent to the director under section 3718.04 of the Revised Code requesting approval of a sewage treatment system or components of a system;

(4) Pursue and recruit in an active manner the research, development, introduction, and timely approval of innovative and cost-effective ~~household~~ sewage treatment systems and components of a system for use in this state, which shall include conducting pilot projects to assess the effectiveness of a system or components of a system;

(5) ~~By January 1, 2008, provide the household sewage and small flow on site sewage treatment system study commission created by Am. Sub. H.B. 119 of the 127th general assembly with a list of available alternative systems and the estimated cost of each system~~ Review and, at the option of the committee, submit comments regarding the proposed adoption, amendment, or rescission of rules under division (A) of section 3718.02 of the Revised

Code. 829

(G) The chairperson of the committee shall prepare and submit 830  
an annual report concerning the activities of the committee to the 831  
general assembly not later than ninety days after the end of the 832  
calendar year. The report shall discuss the number of applications 833  
submitted under section 3718.04 of the Revised Code for the 834  
approval of a new sewage treatment system or a component of a 835  
system, the number of such systems and components that were 836  
approved, any information that the committee considers beneficial 837  
to the general assembly, and any other information that the 838  
chairperson determines is beneficial to the general assembly. If 839  
other members of the committee determine that certain information 840  
should be included in the report, they shall submit the 841  
information to the chairperson not later than thirty days after 842  
the end of the calendar year. 843

(H) The department shall provide meeting space for the 844  
committee. The committee shall be assisted in its duties by the 845  
staff of the department. 846

(I) Sections 101.82 to 101.87 of the Revised Code do not 847  
apply to the sewage treatment system technical advisory committee. 848

**Sec. 3718.04.** (A) A manufacturer seeking approval for the 849  
installation and use of a sewage treatment system or a component 850  
of a system in this state that differs in design or function from 851  
systems or components of systems the use of which is authorized in 852  
rules adopted under section 3718.02 of the Revised Code shall 853  
request an application form from the department of health. The 854  
applicant shall complete the form and include with it all of the 855  
information that is required by the department and the sewage 856  
treatment system technical advisory committee. The applicant shall 857  
submit a completed application and all required information to the 858  
director of health. - 859

(B) Upon receipt of an application, the director shall  
examine the application and all accompanying information to  
determine if the application is complete. If the director  
determines that the application is not complete, the director  
shall notify the applicant not later than ~~fourteen~~ sixty days  
after ~~determining submission of the application~~ that the  
application is not complete, provide a description of the  
information that is missing from the application, and return the  
application and all accompanying information to the applicant. The  
applicant may resubmit the application to the director if the  
application includes the information that was identified by the  
director. Not later than ~~fourteen~~ thirty days after receipt of a  
complete application, the director shall notify the committee of  
the complete application and send a copy of the complete  
application and all accompanying information to the committee  
together with a request that the committee ~~advise~~ recommend that  
the director ~~on the approval~~ approve or ~~disapproval of~~ disapprove  
the system.

Not later than ninety days after receipt of a complete  
application, the committee shall recommend approval or disapproval  
of the application and submit its recommendation in writing to the  
director. The director shall approve or disapprove the application  
not later than sixty days after the committee submits its  
recommendation to the director or, if the committee fails to  
recommend approval or disapproval within the required time, not  
later than one hundred twenty days after the submission of a  
complete application. If the director fails to approve or  
disapprove an application within the required time, the  
application shall be deemed approved.

(C) In approving or disapproving an application, the director  
shall use the standards ~~and~~, guidelines, and protocols that the  
committee developed with the department for that purpose. The

director shall not approve an application that fails to comply 892  
with those standards ~~and~~, guidelines, and protocols. If the 893  
committee ~~advises~~ recommends approval or disapproval of an 894  
application, the director ~~concerning the application, the director~~ 895  
shall consider the ~~advice~~ committee's recommendation before 896  
approving or disapproving the application. ~~However, if~~ If the 897  
committee fails to provide advice or if the committee fails to 898  
~~provide advice within a reasonable period of time before the~~ 899  
~~director is required to approve or disapprove the application~~ 900  
recommend approval or disapproval of the application within the 901  
required time, the director may approve or disapprove the 902  
application without considering the advice of the committee. ~~Not~~ 903  
~~later than ninety days after receipt of a complete application,~~ 904  
~~the director shall approve or disapprove the application in~~ 905  
~~writing. If the director fails to approve or disapprove the~~ 906  
~~application within that ninety day period, the application shall~~ 907  
~~be deemed approved~~ The director shall establish and include any 908  
appropriate terms and conditions with the approval of a sewage 909  
treatment system or component of a system for use in this state. 910  
For purposes of establishing soil absorption specifications for a 911  
sewage treatment system, the terms and conditions shall include 912  
standards regarding the sizing of the system. 913

(D) If the director approves an application under this 914  
section, the director shall notify the applicant in writing. The 915  
director also shall notify boards of health in accordance with the 916  
procedures established in rules adopted under section 3718.02 of 917  
the Revised Code that the sewage treatment system or component of 918  
a system that is the subject of the application is approved for 919  
statewide use. If the director disapproves an application under 920  
this section, the director shall notify the applicant in writing 921  
and provide a brief explanation for the disapproval. 922

(E) Decisions of the director approving or disapproving 923

applications under this section may be appealed in accordance with 924  
Chapter 119. of the Revised Code. 925

(F) No approval shall be required under this section with 926  
respect to a sewage treatment system or component of a system that 927  
has been approved by the director prior to the effective date of 928  
this amendment unless the manufacturer of the system or component 929  
changes the design or seeks modifications to any terms and 930  
conditions of the prior approval. 931

(G) The director may revoke the approval of a sewage 932  
treatment system or component of a system if the director finds, 933  
based on substantial evidence, that the system or component fails 934  
to comply with applicable standards for the system or component. 935  
The revocation of an approval under this division may be appealed 936  
in accordance with Chapter 119. of the Revised Code. 937

Sec. 3718.041. An installer or manufacturer of a sewage 938  
treatment system or component of a system the use of which has 939  
been authorized in rules adopted under section 3718.02 of the 940  
Revised Code may request from the director of health a written 941  
statement acknowledging that the system or component of a system 942  
is approved for use in this state and that the approval is 943  
equivalent in all respects to the approval of a system or 944  
component of a system under section 3718.04 of the Revised Code. 945  
The director may approve or deny such a request as the director 946  
determines appropriate. 947

Sec. 3718.05. The director of health shall do all of the 948  
following: 949

(A) Administer and enforce this chapter and the rules of the 950  
public health council adopted under it; 951

(B) Examine records of boards of health, in accordance with 952  
rules adopted by the council, that are determined necessary to 953

ascertain compliance with this chapter and rules adopted under it; 954

(C) Review and approve or disapprove rules proposed by boards 955  
of health under division (B) of section 3718.02 of the Revised 956  
Code. The director shall not disapprove a proposed rule unless the 957  
director determines that the proposed rule conflicts with this 958  
chapter or rules adopted under section 3718.02 of the Revised Code 959  
by the public health council or fails to promote public health or 960  
environmental protection. If the director disapproves a proposed 961  
rule, the director shall provide a written explanation of the 962  
director's disapproval to the board of health that proposed the 963  
rule. 964

(D) Survey boards of health as required by section 3718.07 of 965  
the Revised Code; 966

(E) Develop with the sewage treatment system technical 967  
advisory committee standards ~~and~~, guidelines, and protocols for 968  
use by the director in approving or disapproving a sewage 969  
treatment system under section 3718.04 of the Revised Code and an 970  
application form for use by applicants for that approval, 971  
including identification of the information that must be included 972  
with the form; 973

(F) Provide instructions on the operation and maintenance of 974  
a sewage treatment system. The director shall provide the 975  
operation and maintenance instructions on the department of 976  
health's web site. In addition, the director shall provide a copy 977  
of the operation and maintenance instructions when the director 978  
receives a written request for the instructions. 979

(G) Develop educational programs, in conjunction with boards 980  
of health, to educate owners of sewage treatment systems regarding 981  
the proper operation and maintenance of those systems. 982

**Sec. 3718.06.** (A)(1) A board of health shall establish fees 983

in accordance with section 3709.09 of the Revised Code for the 984  
purpose of carrying out its duties under this chapter and rules 985  
adopted under it, including ~~a fee~~ fees for ~~an~~ installation ~~permit~~ 986  
permits, operation permits, and alteration permits issued by the 987  
board. All fees so established and collected by the board shall be 988  
deposited in a special fund of the district to be used exclusively 989  
by the board in carrying out those duties. 990

(2) In accordance with Chapter 119. of the Revised Code, the 991  
public health council may establish by rule a fee to be collected 992  
from applicants for installation permits, operation permits, and 993  
alteration permits issued under rules adopted under this chapter. 994  
The director of health shall use not more than seventy-five per 995  
cent of the proceeds from that fee for administering and enforcing 996  
this chapter and the rules adopted under it by the council. The 997  
director shall use not less than twenty-five per cent of the 998  
proceeds from that fee to establish a program in cooperation with 999  
boards of health to fund installation and evaluation of sewage 1000  
treatment system new technology pilot projects through grants or 1001  
other agreements. In the selection of pilot projects, the director 1002  
shall consult with the sewage treatment system technical advisory 1003  
committee. A board of health shall collect the fee at the same 1004  
time that it collects the fee established by it under division 1005  
(A)(1) of this section for installation, operation, and alteration 1006  
permits. 1007

Not later than sixty days after the last day of the month in 1008  
which an installation, operation, or alteration permit is issued, 1009  
a board shall certify the amount collected under division (A)(2) 1010  
of this section and transmit the amount to the treasurer of state. 1011  
All money so received shall be deposited in the state treasury to 1012  
the credit of the general operations fund created in section 1013  
3701.83 of the Revised Code. The director shall use the money so 1014  
credited ~~solely for the administration and enforcement of this~~ 1015

~~chapter and the rules adopted under it by the public health  
council as required by this section.~~ 1016  
1017

(B) The director may submit recommendations to the public 1018  
health council regarding the amount of the fee collected under 1019  
division (A)(2) of this section for installation, operation, and 1020  
alteration permits. When making the recommendations, the director 1021  
shall submit a report stating the current and projected expenses 1022  
of administering and enforcing this chapter and the rules adopted 1023  
under it ~~by the council~~ and of the sewage treatment system new 1024  
technology pilot projects program established under this section 1025  
and the total of all money that has been deposited to the credit 1026  
of the general operations fund under division (A)(2) of this 1027  
section. The director may include in the report any 1028  
recommendations for modifying the requirements established under 1029  
this chapter and the rules adopted under it by the council. 1030

**Sec. 3718.09.** (A) A board of health may issue, modify, 1031  
suspend, or revoke enforcement orders to a registration or permit 1032  
holder or other person directing the holder or person to abate a 1033  
violation of this chapter, any rule adopted or order issued under 1034  
it, or a condition of a registration or permit issued under it 1035  
within a specified, reasonable time. If an order issued under this 1036  
division is neglected or disregarded, the applicable board of 1037  
health may proceed in accordance with section 3707.02 of the 1038  
Revised Code. 1039

(B) The health commissioner or the commissioner's designated 1040  
representative, without prior notice or hearing and in accordance 1041  
with the rules of the public health council, may issue an 1042  
emergency order requiring any action necessary to meet a public 1043  
health emergency or to prevent or abate an imminent and 1044  
substantial threat to surface water or ground water regarding 1045  
domestic septage management or regarding a sewage treatment system 1046

that is being operated in a manner that does not comply with this 1047  
chapter or rules adopted under it. A person to whom such an 1048  
emergency order is issued immediately shall comply with the order. 1049  
A person so ordered may apply to the issuer of the order for a 1050  
hearing, which shall be held as soon as possible, but not later 1051  
than twenty days after the issuer's receipt of the application for 1052  
a hearing. 1053

(C) The director of health may file an injunctive action in a 1054  
court of competent jurisdiction against a board of health that 1055  
allows a sewage treatment system to cause a public health 1056  
nuisance, provided that the director provides reasonable notice to 1057  
the board and an opportunity to abate the nuisance prior to filing 1058  
the action. 1059

**Sec. 6117.51.** If the board of health of the health district 1060  
within which a new public sewer construction project is proposed 1061  
or located passes a resolution stating that the reason for the 1062  
project is to reduce or eliminate an existing health problem or a 1063  
hazard of water pollution, the board of county commissioners of 1064  
the county, by resolution, may order the owner of any premises 1065  
located in a sewer district in the county, the owner's agent, 1066  
lessee, or tenant, or any other occupant of the premises to 1067  
connect the premises to the sewer for the purpose of discharging 1068  
sewage or other waste that the board determines is originating on 1069  
the premises, to make use of the connection, and to cease the 1070  
discharge of the sewage or other waste into a cesspool, ditch, 1071  
private sewer, privy, septic tank, semipublic disposal system as 1072  
defined in division (B)(1)(a) of section 3709.085 of the Revised 1073  
Code, or other outlet if the board finds that the sewer is 1074  
available for use and is accessible to the premises following a 1075  
determination and certification to the board by a registered 1076  
professional engineer designated by it as to the availability and 1077  
accessibility of the sewer. This section does not apply to any of 1078

the following: 1079

(A) Any discharge authorized by a permit issued under 1080  
division (J) of section 6111.03 of the Revised Code other than a 1081  
discharge to or from a semipublic disposal system as defined in 1082  
division (B)(1)(a) of section 3709.085 of the Revised Code; 1083

(B) Wastes resulting from the keeping of animals; 1084

(C) Any premises that are not served by a common sewage 1085  
collection system when the foundation wall of the structure from 1086  
which sewage or other waste originates is more than ~~two~~ three 1087  
hundred feet from the nearest boundary of the right-of-way within 1088  
which the sewer is located; 1089

(D) Any premises that are served by a common sewage 1090  
collection system when both the foundation wall of the structure 1091  
from which the sewage or other waste originates and the common 1092  
sewage collection system are more than ~~two~~ three hundred feet from 1093  
the nearest boundary of the right-of-way within which the public 1094  
sewer is located; 1095

(E) Any dwelling house located on property that is listed on 1096  
the county's agricultural land tax list as being valued for tax 1097  
purposes as land devoted exclusively to agricultural use under 1098  
section 5713.31 of the Revised Code, when the foundation wall of 1099  
the dwelling house is ~~two~~ three hundred feet or less from the 1100  
nearest boundary of the right-of-way within which the sewer is 1101  
located, if both of the following also apply: 1102

(1) The sewer right-of-way for the property on which the 1103  
dwelling house is located was obtained by appropriation due to a 1104  
public exigency pursuant to division (B) of section 307.08, 1105  
6101.181, 6115.211, 6117.39, or 6119.11 of the Revised Code. 1106

(2) The local health department has certified that the 1107  
~~household~~ sewage disposal system is functioning properly. 1108

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 that person as provided in this section. The board, 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 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 a person of suitable age and discretion then residing therein, or by certified mail addressed to the owner, agent, lessee, tenant, or occupant at 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, that person shall be served by publication of the order once in a newspaper of general circulation within the county, or if that person refuses service, that person shall be served by ordinary mail addressed to 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 the addressee, is prima-facie evidence of the service 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 1141  
the addressee to accept delivery, is prima-facie evidence of the 1142  
refusal of service. 1143

No owner, agent, lessee, tenant, or occupant shall violate an 1144  
order issued under this section. Upon request of the board, the 1145  
prosecuting attorney shall prosecute in a court of competent 1146  
jurisdiction any owner, agent, lessee, tenant, or occupant who 1147  
violates an order issued under this section. Each day that a 1148  
violation continues after conviction for the violation of an order 1149  
issued under this section and the final determination thereof is a 1150  
separate offense. The court, for good cause shown, may grant a 1151  
reasonable additional period of time for compliance after 1152  
conviction. 1153

Any owner, agent, lessee, tenant, or occupant violating an 1154  
order issued under this section also may be enjoined from 1155  
continuing in violation. Upon request of the board, the 1156  
prosecuting attorney shall bring an action in a court of competent 1157  
jurisdiction for an injunction against the owner, agent, lessee, 1158  
tenant, or occupant violating an order. 1159

The Ohio water development authority created under section 1160  
6121.02 of the Revised Code, in addition to its other powers, has 1161  
the same power and shall be governed by the same procedures in a 1162  
waste water facilities service area, or in any area adjacent to a 1163  
public sewer operated by the authority, as a board of county 1164  
commissioners in a county sewer district under this section, 1165  
except that the authority shall act by order, and the attorney 1166  
general, upon request of the authority, shall prosecute any person 1167  
who violates an order of the authority issued under this section. 1168

**Section 2.** That existing sections 711.05, 711.10, 3718.01, 1169  
3718.02, 3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 6117.51 1170  
of the Revised Code are hereby repealed. 1171

**Section 3.** That Section 120.05 of Am. Sub. H.B. 119 of the 127th General Assembly be amended to read as follows:

**Sec. 120.05.** Sections 120.03 and 120.04 of Am. Sub. H.B. 119 of the 127th General Assembly take effect on July 1, 2009 the effective date of H.B. .... of the 128th General Assembly.

**Section 4.** That existing Section 120.05 of Am. Sub. H.B. 119 of the 127th General Assembly is hereby repealed.

**Section 5.** That Section 120.01 of Am. Sub. H.B. 119 of the 127th General Assembly is hereby repealed.

**Section 6.** The purpose of Section 5 of this act is to provide for reinstating the operation of sections 3718.02, 3718.05, 3718.06, 3718.07, 3718.08, 3718.09, 3718.10, 3718.99, and 6111.441 of the Revised Code on the effective date of this act rather than on July 1, 2009, as provided in Section 120.01 of Am. Sub. H.B. 119 of the 127th General Assembly.

**Section 7.** That Section 120.02 of Am. Sub. H.B. 119 of the 127th General Assembly is hereby repealed.

**Section 8.** That sections 711.05 and 711.10 of the Revised Code, which are scheduled to take effect on July 1, 2009, be amended to read as follows:

**Sec. 711.05.** (A) Upon the submission of a plat for approval, in accordance with section 711.041 of the Revised Code, the board of county commissioners shall certify on it the date of the submission. Within five days of submission of the plat, the board shall schedule a meeting to consider the plat and send a written notice by regular mail to the fiscal officer of the board of

township trustees of the township in which the plat is located and 1198  
the board of health of the health district in which the plat is 1199  
located. The notice shall inform the trustees and the board of 1200  
health of the submission of the plat and of the date, time, and 1201  
location of any meeting at which the board of county commissioners 1202  
will consider or act upon the proposed plat. The meeting shall 1203  
take place within thirty days of submission of the plat, and no 1204  
meeting shall be held until at least seven days have passed from 1205  
the date the notice was sent by the board of county commissioners. 1206  
The approval of the board required by section 711.041 of the 1207  
Revised Code or the refusal to approve shall take place within 1208  
thirty days from the date of submission or such further time as 1209  
the applying party may agree to in writing; otherwise, the plat is 1210  
deemed approved and may be recorded as if bearing such approval. 1211

(B) The board may adopt general rules governing plats and 1212  
subdivisions of land falling within its jurisdiction, to secure 1213  
and provide for the coordination of the streets within the 1214  
subdivision with existing streets and roads or with existing 1215  
county highways, for the proper amount of open spaces for traffic, 1216  
circulation, and utilities, and for the avoidance of future 1217  
congestion of population detrimental to the public health, safety, 1218  
or welfare, but shall not impose a greater minimum lot area than 1219  
forty-eight hundred square feet. Before the board may amend or 1220  
adopt rules, it shall notify all the townships in the county of 1221  
the proposed amendments or rules by regular mail at least thirty 1222  
days before the public meeting at which the proposed amendments or 1223  
rules are to be considered. 1224

The rules may require the board of health to review and 1225  
comment on a plat before the board of county commissioners acts 1226  
upon it and may also require proof of compliance with any 1227  
applicable zoning resolutions, and with ~~household~~ sewage treatment 1228  
rules adopted under section 3718.02 of the Revised Code, as a 1229

basis for approval of a plat. Where under section 711.101 of the Revised Code the board of county commissioners has set up standards and specifications for the construction of streets, utilities, and other improvements for common use, the general rules may require the submission of appropriate plans and specifications for approval. The board shall not require the person submitting the plat to alter the plat or any part of it as a condition for approval, as long as the plat is in accordance with general rules governing plats and subdivisions of land, adopted by the board as provided in this section, in effect at the time the plat was submitted and the plat is in accordance with any standards and specifications set up under section 711.101 of the Revised Code, in effect at the time the plat was submitted.

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(C) The ground of refusal to approve any plat, submitted in accordance with section 711.041 of the Revised Code, shall be stated upon the record of the board, and, within sixty days thereafter, the person submitting any plat that the board refuses to approve may file a petition in the court of common pleas of the county in which the land described in the plat is situated to review the action of the board. A board of township trustees is not entitled to appeal a decision of the board of county commissioners under this section.

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**Sec. 711.10.** (A) Whenever a county planning commission or a regional planning commission adopts a plan for the major streets or highways of the county or region, no plat of a subdivision of land within the county or region, other than land within a municipal corporation or land within three miles of a city or one and one-half miles of a village as provided in section 711.09 of the Revised Code, shall be recorded until it is approved by the county or regional planning commission under division (C) of this section and the approval is endorsed in writing on the plat.

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(B) A county or regional planning commission may require the  
submission of a preliminary plan for each plat sought to be  
recorded. If the commission requires this submission, it shall  
provide for a review process for the preliminary plan. Under this  
review process, the planning commission shall give its approval,  
its approval with conditions, or its disapproval of each  
preliminary plan. The commission's decision shall be in writing,  
shall be under the signature of the secretary of the commission,  
and shall be issued within thirty-five business days after the  
submission of the preliminary plan to the commission. The  
disapproval of a preliminary plan shall state the reasons for the  
disapproval. A decision of the commission under this division is  
preliminary to and separate from the commission's decision to  
approve, conditionally approve, or refuse to approve a plat under  
division (C) of this section.

(C) Within five calendar days after the submission of a plat  
for approval under this division, the county or regional planning  
commission shall schedule a meeting to consider the plat and send  
a notice by regular mail or by electronic mail to the fiscal  
officer of the board of township trustees of the township in which  
the plat is located and the board of health of the health district  
in which the plat is located. The notice shall inform the trustees  
and the board of health of the submission of the plat and of the  
date, time, and location of any meeting at which the county or  
regional planning commission will consider or act upon the plat.  
The meeting shall take place within thirty calendar days after  
submission of the plat, and no meeting shall be held until at  
least seven calendar days have passed from the date the planning  
commission sent the notice.

The approval of the county or regional planning commission,  
the commission's conditional approval as described in this  
division, or the refusal of the commission to approve shall be

endorsed on the plat within thirty calendar days after the 1294  
submission of the plat for approval under this division or within 1295  
such further time as the applying party may agree to in writing; 1296  
otherwise that plat is deemed approved, and the certificate of the 1297  
commission as to the date of the submission of the plat for 1298  
approval under this division and the failure to take action on it 1299  
within that time shall be sufficient in lieu of the written 1300  
endorsement or evidence of approval required by this division. 1301

A county or regional planning commission may grant 1302  
conditional approval under this division to a plat by requiring a 1303  
person submitting the plat to alter the plat or any part of it, 1304  
within a specified period after the end of the thirty calendar 1305  
days, as a condition for final approval under this division. Once 1306  
all the conditions have been met within the specified period, the 1307  
commission shall cause its final approval under this division to 1308  
be endorsed on the plat. No plat shall be recorded until it is 1309  
endorsed with the commission's final or unconditional approval 1310  
under this division. 1311

The ground of refusal of approval of any plat submitted under 1312  
this division, including citation of or reference to the rule 1313  
violated by the plat, shall be stated upon the record of the 1314  
county or regional planning commission. Within sixty calendar days 1315  
after the refusal under this division, the person submitting any 1316  
plat that the commission refuses to approve under this division 1317  
may file a petition in the court of common pleas of the proper 1318  
county, and the proceedings on the petition shall be governed by 1319  
section 711.09 of the Revised Code as in the case of the refusal 1320  
of a planning authority to approve a plat. A board of township 1321  
trustees is not entitled to appeal a decision of the commission 1322  
under this division. 1323

A county or regional planning commission shall adopt general 1324  
rules, of uniform application, governing plats and subdivisions of 1325

land falling within its jurisdiction, to secure and provide for 1326  
the proper arrangement of streets or other highways in relation to 1327  
existing or planned streets or highways or to the county or 1328  
regional plan, for adequate and convenient open spaces for 1329  
traffic, utilities, access of firefighting apparatus, recreation, 1330  
light, and air, and for the avoidance of congestion of population. 1331  
The rules may provide for their modification by the commission in 1332  
specific cases where unusual topographical and other exceptional 1333  
conditions require the modification. The rules may require the 1334  
board of health to review and comment on a plat before the 1335  
commission acts upon it and also may require proof of compliance 1336  
with any applicable zoning resolutions, and with household sewage 1337  
treatment rules adopted under section 3718.02 of the Revised Code, 1338  
as a basis for approval of a plat. 1339

Before adoption of its rules or amendment of its rules, the 1340  
commission shall hold a public hearing on the adoption or 1341  
amendment. Notice of the public hearing shall be sent to all 1342  
townships in the county or region by regular mail or electronic 1343  
mail at least thirty business days before the hearing. No county 1344  
or regional planning commission shall adopt any rules requiring 1345  
actual construction of streets or other improvements or facilities 1346  
or assurance of that construction as a condition precedent to the 1347  
approval of a plat of a subdivision unless the requirements have 1348  
first been adopted by the board of county commissioners after a 1349  
public hearing. A copy of the rules shall be certified by the 1350  
planning commission to the county recorders of the appropriate 1351  
counties. 1352

After a county or regional street or highway plan has been 1353  
adopted as provided in this section, the approval of plats and 1354  
subdivisions provided for in this section shall be in lieu of any 1355  
approvals provided for in other sections of the Revised Code, 1356  
insofar as the territory within the approving jurisdiction of the 1357

county or regional planning commission, as provided in this 1358  
section, is concerned. Approval of a plat shall not be an 1359  
acceptance by the public of the dedication of any street, highway, 1360  
or other way or open space shown upon the plat. 1361

No county or regional planning commission shall require a 1362  
person submitting a plat to alter the plat or any part of it as 1363  
long as the plat is in accordance with the general rules governing 1364  
plats and subdivisions of land, adopted by the commission as 1365  
provided in this section, in effect at the time the plat is 1366  
submitted. 1367

A county or regional planning commission and a city or 1368  
village planning commission, or platting commissioner or 1369  
legislative authority of a village, with subdivision regulation 1370  
jurisdiction over unincorporated territory within the county or 1371  
region may cooperate and agree by written agreement that the 1372  
approval of a plat by the city or village planning commission, or 1373  
platting commissioner or legislative authority of a village, as 1374  
provided in section 711.09 of the Revised Code, shall be 1375  
conditioned upon receiving advice from or approval by the county 1376  
or regional planning commission. 1377

(D) As used in this section, "business day" means a day of 1378  
the week excluding Saturday, Sunday, or a legal holiday as defined 1379  
in section 1.14 of the Revised Code. 1380

**Section 9.** That existing sections 711.05 and 711.10 of the 1381  
Revised Code, which are scheduled to take effect on July 1, 2009, 1382  
are hereby repealed. 1383

**Section 10.** Sections 8 and 9 of this act take effect July 1, 1384  
2009. 1385

**Section 11.** Not later than thirty days after the effective 1386

date of this section, the Governor, President of the Senate, and 1387  
Speaker of the House of Representatives shall appoint the new 1388  
members to the Sewage Treatment System Technical Advisory 1389  
Committee that are required to be appointed under section 3718.03 1390  
of the Revised Code as amended by this act. 1391

The Governor shall appoint the person representing a 1392  
statewide organization representing townships for an initial term 1393  
of one year. Thereafter, the person appointed to that position 1394  
shall be appointed to a three-year term as required by section 1395  
3718.03 of the Revised Code. 1396

The President of the Senate shall appoint the person who is 1397  
required to have demonstrated experience in the design of 1398  
household sewage treatment systems for an initial term of two 1399  
years. Thereafter, the person appointed to that position shall be 1400  
appointed to a three-year term as required by section 3718.03 of 1401  
the Revised Code. 1402

The Speaker of the House of Representatives shall appoint the 1403  
person that is required to be a registered professional engineer 1404  
with experience in sewage treatment systems for an initial term of 1405  
three years. Thereafter, the person appointed to that position 1406  
shall be appointed to a three-year term as required by section 1407  
3718.03 of the Revised Code. 1408

**Section 12.** This act is hereby declared to be an emergency 1409  
measure necessary for the immediate preservation of the public 1410  
peace, health, and safety. The reason for such necessity is that 1411  
provisions of law that were suspended by the enactment of Am. Sub. 1412  
H.B. 119 of the 127th General Assembly are scheduled to be 1413  
reinstated on July 1, 2009, and this act is necessary to revise 1414  
the law governing sewage treatment systems prior to that date. 1415  
Therefore, this act shall go into immediate effect. 1416