

**As Passed by the House**

**128th General Assembly**

**Regular Session**

**2009-2010**

**Am. Sub. S. B. No. 110**

**Senator Niehaus**

**Cosponsors: Senators Cafaro, Fedor, Harris, Kearney, Sawyer, Schaffer, Schiavoni, Seitz, Turner, Miller, D., Strahorn, Smith, Miller, R., Morano  
Representatives Bubp, Chandler, DeBose, Domenick, Garland, Hagan, Harwood, Letson, Luckie, Mallory, Reece, Uecker, Walter, Weddington, Williams, B., Winburn, Yuko**

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**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, 3718.012, 3  
3718.023, 3718.024, 3718.025, 3718.041, and 4  
3718.11 of the Revised Code to revise the 5  
Household Sewage and Small Flow On-Site Sewage 6  
Treatment Systems Law, and to amend Section 3 of 7  
Am. H.B. 416 of the 127th General Assembly to 8  
extend the date by which the report of the Great 9  
Lakes-St. Lawrence River Basin Water Resources 10  
Compact Advisory Board is due. 11

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

**Section 1.** That sections 711.05, 711.10, 3718.01, 3718.02, 12  
3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 6117.51 be 13  
amended and sections 3718.011, 3718.012, 3718.023, 3718.024, 14  
3718.025, 3718.041, and 3718.11 of the Revised Code be enacted to 15  
read as follows: 16

**Sec. 711.05.** (A) Upon the submission of a plat for approval, 17  
in accordance with section 711.041 of the Revised Code, the board 18  
of county commissioners shall certify on it the date of the 19  
submission. Within five days of submission of the plat, the board 20  
shall schedule a meeting to consider the plat and send a written 21  
notice by regular mail to the fiscal officer of the board of 22  
township trustees of the township in which the plat is located and 23  
the board of health of the health district in which the plat is 24  
located. The notice shall inform the trustees and the board of 25  
health of the submission of the plat and of the date, time, and 26  
location of any meeting at which the board of county commissioners 27  
will consider or act upon the proposed plat. The meeting shall 28  
take place within thirty days of submission of the plat, and no 29  
meeting shall be held until at least seven days have passed from 30  
the date the notice was sent by the board of county commissioners. 31  
The approval of the board required by section 711.041 of the 32  
Revised Code or the refusal to approve shall take place within 33  
thirty days from the date of submission or such further time as 34  
the applying party may agree to in writing; otherwise, the plat is 35  
deemed approved and may be recorded as if bearing such approval. 36

(B) The board may adopt general rules governing plats and 37  
subdivisions of land falling within its jurisdiction, to secure 38  
and provide for the coordination of the streets within the 39  
subdivision with existing streets and roads or with existing 40  
county highways, for the proper amount of open spaces for traffic, 41  
circulation, and utilities, and for the avoidance of future 42  
congestion of population detrimental to the public health, safety, 43  
or welfare, but shall not impose a greater minimum lot area than 44  
forty-eight hundred square feet. Before the board may amend or 45  
adopt rules, it shall notify all the townships in the county of 46  
the proposed amendments or rules by regular mail at least thirty 47  
days before the public meeting at which the proposed amendments or 48

rules are to be considered. 49

The rules may require the board of health to review and 50  
comment on a plat before the board of county commissioners acts 51  
upon it and may also require proof of compliance with any 52  
applicable zoning resolutions, and with ~~household~~ sewage treatment 53  
rules adopted under section 3718.02 of the Revised Code, as a 54  
basis for approval of a plat. Where under section 711.101 of the 55  
Revised Code the board of county commissioners has set up 56  
standards and specifications for the construction of streets, 57  
utilities, and other improvements for common use, the general 58  
rules may require the submission of appropriate plans and 59  
specifications for approval. The board shall not require the 60  
person submitting the plat to alter the plat or any part of it as 61  
a condition for approval, as long as the plat is in accordance 62  
with general rules governing plats and subdivisions of land, 63  
adopted by the board as provided in this section, in effect at the 64  
time the plat was submitted and the plat is in accordance with any 65  
standards and specifications set up under section 711.101 of the 66  
Revised Code, in effect at the time the plat was submitted. 67

(C) The ground of refusal to approve any plat, submitted in 68  
accordance with section 711.041 of the Revised Code, shall be 69  
stated upon the record of the board, and, within sixty days 70  
thereafter, the person submitting any plat that the board refuses 71  
to approve may file a petition in the court of common pleas of the 72  
county in which the land described in the plat is situated to 73  
review the action of the board. A board of township trustees is 74  
not entitled to appeal a decision of the board of county 75  
commissioners under this section. 76

**Sec. 711.10.** (A) Whenever a county planning commission or a 77  
regional planning commission adopts a plan for the major streets 78  
or highways of the county or region, no plat of a subdivision of 79

land within the county or region, other than land within a 80  
municipal corporation or land within three miles of a city or one 81  
and one-half miles of a village as provided in section 711.09 of 82  
the Revised Code, shall be recorded until it is approved by the 83  
county or regional planning commission under division (C) of this 84  
section and the approval is endorsed in writing on the plat. 85

(B) A county or regional planning commission may require the 86  
submission of a preliminary plan for each plat sought to be 87  
recorded. If the commission requires this submission, it shall 88  
provide for a review process for the preliminary plan. Under this 89  
review process, the planning commission shall give its approval, 90  
its approval with conditions, or its disapproval of each 91  
preliminary plan. The commission's decision shall be in writing, 92  
shall be under the signature of the secretary of the commission, 93  
and shall be issued within thirty-five business days after the 94  
submission of the preliminary plan to the commission. The 95  
disapproval of a preliminary plan shall state the reasons for the 96  
disapproval. A decision of the commission under this division is 97  
preliminary to and separate from the commission's decision to 98  
approve, conditionally approve, or refuse to approve a plat under 99  
division (C) of this section. 100

(C) Within five calendar days after the submission of a plat 101  
for approval under this division, the county or regional planning 102  
commission shall schedule a meeting to consider the plat and send 103  
a notice by regular mail or by electronic mail to the fiscal 104  
officer of the board of township trustees of the township in which 105  
the plat is located and the board of health of the health district 106  
in which the plat is located. The notice shall inform the trustees 107  
and the board of health of the submission of the plat and of the 108  
date, time, and location of any meeting at which the county or 109  
regional planning commission will consider or act upon the plat. 110  
The meeting shall take place within thirty calendar days after 111

submission of the plat, and no meeting shall be held until at 112  
least seven calendar days have passed from the date the planning 113  
commission sent the notice. 114

The approval of the county or regional planning commission, 115  
the commission's conditional approval as described in this 116  
division, or the refusal of the commission to approve shall be 117  
endorsed on the plat within thirty calendar days after the 118  
submission of the plat for approval under this division or within 119  
such further time as the applying party may agree to in writing; 120  
otherwise that plat is deemed approved, and the certificate of the 121  
commission as to the date of the submission of the plat for 122  
approval under this division and the failure to take action on it 123  
within that time shall be sufficient in lieu of the written 124  
endorsement or evidence of approval required by this division. 125

A county or regional planning commission may grant 126  
conditional approval under this division to a plat by requiring a 127  
person submitting the plat to alter the plat or any part of it, 128  
within a specified period after the end of the thirty calendar 129  
days, as a condition for final approval under this division. Once 130  
all the conditions have been met within the specified period, the 131  
commission shall cause its final approval under this division to 132  
be endorsed on the plat. No plat shall be recorded until it is 133  
endorsed with the commission's final or unconditional approval 134  
under this division. 135

The ground of refusal of approval of any plat submitted under 136  
this division, including citation of or reference to the rule 137  
violated by the plat, shall be stated upon the record of the 138  
county or regional planning commission. Within sixty calendar days 139  
after the refusal under this division, the person submitting any 140  
plat that the commission refuses to approve under this division 141  
may file a petition in the court of common pleas of the proper 142  
county, and the proceedings on the petition shall be governed by 143

section 711.09 of the Revised Code as in the case of the refusal 144  
of a planning authority to approve a plat. A board of township 145  
trustees is not entitled to appeal a decision of the commission 146  
under this division. 147

A county or regional planning commission shall adopt general 148  
rules, of uniform application, governing plats and subdivisions of 149  
land falling within its jurisdiction, to secure and provide for 150  
the proper arrangement of streets or other highways in relation to 151  
existing or planned streets or highways or to the county or 152  
regional plan, for adequate and convenient open spaces for 153  
traffic, utilities, access of firefighting apparatus, recreation, 154  
light, and air, and for the avoidance of congestion of population. 155  
The rules may provide for their modification by the commission in 156  
specific cases where unusual topographical and other exceptional 157  
conditions require the modification. The rules may require the 158  
board of health to review and comment on a plat before the 159  
commission acts upon it and also may require proof of compliance 160  
with any applicable zoning resolutions, and with ~~household~~ sewage 161  
treatment rules adopted under section 3718.02 of the Revised Code, 162  
as a basis for approval of a plat. 163

Before adoption of its rules or amendment of its rules, the 164  
commission shall hold a public hearing on the adoption or 165  
amendment. Notice of the public hearing shall be sent to all 166  
townships in the county or region by regular mail or electronic 167  
mail at least thirty business days before the hearing. No county 168  
or regional planning commission shall adopt any rules requiring 169  
actual construction of streets or other improvements or facilities 170  
or assurance of that construction as a condition precedent to the 171  
approval of a plat of a subdivision unless the requirements have 172  
first been adopted by the board of county commissioners after a 173  
public hearing. A copy of the rules shall be certified by the 174  
planning commission to the county recorders of the appropriate 175

counties. 176

After a county or regional street or highway plan has been 177  
adopted as provided in this section, the approval of plats and 178  
subdivisions provided for in this section shall be in lieu of any 179  
approvals provided for in other sections of the Revised Code, 180  
insofar as the territory within the approving jurisdiction of the 181  
county or regional planning commission, as provided in this 182  
section, is concerned. Approval of a plat shall not be an 183  
acceptance by the public of the dedication of any street, highway, 184  
or other way or open space shown upon the plat. 185

No county or regional planning commission shall require a 186  
person submitting a plat to alter the plat or any part of it as 187  
long as the plat is in accordance with the general rules governing 188  
plats and subdivisions of land, adopted by the commission as 189  
provided in this section, in effect at the time the plat is 190  
submitted. 191

A county or regional planning commission and a city or 192  
village planning commission, or platting commissioner or 193  
legislative authority of a village, with subdivision regulation 194  
jurisdiction over unincorporated territory within the county or 195  
region may cooperate and agree by written agreement that the 196  
approval of a plat by the city or village planning commission, or 197  
platting commissioner or legislative authority of a village, as 198  
provided in section 711.09 of the Revised Code, shall be 199  
conditioned upon receiving advice from or approval by the county 200  
or regional planning commission. 201

(D) As used in this section, "business day" means a day of 202  
the week excluding Saturday, Sunday, or a legal holiday as defined 203  
in section 1.14 of the Revised Code. 204

**Sec. 3718.01.** As used in this chapter: 205

(A) "Alter" means to change by making substantive 206  
replacements of, additions to, or deletions in the design or 207  
materials or to change the location of an existing sewage 208  
treatment system. 209

(B) "Bedrock" means hard stratum that underlies 210  
unconsolidated surface materials or soil. 211

(C) "Board of health" means the board of health of a city or 212  
general health district or the authority having the duties of a 213  
board of health in any city as authorized by section 3709.05 of 214  
the Revised Code. 215

~~(C)~~(D) "Domestic septage" means the liquid or solid material 216  
removed from a sewage treatment system, portable toilet, or type 217  
III marine sanitation device as defined in 33 C.F.R. 159.3. 218  
"Domestic septage" does not include grease removed from a grease 219  
trap. 220

~~(D)~~(E) "Gray water recycling systems" means systems that 221  
treat and reuse wastewater discharged from lavatories, bathtubs, 222  
showers, clothes washers, and laundry sinks that does not contain 223  
food wastes or bodily wastes. 224

(F) "Household sewage treatment system" means any sewage 225  
treatment system, or part of such a system, that receives sewage 226  
from a single-family, two-family, or three-family dwelling. 227

~~(E)~~(G) "Infiltrative surface" means the point or area of 228  
application of treated or partially treated sewage to the soil or 229  
sand fill for purposes of treatment, dispersal, or both. 230

(H) "Inspection" means the on-site evaluation or analysis of 231  
the ~~functioning~~ design, installation, and operation of a sewage 232  
treatment system. 233

~~(F)~~(I) "Installer" means any person who engages in the 234  
business of installing or altering or who, as an employee of 235



another, installs or alters any sewage treatment system. 236

~~(G)~~(J) "Limiting condition" means a restrictive soil layer, 237  
bedrock, a water table, or ground water that limits or precludes 238  
the treatment or dispersal of sewage in the soil of a property 239  
where a household sewage treatment system is located. 240

~~(K)~~ "Manufacturer" means any person that manufactures sewage 241  
treatment systems or components of systems. 242

~~(H)~~(L) "Person" has the same meaning as in section 1.59 of 243  
the Revised Code and also includes any state, any political 244  
subdivision of a state, and any department, division, board, 245  
commission, agency, or instrumentality of a state or political 246  
subdivision. 247

~~(I)~~(M) "Sanitary sewerage system" means pipelines or 248  
conduits, pumping stations, force mains, and all other 249  
constructions, devices, appurtenances, and facilities that convey 250  
sewage to a central sewage treatment plant and that are required 251  
to obtain a permit under Chapter 6111. of the Revised Code. 252

~~(J)~~(N) "Septage hauler" means any person who engages in the 253  
collection, transportation, disposal, and land application of 254  
domestic septage. 255

~~(K)~~(O) "Service provider" means any person who services, but 256  
does not install or alter, sewage treatment systems. 257

~~(L)~~(P) "Sewage" means liquid waste containing animal or 258  
vegetable matter in suspension or solution that originates from 259  
humans and human activities. "Sewage" includes liquids containing 260  
household chemicals in solution commonly discharged from a 261  
residence or from commercial, institutional, or other similar 262  
facilities. 263

~~(M)~~(Q) "Sewage treatment system" means a household sewage 264  
treatment system, a small flow on-site sewage treatment system, or 265

both, as applicable. 266

~~(N)~~(R) "Small flow on-site sewage treatment system" means a 267  
system, other than a household sewage treatment system, that 268  
treats not more than one thousand gallons of sewage per day and 269  
that does not require a national pollutant discharge elimination 270  
system permit issued under section 6111.03 of the Revised Code or 271  
an injection well drilling or operating permit issued under 272  
section 6111.043 of the Revised Code. 273

(S) "Soil" means the naturally occurring pedogenically 274  
developed and undeveloped regolith overlying bedrock. 275

(T) "Vertical separation distance" means the distance of the 276  
infiltrative surface of the distribution system of a soil 277  
absorption system, or component thereof, to a limiting condition 278  
in the soil. 279

(U) "Water table" means the surface of the saturated zone 280  
below which all interconnected voids are filled with water and at 281  
which the pressure is atmospheric. 282

**Sec. 3718.011.** (A) For purposes of this chapter, a sewage 283  
treatment system is causing a public health nuisance if any of the 284  
following situations occurs and, after notice by a board of health 285  
to the applicable property owner, timely repairs are not made to 286  
that system to eliminate the situation: 287

(1) The sewage treatment system is not operating properly due 288  
to a missing component, incorrect settings, or a mechanical or 289  
electrical failure. 290

(2) There is a blockage in a known sewage treatment system 291  
component or pipe that causes a backup of sewage or effluent 292  
affecting the treatment process or inhibiting proper plumbing 293  
drainage. 294

(3) An inspection conducted by, or under the supervision of, 295

the environmental protection agency or a sanitarian registered 296  
under Chapter 4736. of the Revised Code documents that there is 297  
ponding of liquid or bleeding of liquid onto the surface of the 298  
ground or into surface water and the liquid has a distinct sewage 299  
odor, a black or gray coloration, or the presence of organic 300  
matter and any of the following: 301

(a) The presence of sewage effluent identified through a dye 302  
test; 303

(b) The presence of fecal coliform at a level that is equal 304  
to or greater than five thousand colonies per one hundred 305  
milliliters of liquid as determined in two or more samples of the 306  
liquid when five or fewer samples are collected or in more than 307  
twenty per cent of the samples when more than five samples of the 308  
liquid are collected; 309

(c) Water samples that exceed one thousand thirty e. coli 310  
counts per one hundred milliliters in two or more samples when 311  
five or fewer samples are collected or in more than twenty per 312  
cent of the samples when more than five samples are collected. 313

(4) With respect to a discharging system for which an NPDES 314  
permit has been issued under Chapter 6111. of the Revised Code and 315  
rules adopted under it, the system routinely exceeds the effluent 316  
discharge limitations specified in the permit. 317

(B) With respect to divisions (A)(1) and (2) of this section, 318  
a property owner may request a test to be conducted by a board of 319  
health to verify that the sewage treatment system is causing a 320  
public health nuisance. The property owner is responsible for the 321  
costs of the test. 322

Sec. 3718.012. A sewage treatment system that was in 323  
operation prior to the effective date of this section shall not be 324  
required to be replaced with a new sewage treatment system under 325

this chapter or rules adopted under it and shall be deemed 326  
approved if the system does not cause a public health nuisance or, 327  
if the system is causing a public health nuisance as provided in 328  
section 3718.011 of the Revised Code, repairs are made to the 329  
system that eliminate the public health nuisance as determined by 330  
the applicable board of health. 331

**Sec. 3718.02.** (A) ~~Not later than one year after the effective~~ 332  
~~date of this section, the~~ The public health council, in accordance 333  
with Chapter 119. of the Revised Code, shall adopt, and 334  
subsequently may amend and rescind, rules of general application 335  
throughout the state to administer this chapter. Rules adopted 336  
under division (A) of this section shall do at least all of the 337  
following: 338

(1) Require that the appropriate board of health approve or 339  
disapprove the ~~use~~ installation, operation, and alteration of a 340  
sewage treatment system if it is not connected to a sanitary 341  
sewerage system; 342

(2) Require ~~that~~ a board of health, or other person as 343  
established by rule, to conduct a site evaluation for any proposed 344  
installation of a sewage treatment system; 345

(3) Prescribe standards for the siting, design, installation, 346  
operation, monitoring, maintenance, and abandonment of ~~household~~ 347  
sewage treatment systems that may be used in this state and for 348  
the progressive or incremental alteration or repair of an existing 349  
sewage treatment system or the progressive or incremental 350  
installation of a new system to replace an existing sewage 351  
treatment system. The rules shall be adopted so as to establish a 352  
preference for the repair of an existing sewage treatment system, 353  
when technically and economically feasible, rather than its 354  
replacement with a new system. The standards shall include at a 355  
minimum all of the following: 356

(a) Soil absorption specifications~~+~~ and vertical separation 357  
distances. 358

(i) Soil absorption specifications established in rules shall 359  
include standards regarding the sizing of sewage treatment systems 360  
in use in the state. 361

(ii) In establishing soil absorption specifications and 362  
vertical separation distances, the rules shall identify those soil 363  
conditions that present a low or moderate risk of inadequate 364  
treatment or dispersal of sewage from sewage treatment systems. 365  
For low and moderate risk conditions, the required vertical 366  
separation distance shall not exceed eighteen inches except as 367  
authorized pursuant to rules adopted under divisions 368  
(A)(3)(a)(iii) and (iv) of this section. 369

In addition, the rules shall identify those soil conditions 370  
that present a high risk of inadequate treatment or dispersal of 371  
sewage. For such high risk conditions, the vertical separation 372  
distance shall be set at a depth from twenty-four to thirty-six 373  
inches and shall not be lowered unless a reduction of vertical 374  
separation is granted in accordance with rules adopted under 375  
division (A)(3)(a)(iii) of this section. 376

(iii) The rules shall establish options to be utilized by a 377  
board of health when approving the reductions of or compliance 378  
with vertical separation distances that are established in rules 379  
adopted under division (A)(3)(a)(ii) of this section. The options 380  
for a board of health in providing such approval shall include, 381  
but not be limited to: the use where deemed appropriate for a 382  
particular site of subsurface interceptor drains, perimeter 383  
drains, or engineered drainage; pretreatment of sewage; or soil 384  
elevation. 385

(iv) The rules shall provide that a board of health may 386  
petition the director to increase the vertical separation 387

distances required for sewage treatment systems in the applicable 388  
health district or a portion of the district when conditions 389  
present a high risk of inadequate treatment or dispersal of 390  
sewage. The rules also shall provide that the director may approve 391  
such a request upon a demonstration by the board of health that 392  
unusual or unique local conditions relating to terrain, bedrock, 393  
water table, soil fragments, or soil textures require the 394  
establishment of greater vertical separation distances within the 395  
jurisdiction of the board of health or a portion thereof. If, 396  
under the rules, the director of health approves a greater 397  
vertical separation distance, a board of health still may approve 398  
a reduction of that vertical separation distance for an individual 399  
sewage treatment system pursuant to rules adopted under division 400  
(A)(3)(a)(iii) of this section. Further, if, under the rules, the 401  
director approves a greater vertical separation distance, a person 402  
who is denied permission by a board of health to install or 403  
replace a sewage treatment system as a result of the director's 404  
approval may request a hearing in accordance with section 3718.11 405  
of the Revised Code. 406

(b) ~~Specifications for discharging systems that do not~~ 407  
~~conflict with provisions related to~~ the quality of treated sewage 408  
effluent from household sewage treatment systems that is applied 409  
to soil on the property where a household sewage treatment system 410  
is located. The specifications established in the rules for the 411  
quality of effluent from discharging systems shall comply with 412  
discharge requirements imposed by the national pollutant discharge 413  
elimination system permit program established in under section 414  
6111.03 of the Revised Code and rules adopted under it. 415

(c) Requirements for the reasonable maintenance of a system 416  
according to ~~the manufacturer's instructions, if available;~~ 417

~~(d) Requirements and procedures under which a person may~~ 418  
~~demonstrate the required maintenance of a system in lieu of having~~ 419

~~an inspection conducted when an inspection otherwise is required.~~ 420

~~The rules also shall require that a system that has been or 421  
is sited or installed prior to or on the effective date of the 422  
rules and that is operating on that date shall be deemed approved 423  
unless the system is declared to be a public health nuisance by a 424  
board of health maintenance requirements approved by the director 425  
of health as recommended by the sewage treatment system technical 426  
advisory committee or according to accepted standards and 427  
practices established in rules, as applicable. The requirements 428  
may include standards for service contracts or other arrangements 429  
that assure regular maintenance and upkeep of the system. In 430  
determining the reasonableness of a maintenance requirement, the 431  
director shall consider a manufacturer's maintenance requirements 432  
as well as all other maintenance alternatives. 433~~

(4) Prescribe procedures for notification to boards of health 434  
of the approval of a sewage treatment system or components of a 435  
system by the director of health under section 3718.04 of the 436  
Revised Code; 437

(5) Prescribe criteria and procedures under which boards of 438  
health shall issue installation ~~and permits,~~ operation permits, 439  
and alteration permits for sewage treatment systems. The rules 440  
shall require as a condition of an installation permit that the 441  
installer of a system must warrant that the system was installed 442  
in accordance with all applicable rules and design requirements. 443  
In addition, the rules shall require a board of health, not later 444  
than sixty days after the issuance of an installation, operation, 445  
or alteration permit, to ~~certify to~~ notify the director ~~on a form~~ 446  
~~provided by the director~~ that the permit was issued. The rules 447  
shall require the notification to be in a format prescribed by the 448  
director and to include information related to the issuance of the 449  
permit. With the assistance of the department of health, a board 450  
of health, to the extent practicable, shall computerize the 451

process of the issuance of permits for sewage treatment systems. 452

(6) Require a board of health to inspect a sewage treatment 453  
system not later than ~~eighteen~~ twelve months after its 454  
installation to ensure that the system is operating properly. The 455  
rules shall require a board of health, not later than sixty days 456  
after the inspection, to certify to the director on a form 457  
provided by the director that the inspection was performed. 458

(7) Require each board of health to develop a program for the 459  
administration of maintenance requirements established in rules 460  
adopted under division (A)(3)(c) of this section. The rules shall 461  
include requirements and procedures under which a person may 462  
demonstrate the required maintenance of a system in lieu of having 463  
an inspection conducted when an inspection otherwise is required. 464  
The rules shall require a board of health to provide written 465  
notice to a person that is demonstrating maintenance of a system 466  
in lieu of an inspection that if proof of the required maintenance 467  
of the system is not provided as required by rules, the system is 468  
subject to inspection by the board and the reasonable cost of the 469  
inspection must be paid by the person. The rules shall authorize a 470  
board of health to inspect any sewage treatment system if there is 471  
a good-faith complaint regarding the system, there is probable 472  
cause for the inspection, or proof of the required maintenance of 473  
the system has not been provided as required by rules. In 474  
addition, the rules shall authorize a board of health to inspect a 475  
sewage treatment system without prior notice in any instance in 476  
which the board has probable cause to believe that the system is 477  
endangering or threatening to endanger public health. The rules 478  
shall require that the reasonable costs for sewage effluent 479  
testing or evaluation be paid by the owner of a sewage treatment 480  
system that is being investigated. Further, the rules shall 481  
establish a methodology for determining the reasonable costs of an 482  
inspection in accordance with section 3709.09 of the Revised Code. 483



The rules shall allow, but shall not require, a board of health to 484  
continue an inspection program that was established by the board 485  
prior to the effective date of the rules, provided that the 486  
program authorizes a person to demonstrate the required 487  
maintenance of a system in lieu of an inspection. 488

(8) Require a board of health to register installers, service 489  
providers, and septage haulers that perform work within the health 490  
district; prescribe criteria and procedures for the registration; 491  
and prescribe criteria for a demonstration of competency as a part 492  
of the registration+. The rules shall establish uniform statewide 493  
bonding requirements or other financial security requirements for 494  
installers, service providers, and septage haulers as a condition 495  
of registration within any health district. The rules shall 496  
establish a methodology by which the required amount of a bond or 497  
other security may be calculated for each installer, service 498  
provider, and septage hauler. The methodology, at a minimum, shall 499  
consider the number of systems installed or serviced and the type 500  
of system installed or serviced by an installer, service provider, 501  
or septage hauler on an annual basis. The rules shall provide that 502  
no board of health shall require an additional or different bond 503  
or security requirement as a condition of registration beyond the 504  
bonding and security requirements established in the rules adopted 505  
under division (A)(8) of this section. 506

The rules shall establish a cost methodology for determining 507  
the fee for the registration of an installer, service provider, or 508  
septage hauler in any health district. 509

~~(8)~~(9) Prescribe requirements for the collection, 510  
transportation, disposal, and land application of domestic septage 511  
in this state from a sewage treatment system; 512

~~(9)~~(10) Require boards of health to maintain records that are 513  
determined necessary to ascertain compliance with this chapter and 514  
the rules adopted under it; 515

~~(10)~~(11) Require a board of health and the manufacturer of a 516  
sewage treatment system, ~~when possible, that is authorized for use~~ 517  
in this state in rules adopted under this section or that is 518  
approved for use in this state under section 3718.04 of the 519  
Revised Code to provide instructions for the operation and 520  
maintenance of the system. The rules shall ~~authorize the~~ 521  
~~instructions to be posted on the department of health's web site~~ 522  
~~and the manufacturer's web site~~ provide that a board of health may 523  
require a copy of a manufacturer's instructions for the operation 524  
and maintenance of a system to be filed with the board prior to 525  
the installation and use of the system in the health district in 526  
which the board has jurisdiction. In addition, the rules shall 527  
require a board of health and a manufacturer to provide a copy of 528  
the operation and maintenance instructions, if available, when a 529  
board of health or a manufacturer receives a written request for 530  
instructions. 531

~~(11)~~(12) Prescribe criteria for the provision of written 532  
evidence of compliance with rules pertaining to ~~household~~ sewage 533  
treatment for purposes of sections 711.05 and 711.10 of the 534  
Revised Code; 535

~~(12)~~(13) Pursuant to divisions (A)(1) and (3) of this 536  
section, prescribe standards for the siting, design, installation, 537  
operation, monitoring, maintenance, and abandonment of small flow 538  
on-site sewage treatment systems that may be used in this state; 539

(14) Prescribe minimum criteria and procedures under which 540  
boards of health may establish household sewage treatment district 541  
management programs for the purpose of providing a responsive 542  
approach toward preventing or solving sewage treatment problems 543  
resulting from household sewage treatment systems within the 544  
districts established under the program. For purposes of division 545  
(A)~~(12)~~(14) of this section, a board of health may enter into a 546  
contract with any entity to administer a household sewage 547

treatment district management program. 548

~~(13) Prescribe standards for the siting, design, 549  
installation, operation, monitoring, maintenance, and abandonment 550  
of small flow on-site sewage treatment systems that may be used in 551  
this state. 552~~

(15) Prescribe standards for the use of subsurface 553  
interceptor drains, perimeter drains, and engineered drainage to 554  
remove or divert any subsurface water from an area to be used for 555  
soil absorption of sewage in the soil of a sewage treatment 556  
system; 557

(16) Authorize a board of health to require a property owner 558  
whose property is serviced by a sewage treatment system to connect 559  
to an available central sewer system under any of the following 560  
circumstances and conditions: 561

(a) The central sewer system is located not more than three 562  
hundred feet from the structure owned by the property owner 563  
measured from the foundation of the structure to the right-of-way 564  
where the central sewer system is located. 565

(b) There is an administrative or judicial order requiring 566  
connection to a central sewer system. 567

(c) The property is the subject of a sewer assessment process 568  
initiated by a county, municipal corporation, or other political 569  
subdivision. 570

The rules shall provide that after a property owner is 571  
required to connect to a central sewer system, the property owner 572  
is prohibited from installing, replacing, or continuing to use a 573  
sewage treatment system. The rules shall establish exceptions for 574  
extenuating circumstances that allow a property owner to continue 575  
to use a sewage treatment system. 576

The rules shall provide that if a property owner is required 577

to connect to a central sewer system, a board of health shall 578  
afford the property owner a period of time not to exceed three 579  
years to install the connection to the central sewer system. The 580  
rules shall authorize a board of health to require connection to a 581  
central sewer system within an expedited time frame if a sewage 582  
treatment system owned by a property owner is causing a public 583  
health nuisance and the cost of connection to a central sewer 584  
system is not excessive. 585

Governmental entities constructing central sewer systems 586  
shall construct the central sewer systems in a manner that 587  
minimizes the distance between the foundations of the structures 588  
to be serviced by the central sewer system and the connecting 589  
point of the central sewer system. 590

A board of health shall not require the connection to a 591  
central sewer system under rules adopted under division (A)(16) of 592  
this section if a board of county commissioners has adopted a 593  
resolution requiring connection under section 6117.51 of the 594  
Revised Code. 595

(17) Prescribe standards for the inspection of septage 596  
hauling truck tanks by boards of health, including, but not 597  
limited to, tank seal safety specifications; 598

(18) Establish standards and testing methods to ensure that 599  
all septic tanks, other disposal component tanks, dosing tanks, 600  
pump vaults, household sewage treatment disposal system holding 601  
tanks and privy vaults, or other applicable sewage disposal system 602  
components manufactured after the effective date of this section 603  
and used in this state are watertight and structurally sound; 604

(19) Require a board of health to give notice and an 605  
opportunity for a hearing, pursuant to section 3718.11 of the 606  
Revised Code, to an affected property owner regarding any of the 607  
following: 608

(a) The denial of an installation, operation, or alteration permit for a sewage treatment system; 609  
610

(b) The imposition of a condition on the installation of a sewage treatment system; 611  
612

(c) The required replacement of a sewage treatment system; 613

(d) Any other final order or decision of a board of health that is made under this chapter concerning which a property owner is claiming to be aggrieved or adversely affected. 614  
615  
616

The rules also shall establish procedures for giving such notice and for conducting the hearing required in rules adopted under division (A)(19) of this section. 617  
618  
619

(20) Prescribe standards for the regulation of gray water recycling systems; 620  
621

(21) Prohibit a sewage treatment system from causing a public health nuisance; 622  
623

(22) Define economic impact for purposes of division (B) of this section and section 3718.022 of the Revised Code. 624  
625

The council may adopt other rules under division (A) of this section that it determines are necessary to implement this chapter and to protect the public health and welfare. 626  
627  
628

At least sixty days prior to adopting a rule under division (A) of this section, the council shall provide boards of health and any other interested parties an opportunity to comment on the rule. 629  
630  
631  
632

(B)(1) In accordance with section 3709.20 or 3709.21 of the Revised Code, as applicable, and subject to review by and approval of the director under division (C) of section 3718.05 of the Revised Code, a board of health may adopt rules necessary for the public health providing for more stringent standards governing household sewage treatment systems, installers, service providers, 633  
634  
635  
636  
637  
638

~~er septage haulers~~ than those established in rules of the public 639  
health council adopted under division (A) of this section. ~~A In~~ 640  
proposing or adopting the rules, a board of health shall consider 641  
and document the economic impact of the rules on property owners 642  
within the applicable health district. 643

(2) A board that intends to adopt ~~such~~ rules shall notify the 644  
department of health of the ~~proposed~~ rules ~~and submit a copy of~~ 645  
the proposed rules and the documentation of the economic impact of 646  
the rules at least ninety days prior to the proposed date of 647  
adoption. The director shall approve or disapprove any such 648  
proposed rule within ninety days after receiving ~~notice of it~~ 649  
under this division a copy of the proposed rule from the board of 650  
health. ~~If the director fails to approve or disapprove a proposed~~ 651  
~~rule within ninety days after receiving notice of it, the proposed~~ 652  
~~rule shall be deemed approved.~~ 653

(3) In reviewing a proposed rule, the director shall approve 654  
the rule if all of the following apply: 655

(a) The proposed rule is not in conflict with this chapter or 656  
rules adopted under it. 657

(b) The proposed rule is authorized by division (B) of this 658  
section. 659

(c) The proposed rule is no less stringent than rules adopted 660  
by the public health council. 661

(d) Unless otherwise authorized by this chapter or rules 662  
adopted under it, the proposed rule does not require design 663  
changes to a sewage treatment system, or component thereof, that 664  
differ from a design authorized in rules adopted under division 665  
(A) of this section, including rules adopted under division (A)(1) 666  
or (A)(3)(a)(iii) or (iv) of this section, or approved by the 667  
director under section 3718.04 of the Revised Code. 668

(e) The proposed rule does not require operation or 669

maintenance procedures for a sewage treatment system that conflict 670  
with operation or maintenance procedures authorized in rules 671  
adopted under division (A) of this section, including rules 672  
adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this 673  
section, or approved by the director under section 3718.04 of the 674  
Revised Code. 675

(4) If a board of health fails to submit a proposed rule to 676  
the director or fails to demonstrate that the board has considered 677  
the economic impact of the proposed rule, the rule shall have no 678  
force or effect and is not enforceable. 679

**Sec. 3718.023.** (A) In accordance with rules adopted under 680  
division (A) of section 3718.02 of the Revised Code, a board of 681  
health shall approve or deny the installation, operation, or 682  
alteration of sewage treatment systems the use of which has been 683  
authorized in those rules or that have been approved for use in 684  
this state by the director of health under section 3718.04 of the 685  
Revised Code. The board shall approve an installation, operation, 686  
or alteration only in the health district in which the board has 687  
jurisdiction. A board shall approve the installation, operation, 688  
or alteration of a sewage treatment system through the issuance of 689  
a permit in accordance with rules adopted under section 3718.02 of 690  
the Revised Code. A board shall not approve the installation, 691  
operation, or alteration of a sewage treatment system if the 692  
installation, operation, or alteration is not appropriate for the 693  
site at which the use of the system is or is proposed to be 694  
located. In determining whether to approve or disapprove the 695  
installation, operation, or alteration of a sewage treatment 696  
system, including the progressive or incremental installation or 697  
alteration of a system, a board shall consider the economic impact 698  
on the property owner, the state of available technology, and the 699  
nature and economics of various alternatives. A board shall 700  
provide written documentation of such economic impact if requested 701

by the property owner. In addition, the board shall ensure that a 702  
system, when installed and maintained properly, will not create a 703  
public health nuisance and shall require a system to comply with 704  
the requirements established in division (B) of this section and 705  
other applicable requirements of this chapter. 706

The board shall permit a property owner to select a sewage 707  
treatment system for use by the property owner from those systems 708  
that have been approved for use in the state, from the least 709  
expensive system to the most expensive system, and a property 710  
owner may select any such system regardless of its cost, provided 711  
that the system selected will comply with all applicable 712  
requirements and standards established under this chapter and 713  
rules adopted under it. 714

(B) A board of health shall ensure that the design and 715  
installation of a soil absorption system prevents public health 716  
nuisances. In addition, a board of health shall ensure that a 717  
sewage treatment system that is installed after the effective date 718  
of this section shall not discharge into a ditch, stream, pond, 719  
lake, natural or artificial waterway, drain tile, or other surface 720  
water or onto the surface of the ground unless authorized by a 721  
national pollutant discharge elimination system permit issued 722  
under Chapter 6111. of the Revised Code and rules adopted under 723  
it. In addition, a board shall ensure that a sewage treatment 724  
system shall not discharge into an abandoned well, a drainage 725  
well, a dry well, a cesspool, a sinkhole, or another connection to 726  
ground water. If a household sewage treatment system serving a 727  
two- or three-family dwelling or a small flow on-site sewage 728  
treatment system is classified as a class V injection well, a 729  
board of health shall ensure that the system complies with rules 730  
adopted under section 6111.043 of the Revised Code and with 731  
Chapter 3745-34 of the Administrative Code. 732

(C) For purposes of the approval or denial of the 733



installation, operation, or alteration of a sewage treatment 734  
system under this section, "economic impact" means all of the 735  
following, as applicable: 736

(1) The cost to the property owner for the installation of 737  
the proposed sewage treatment system, including the cost of 738  
progressive or incremental installation of the system; 739

(2) The cost of an alternative system, including the cost of 740  
progressive or incremental installation of the system, that, when 741  
installed and maintained properly, will not create a public health 742  
nuisance compared to the proposed sewage treatment system; 743

(3) The costs of repairing the sewage treatment system, 744  
including the cost of progressive or incremental repairs, as 745  
opposed to replacing the system with a new system. 746

(D) An application for an installation permit that is 747  
accepted by a board of health prior to January 1, 2012, shall be 748  
valid for three years from the date of the submission of the 749  
complete application and the accompanying application fee. 750

(E) An installation permit issued by a board of health prior 751  
to January 1, 2012, shall be valid until January 1, 2013, unless 752  
extended by a board of health for not more than an additional six 753  
months. 754

**Sec. 3718.024.** The director of health in cooperation with a 755  
board of health shall assess the familiarity of the board's staff 756  
with best management practices in the use of sewage treatment 757  
systems, as necessary, and conduct appropriate training to educate 758  
the board's staff in those best management practices and in the 759  
use of any new sewage treatment system technology that is 760  
recommended for use by the sewage treatment system technical 761  
advisory committee created in section 3718.03 of the Revised Code. 762

**Sec. 3718.025.** The environmental protection agency shall not 763

require a board of health to enter into a memorandum of 764  
understanding or any other agreement with the agency regarding the 765  
issuance of national pollutant discharge elimination system 766  
permits for off-lot household sewage treatment systems. Rather, a 767  
representative of a board of health may meet with a person who 768  
intends to install such a system to determine the feasibility of 769  
the system and refer the person to the agency to secure a national 770  
pollutant discharge elimination system permit for the system if 771  
needed. The environmental protection agency shall make revisions 772  
to any applicable general national pollutant discharge elimination 773  
system permits, issued pursuant to the federal Water Pollution 774  
Control Act as defined in section 6111.01 of the Revised Code, so 775  
that such a memorandum of understanding is not required. A board 776  
of health voluntarily may enter into a memorandum of understanding 777  
with the environmental protection agency to implement a general 778  
national pollutant discharge elimination system permit. The agency 779  
shall work with boards of health to facilitate securing national 780  
pollutant discharge elimination system permits on behalf of 781  
property owners in counties without a memorandum of understanding. 782

**Sec. 3718.03.** (A) There is hereby created the sewage 783  
treatment system technical advisory committee consisting of the 784  
director of health or the director's designee and ~~ten~~ thirteen 785  
members who are knowledgeable about sewage treatment systems and 786  
technologies. The director or the director's designee shall serve 787  
as committee secretary and may vote on actions taken by the 788  
committee. Of the ~~ten~~ thirteen members, ~~four~~ five shall be 789  
appointed by the governor, ~~three~~ four shall be appointed by the 790  
president of the senate, and ~~three~~ four shall be appointed by the 791  
speaker of the house of representatives. 792

(1) Of the members appointed by the governor, one shall 793  
represent academia and shall be active in teaching or research in 794  
the area of on-site wastewater treatment, one shall be a 795

representative of the public who is not employed by the state or 796  
any of its political subdivisions and who does not have a 797  
pecuniary interest in ~~household~~ sewage treatment systems, one 798  
shall be ~~an~~ a registered professional engineer ~~from~~ employed by 799  
the environmental protection agency, ~~and~~ one shall be selected 800  
from among soil scientists in the division of soil and water 801  
resources in the department of natural resources, and one shall be 802  
a representative of a statewide organization representing 803  
townships. 804

(2) Of the members appointed by the president of the senate, 805  
one shall be a health commissioner who is a member of and 806  
recommended by the association of Ohio health commissioners, one 807  
shall represent the interests of manufacturers of ~~household~~ sewage 808  
treatment systems, ~~and~~ one shall represent installers and service 809  
providers, and one shall be a person with demonstrated experience 810  
in the design of sewage treatment systems. 811

(3) Of the members appointed by the speaker of the house of 812  
representatives, one shall be a health commissioner who is a 813  
member of and recommended by the association of Ohio health 814  
commissioners, one shall represent the interests of manufacturers 815  
of ~~household~~ sewage treatment systems, ~~and~~ one shall be a 816  
sanitarian who is registered under Chapter 4736. of the Revised 817  
Code and who is a member of the Ohio environmental health 818  
association, and one shall be a registered professional engineer 819  
with experience in sewage treatment systems. 820

(B) Terms of members appointed to the committee shall be for 821  
three years, with each term ending on the same day of the same 822  
month as did the term that it succeeds. Each member shall serve 823  
from the date of appointment until the end of the term for which 824  
the member was appointed. 825

Members may be reappointed. Vacancies shall be filled in the 826  
same manner as provided for original appointments. Any member 827

appointed to fill a vacancy occurring prior to the expiration date 828  
of the term for which the member was appointed shall hold office 829  
for the remainder of that term. A member shall continue to serve 830  
after the expiration date of the member's term until the member's 831  
successor is appointed or until a period of sixty days has 832  
elapsed, whichever occurs first. The applicable appointing 833  
authority may remove a member from the committee for failure to 834  
attend two consecutive meetings without showing good cause for the 835  
absences. 836

(C) The technical advisory committee annually shall select 837  
from among its members a chairperson and a vice-chairperson ~~and a~~. 838  
The secretary ~~to~~ shall keep a record of its proceedings. A 839  
majority vote of the members of the full committee is necessary to 840  
take action on any matter. The committee may adopt bylaws 841  
governing its operation, including bylaws that establish the 842  
frequency of meetings. 843

(D) Serving as a member of the sewage treatment system 844  
technical advisory committee does not constitute holding a public 845  
office or position of employment under the laws of this state and 846  
does not constitute grounds for removal of public officers or 847  
employees from their offices or positions of employment. Members 848  
of the committee shall serve without compensation for attending 849  
committee meetings. 850

(E) A member of the committee shall not have a conflict of 851  
interest with the position. For the purposes of this division, 852  
"conflict of interest" means the taking of any action that 853  
violates any provision of Chapter 102. or 2921. of the Revised 854  
Code. 855

(F) The sewage treatment system technical advisory committee 856  
shall do all of the following: 857

(1) Develop with the department of health standards ~~and~~. 858

guidelines, and protocols for approving or disapproving a sewage 859  
treatment system or components of a system under section 3718.04 860  
of the Revised Code~~†~~. Any guideline requiring the submission of 861  
scientific information or testing data shall specify, in writing, 862  
the protocol and format to be used in submitting the information 863  
or data. 864

(2) Develop with the department an application form to be 865  
submitted to the director by an applicant for approval or 866  
disapproval of a sewage treatment system or components of a system 867  
and specify the information that must be included with an 868  
application form; 869

(3) ~~Advise~~ Make recommendations to the director on regarding 870  
the approval or disapproval of an application sent to the director 871  
under section 3718.04 of the Revised Code requesting approval of a 872  
sewage treatment system or components of a system; 873

(4) Pursue and recruit in an active manner the research, 874  
development, introduction, and timely approval of innovative and 875  
cost-effective ~~household~~ sewage treatment systems and components 876  
of a system for use in this state, which shall include conducting 877  
pilot projects to assess the effectiveness of a system or 878  
components of a system~~†~~ 879

~~(5) By January 1, 2008, provide the household sewage and~~ 880  
~~small flow on site sewage treatment system study commission~~ 881  
~~created by Am. Sub. H.B. 119 of the 127th general assembly with a~~ 882  
~~list of available alternative systems and the estimated cost of~~ 883  
~~each system.~~ 884

(G) The chairperson of the committee shall prepare and submit 885  
an annual report concerning the activities of the committee to the 886  
general assembly not later than ninety days after the end of the 887  
calendar year. The report shall discuss the number of applications 888  
submitted under section 3718.04 of the Revised Code for the 889

approval of a new sewage treatment system or a component of a 890  
system, the number of such systems and components that were 891  
approved, any information that the committee considers beneficial 892  
to the general assembly, and any other information that the 893  
chairperson determines is beneficial to the general assembly. If 894  
other members of the committee determine that certain information 895  
should be included in the report, they shall submit the 896  
information to the chairperson not later than thirty days after 897  
the end of the calendar year. 898

(H) The department shall provide meeting space for the 899  
committee. The committee shall be assisted in its duties by the 900  
staff of the department. 901

(I) Sections 101.82 to 101.87 of the Revised Code do not 902  
apply to the sewage treatment system technical advisory committee. 903

**Sec. 3718.04.** (A) A manufacturer seeking approval for the 904  
installation and use of a sewage treatment system or a component 905  
of a system in this state that differs in design or function from 906  
systems or components of systems the use of which is authorized in 907  
rules adopted under section 3718.02 of the Revised Code shall 908  
request an application form from the department of health. The 909  
applicant shall complete the form and include with it all of the 910  
information that is required by the department and the sewage 911  
treatment system technical advisory committee. The applicant shall 912  
submit a completed application and all required information to the 913  
director of health. 914

(B) Upon receipt of an application, the director shall 915  
examine the application and all accompanying information to 916  
determine if the application is complete. If the director 917  
determines that the application is not complete, the director 918  
shall notify the applicant not later than ~~fourteen~~ sixty days 919  
after ~~determining~~ submission of the application that the 920

application is not complete, provide a description of the 921  
information that is missing from the application, and return the 922  
application and all accompanying information to the applicant. The 923  
applicant may resubmit the application to the director if the 924  
application includes the information that was identified by the 925  
director. Not later than ~~fourteen~~ thirty days after receipt of a 926  
complete application, the director shall notify the committee of 927  
the complete application and send a copy of the complete 928  
application and all accompanying information to the committee 929  
together with a request that the committee ~~advise~~ recommend that 930  
the director ~~on the approval~~ approve or ~~disapproval of~~ disapprove 931  
the system. 932

Not later than ninety days after receipt of a complete 933  
application, the committee shall recommend approval or disapproval 934  
of the application and submit its recommendation in writing to the 935  
director. The director shall approve or disapprove the application 936  
not later than sixty days after the committee submits its 937  
recommendation to the director or, if the committee fails to 938  
recommend approval or disapproval within the required time, not 939  
later than one hundred twenty days after the submission of a 940  
complete application. If the director fails to approve or 941  
disapprove an application within the required time, the 942  
application shall be deemed approved. 943

(C) In approving or disapproving an application, the director 944  
shall use the standards ~~and~~, guidelines, and protocols that the 945  
committee developed with the department for that purpose. The 946  
director shall not approve an application that fails to comply 947  
with those standards ~~and~~, guidelines, and protocols. If the 948  
committee ~~advise~~ recommends approval or disapproval of an 949  
application, the director ~~concerning the application, the director~~ 950  
shall consider the ~~advise~~ committee's recommendation before 951  
approving or disapproving the application. ~~However, if~~ If the 952

committee fails to provide advice or if the committee fails to 953  
~~provide advice within a reasonable period of time before the~~ 954  
~~director is required to approve or disapprove the application~~ 955  
recommend approval or disapproval of the application within the 956  
required time, the director may approve or disapprove the 957  
application without considering the advice of the committee. ~~Not~~ 958  
~~later than ninety days after receipt of a complete application,~~ 959  
~~the director shall approve or disapprove the application in~~ 960  
~~writing. If the director fails to approve or disapprove the~~ 961  
~~application within that ninety day period, the application shall~~ 962  
~~be deemed approved~~ The director shall establish and include any 963  
appropriate terms and conditions with the approval of a sewage 964  
treatment system or component of a system for use in this state. 965  
For purposes of establishing soil absorption specifications for a 966  
sewage treatment system, the terms and conditions shall include 967  
standards regarding the sizing of the system. 968

(D) If the director approves an application under this 969  
section, the director shall notify the applicant in writing. The 970  
director also shall notify boards of health in accordance with the 971  
procedures established in rules adopted under section 3718.02 of 972  
the Revised Code that the sewage treatment system or component of 973  
a system that is the subject of the application is approved for 974  
statewide use. If the director disapproves an application under 975  
this section, the director shall notify the applicant in writing 976  
and provide a brief explanation for the disapproval. 977

(E) Decisions of the director approving or disapproving 978  
applications under this section may be appealed in accordance with 979  
Chapter 119. of the Revised Code. 980

(F) No approval shall be required under this section with 981  
respect to a sewage treatment system or component of a system that 982  
has been approved by the director prior to the effective date of 983  
this amendment unless the manufacturer of the system or component 984



changes the design or seeks modifications to any terms and 985  
conditions of the prior approval. 986

(G) The director may revoke the approval of a sewage 987  
treatment system or component of a system if the director finds, 988  
based on substantial evidence, that the system or component fails 989  
to comply with applicable standards for the system or component. 990  
The revocation of an approval under this division may be appealed 991  
in accordance with Chapter 119. of the Revised Code. 992

**Sec. 3718.041.** An installer or manufacturer of a sewage 993  
treatment system or component of a system the use of which has 994  
been authorized in rules adopted under section 3718.02 of the 995  
Revised Code may request from the director of health a written 996  
statement acknowledging that the system or component of a system 997  
is approved for use in this state and that the approval is 998  
equivalent in all respects to the approval of a system or 999  
component of a system under section 3718.04 of the Revised Code. 1000  
The director may approve or deny such a request as the director 1001  
determines appropriate. 1002

**Sec. 3718.05.** The director of health shall do all of the 1003  
following: 1004

(A) Administer and enforce this chapter and the rules of the 1005  
public health council adopted under it; 1006

(B) Examine records of boards of health, in accordance with 1007  
rules adopted by the council, that are determined necessary to 1008  
ascertain compliance with this chapter and rules adopted under it; 1009

(C) Review and approve or disapprove rules proposed by boards 1010  
of health under division (B) of section 3718.02 of the Revised 1011  
Code. The director shall not disapprove a proposed rule unless the 1012  
director determines that the proposed rule conflicts with this 1013  
chapter or rules adopted under section 3718.02 of the Revised Code 1014

by the public health council or fails to promote public health or 1015  
environmental protection. If the director disapproves a proposed 1016  
rule, the director shall provide a written explanation of the 1017  
director's disapproval to the board of health that proposed the 1018  
rule. 1019

(D) Survey boards of health as required by section 3718.07 of 1020  
the Revised Code; 1021

(E) Develop with the sewage treatment system technical 1022  
advisory committee standards ~~and~~, guidelines, and protocols for 1023  
use by the director in approving or disapproving a sewage 1024  
treatment system under section 3718.04 of the Revised Code and an 1025  
application form for use by applicants for that approval, 1026  
including identification of the information that must be included 1027  
with the form; 1028

(F) Provide instructions on the operation and maintenance of 1029  
a sewage treatment system. The director shall provide the 1030  
operation and maintenance instructions on the department of 1031  
health's web site. In addition, the director shall provide a copy 1032  
of the operation and maintenance instructions when the director 1033  
receives a written request for the instructions. 1034

(G) Develop educational programs, in conjunction with boards 1035  
of health, to educate owners of sewage treatment systems regarding 1036  
the proper operation and maintenance of those systems. 1037

**Sec. 3718.06.** (A)(1) A board of health shall establish fees 1038  
in accordance with section 3709.09 of the Revised Code for the 1039  
purpose of carrying out its duties under this chapter and rules 1040  
adopted under it, including ~~a fee~~ fees for ~~an~~ installation ~~permit~~ 1041  
permits, operation permits, and alteration permits issued by the 1042  
board. All fees so established and collected by the board shall be 1043  
deposited in a special fund of the district to be used exclusively 1044  
by the board in carrying out those duties. 1045

(2) In accordance with Chapter 119. of the Revised Code, the public health council may establish by rule a fee to be collected from applicants for installation permits and alteration permits issued under rules adopted under this chapter. The director of health shall use not more than seventy-five per cent of the proceeds from that fee for administering and enforcing this chapter and the rules adopted under it by the council. The director shall use not less than twenty-five per cent of the proceeds from that fee to establish a program in cooperation with boards of health to fund installation and evaluation of sewage treatment system new technology pilot projects through grants or other agreements. In the selection of pilot projects, the director shall consult with the sewage treatment system technical advisory committee. A board of health shall collect and transmit the fee- to the director pursuant to section 3709.092 of the Revised Code. ~~The director shall use the money so credited solely for the administration and enforcement of this chapter and the rules adopted under it by the public health council.~~

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

**Sec. 3718.09.** (A) A board of health may issue, modify, 1077

suspend, or revoke enforcement orders to a registration or permit 1078  
holder or other person directing the holder or person to abate a 1079  
violation of this chapter, any rule adopted or order issued under 1080  
it, or a condition of a registration or permit issued under it 1081  
within a specified, reasonable time. If an order issued under this 1082  
division is neglected or disregarded, the applicable board of 1083  
health may proceed in accordance with section 3707.02 of the 1084  
Revised Code. 1085

(B) The health commissioner or the commissioner's designated 1086  
representative, without prior notice or hearing and in accordance 1087  
with the rules of the public health council, may issue an 1088  
emergency order requiring any action necessary to meet a public 1089  
health emergency or to prevent or abate an imminent and 1090  
substantial threat to surface water or ground water regarding 1091  
domestic septage management or regarding a sewage treatment system 1092  
that is being operated in a manner that does not comply with this 1093  
chapter or rules adopted under it. A person to whom such an 1094  
emergency order is issued immediately shall comply with the order. 1095  
A person so ordered may apply to the issuer of the order for a 1096  
hearing, which shall be held as soon as possible, but not later 1097  
than twenty days after the issuer's receipt of the application for 1098  
a hearing. 1099

Sec. 3718.11. (A) A property owner may request a hearing with 1100  
the board of health for any reason described in division (A)(19) 1101  
of section 3718.02 of the Revised Code. A property owner may 1102  
appeal the results of the hearing to either of the following: 1103

(1) The court of common pleas of the county in which the 1104  
property owner's land is located; 1105

(2) A sewage treatment system appeals board that is 1106  
established in accordance with this section. 1107

(B) A property owner that wishes to appeal to a sewage treatment system appeals board shall file the appeal with the board of health within whose jurisdiction the property owner's land is located. Upon receipt of a filing, the board of health shall send the filing of the appeal to the chairperson of the sewage treatment system appeals board for the county in which the board of health has jurisdiction. 1108  
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(C)(1) Not later than ninety days after the effective date of this section, a sewage treatment system appeals board shall be appointed for each county as follows: 1115  
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(a) One member shall be appointed by the health commissioner of the general health district having jurisdiction in the county. 1118  
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(b) One member shall be appointed by the judge of the probate court of the county having the longest continuous service as a judge of the probate court. 1120  
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(c) One member shall be appointed by the director of health. 1123

(2) Terms of appointment to a sewage treatment system appeals board shall be for two years. Members may be reappointed. Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member was appointed shall hold office for the remainder of that term. 1124  
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(3) The person appointed by the judge of the probate court shall serve as chairperson of the board. A majority vote of the members of the board is necessary to take action on any matter. The chairperson of the board shall designate the time and location for a hearing before the board. Members of the board shall serve without compensation. 1130  
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(4) A board of health shall send an appeal that has been filed with the board of health under division (B) of this section to the sewage treatment system appeals board immediately after the 1136  
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appeal has been filed. Not later than forty-five days after a 1139  
hearing before a sewage treatment system appeals board, the board 1140  
shall issue a written decision concerning an appeal before the 1141  
board. 1142

(5) The judge of the probate court who made an appointment to 1143  
the board under this section shall establish due process 1144  
procedures to be used by the applicable sewage treatment system 1145  
appeals board appointed under this section for the purpose of 1146  
hearing appeals regarding orders and decisions of a board of 1147  
health. All appeals before the applicable sewage treatment system 1148  
appeals board shall be conducted in accordance with those 1149  
procedures. The procedures may include filing fees applicable to 1150  
appeals conducted by the sewage treatment system appeals board. 1151

(D) An appeal before a sewage treatment system appeals board 1152  
is final, and no further appeal may be taken. 1153

**Sec. 6117.51.** If the board of health of the health district 1154  
within which a new public sewer construction project is proposed 1155  
or located passes a resolution stating that the reason for the 1156  
project is to reduce or eliminate an existing health problem or a 1157  
hazard of water pollution, the board of county commissioners of 1158  
the county, by resolution, may order the owner of any premises 1159  
located in a sewer district in the county, the owner's agent, 1160  
lessee, or tenant, or any other occupant of the premises to 1161  
connect the premises to the sewer for the purpose of discharging 1162  
sewage or other waste that the board determines is originating on 1163  
the premises, to make use of the connection, and to cease the 1164  
discharge of the sewage or other waste into a cesspool, ditch, 1165  
private sewer, privy, septic tank, semipublic disposal system as 1166  
defined in division (B)(1)(a) of section 3709.085 of the Revised 1167  
Code, or other outlet if the board finds that the sewer is 1168  
available for use and is accessible to the premises following a 1169

determination and certification to the board by a registered 1170  
professional engineer designated by it as to the availability and 1171  
accessibility of the sewer. This section does not apply to any of 1172  
the following: 1173

(A) Any discharge authorized by a permit issued under 1174  
division (J) of section 6111.03 of the Revised Code other than a 1175  
discharge to or from a semipublic disposal system as defined in 1176  
division (B)(1)(a) of section 3709.085 of the Revised Code; 1177

(B) Wastes resulting from the keeping of animals; 1178

(C) Any premises that are not served by a common sewage 1179  
collection system when the foundation wall of the structure from 1180  
which sewage or other waste originates is more than ~~two~~ three 1181  
hundred feet from the nearest boundary of the right-of-way within 1182  
which the sewer is located; 1183

(D) Any premises that are served by a common sewage 1184  
collection system when both the foundation wall of the structure 1185  
from which the sewage or other waste originates and the common 1186  
sewage collection system are more than ~~two~~ three hundred feet from 1187  
the nearest boundary of the right-of-way within which the public 1188  
sewer is located; 1189

(E) Any dwelling house located on property that is listed on 1190  
the county's agricultural land tax list as being valued for tax 1191  
purposes as land devoted exclusively to agricultural use under 1192  
section 5713.31 of the Revised Code, when the foundation wall of 1193  
the dwelling house is ~~two~~ three hundred feet or less from the 1194  
nearest boundary of the right-of-way within which the sewer is 1195  
located, if both of the following also apply: 1196

(1) The sewer right-of-way for the property on which the 1197  
dwelling house is located was obtained by appropriation due to a 1198  
public exigency pursuant to division (B) of section 307.08, 1199  
6101.181, 6115.211, 6117.39, or 6119.11 of the Revised Code. 1200

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

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 1233  
the order, or the return to the sender of the order forwarded by 1234  
certified mail with an indication on the return of the refusal of 1235  
the addressee to accept delivery, is prima-facie evidence of the 1236  
refusal of service. 1237

No owner, agent, lessee, tenant, or occupant shall violate an 1238  
order issued under this section. Upon request of the board, the 1239  
prosecuting attorney shall prosecute in a court of competent 1240  
jurisdiction any owner, agent, lessee, tenant, or occupant who 1241  
violates an order issued under this section. Each day that a 1242  
violation continues after conviction for the violation of an order 1243  
issued under this section and the final determination thereof is a 1244  
separate offense. The court, for good cause shown, may grant a 1245  
reasonable additional period of time for compliance after 1246  
conviction. 1247

Any owner, agent, lessee, tenant, or occupant violating an 1248  
order issued under this section also may be enjoined from 1249  
continuing in violation. Upon request of the board, the 1250  
prosecuting attorney shall bring an action in a court of competent 1251  
jurisdiction for an injunction against the owner, agent, lessee, 1252  
tenant, or occupant violating an order. 1253

The Ohio water development authority created under section 1254  
6121.02 of the Revised Code, in addition to its other powers, has 1255  
the same power and shall be governed by the same procedures in a 1256  
waste water facilities service area, or in any area adjacent to a 1257  
public sewer operated by the authority, as a board of county 1258  
commissioners in a county sewer district under this section, 1259  
except that the authority shall act by order, and the attorney 1260  
general, upon request of the authority, shall prosecute any person 1261  
who violates an order of the authority issued under this section. 1262

**Section 2.** That existing sections 711.05, 711.10, 3718.01, 1263

3718.02, 3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 6117.51 1264  
of the Revised Code are hereby repealed. 1265

**Section 3.** Notwithstanding any provision of law to the 1266  
contrary, Chapter 3701-29 of the Ohio Administrative Code adopted 1267  
pursuant to Section 120.02 of Am. Sub. H.B. 119 of the 127th 1268  
General Assembly, as amended by Am. Sub. H.B. 1 and Sub. H.B. 363 1269  
of the 128th General Assembly, shall remain in effect as it exists 1270  
on the effective date of this act until it is superseded by the 1271  
rules that are required to be adopted under section 3718.02 of the 1272  
Revised Code as amended by this act. The rules that are required 1273  
to be adopted under that section as amended by this act shall not 1274  
take effect prior to January 1, 2012. 1275

**Section 4.** Not later than thirty days after the effective 1276  
date of this section, the Governor, President of the Senate, and 1277  
Speaker of the House of Representatives shall appoint the new 1278  
members to the Sewage Treatment System Technical Advisory 1279  
Committee that are required to be appointed under section 3718.03 1280  
of the Revised Code as amended by this act. 1281

The Governor shall appoint the person representing a 1282  
statewide organization representing townships for an initial term 1283  
of one year. Thereafter, the person appointed to that position 1284  
shall be appointed to a three-year term as required by section 1285  
3718.03 of the Revised Code. 1286

The President of the Senate shall appoint the person who is 1287  
required to have demonstrated experience in the design of 1288  
household sewage treatment systems for an initial term of two 1289  
years. Thereafter, the person appointed to that position shall be 1290  
appointed to a three-year term as required by section 3718.03 of 1291  
the Revised Code. 1292

The Speaker of the House of Representatives shall appoint the 1293

person that is required to be a registered professional engineer 1294  
with experience in sewage treatment systems for an initial term of 1295  
three years. Thereafter, the person appointed to that position 1296  
shall be appointed to a three-year term as required by section 1297  
3718.03 of the Revised Code. 1298

**Section 5.** That Section 3 of Am. H.B. 416 of the 127th 1299  
General Assembly be amended to read as follows: 1300

**Sec. 3.** (A) Not later than three months after the effective 1301  
date of this section, the Director of Natural Resources shall 1302  
convene an advisory board consisting of the following persons with 1303  
an interest in the Great Lakes-St. Lawrence River Basin Water 1304  
Resources Compact: 1305

(1) The Director of Natural Resources or the Director's 1306  
designee, who shall serve as chairperson of the advisory board; 1307

(2) The Director of Environmental Protection or the 1308  
Director's designee; 1309

(3) The Director of Development or the Director's designee; 1310

(4) The following members appointed by the Governor: 1311

(a) One water quality expert from the faculty or staff of an 1312  
Ohio college or university; 1313

(b) One representative of a statewide environmental advocacy 1314  
organization; 1315

(c) One representative of a local environmental advocacy 1316  
organization in the Lake Erie Basin; 1317

(d) One representative of a sustainable economic development 1318  
organization in the Lake Erie Basin; 1319

(e) One representative of the travel and tourism industry; 1320

(f) One representative of the electric utility industry; 1321

(g) One representative of a county government in the Lake Erie Basin.	1322 1323
(5) The following members appointed by the President of the Senate:	1324 1325
(a) Two members of the Senate who shall not be members of the same political party;	1326 1327
(b) One representative of the bottled water industry;	1328
(c) One representative of a statewide land conservation advocacy organization;	1329 1330
(d) One representative of agricultural interests in the Lake Erie Basin;	1331 1332
(e) One representative of the aggregates industry;	1333
(f) One representative of the pulp and paper industry;	1334
(g) One representative of a large manufacturer with a facility located within the Lake Erie Basin;	1335 1336
(h) One member of the public.	1337
(6) The following members appointed by the Speaker of the House of Representatives:	1338 1339
(a) Two members of the House of Representatives who shall not be members of the same political party;	1340 1341
(b) One representative of a municipal government in the Lake Erie Basin;	1342 1343
(c) One expert in hydrogeology from the faculty or staff of an Ohio college or university;	1344 1345
(d) One representative of a locally based organization in the Lake Erie Basin that assists in the development and implementation of a plan for the protection and management of surface and ground water resources in a watershed;	1346 1347 1348 1349

(e) One representative of a fish and wildlife advocacy organization; 1350  
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(f) One representative of residential developers; 1352

(g) One representative of the chemical industry; 1353

(h) One representative of the petroleum industry with a facility located within the Lake Erie Basin. 1354  
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All appointments shall be made to the advisory board not later than thirty days after the effective date of this section. The advisory board shall meet on a regular basis. Vacancies on the advisory board shall be filled in the manner provided for original appointments. Members of the advisory board shall receive no compensation for serving on the board. The Department of Natural Resources shall provide technical support to the advisory board. 1356  
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(B) The advisory board shall be convened for the purpose of developing recommendations for legislation that is necessary to implement and effectuate the requirements and purposes of the Great Lakes-St. Lawrence River Basin Water Resources Compact. The recommendations shall address, but not be limited to, the following: 1363  
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(1) The evaluation and recommendation of the threshold levels to be included in the implementing legislation for regulating new or increased water withdrawals in the state, considering at least all of the following: 1369  
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(a) The number of withdrawals that will be regulated; 1373

(b) The relative impact of those withdrawals; 1374

(c) The practicality of regulating those withdrawals; 1375

(d) The alternatives that are available in the establishment of a permitting program in order to meet the water management objectives of this state. 1376  
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(2) The establishment of requirements regarding the review of 1379

lists of existing water users in the portion of the Great Lakes-St. Lawrence River Basin that is in this state;

(3) The establishment of a process for use by persons that wish to appeal their inclusion in the list of existing water users;

(4) The establishment of conservation objectives with respect to the Great Lakes-St. Lawrence River Basin Water Resources Compact and the development of the state's water conservation and efficiency programs;

(5) The method for determining the capacity of existing facilities as required in Section 4.12.2 of the Great Lakes-St. Lawrence River Basin Water Resources Compact.

(C) The advisory board shall present its final recommendations to the Governor and the General Assembly not later than ~~eighteen months after the effective date of this section~~ December 15, 2010. It is the intent of the General Assembly that the recommendations of the advisory board will represent a consensus of the board's members regarding the issues presented to and discussed by the board. However, if a consensus cannot be reached on any or all of the issues before the board, one or more minority opinions may accompany the recommendations of the board.

(D) Upon submission of its recommendations under division (C) of this section, the advisory board shall cease to exist.

**Section 6.** That existing Section 3 of Am. H.B. 416 of the 127th General Assembly is hereby repealed.