

**As Reported by the House Environment and Brownfield
Development Committee**

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

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**

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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) <u>"Bedrock" means hard stratum that underlies</u>	210
<u>unconsolidated surface materials or soil.</u>	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) <u>"Gray water recycling systems" means systems that</u>	221
<u>treat and reuse wastewater discharged from lavatories, bathtubs,</u>	222
<u>showers, clothes washers, and laundry sinks that does not contain</u>	223
<u>food wastes or bodily wastes.</u>	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) <u>"Infiltrative surface" means the point or area of</u>	228
<u>application of treated or partially treated sewage to the soil or</u>	229
<u>sand fill for purposes of treatment, dispersal, or both.</u>	230
(H) "Inspection" means the on-site evaluation or analysis of	231
the functioning <u>design, installation, and operation</u> 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) <u>"Limiting condition" means a restrictive soil layer,</u>	237
<u>bedrock, a water table, or ground water that limits or precludes</u>	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

~~(I)~~(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)~~(O) "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 odor, a black or gray coloration, or the presence of organic matter and any of the following: 299
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(a) The presence of sewage effluent identified through a dye test; 302
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(b) The presence of fecal coliform at a level that is equal to or greater than five thousand colonies per one hundred milliliters of liquid as determined in two or more samples of the liquid when five or fewer samples are collected or in more than twenty per cent of the samples when more than five samples of the liquid are collected; 304
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(c) Water samples that exceed one thousand thirty e. coli counts per one hundred milliliters in two or more samples when five or fewer samples are collected or in more than twenty per cent of the samples when more than five samples are collected. 310
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(4) With respect to a discharging system for which an NPDES permit has been issued under Chapter 6111. of the Revised Code and rules adopted under it, the system routinely exceeds the effluent discharge limitations specified in the permit. 314
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(B) With respect to divisions (A)(1) and (2) of this section, a property owner may request a test to be conducted by a board of health to verify that the sewage treatment system is causing a public health nuisance. The property owner is responsible for the costs of the test. 318
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Sec. 3718.012. A sewage treatment system that was in operation prior to the effective date of this section shall not be required to be replaced with a new sewage treatment system under this chapter or rules adopted under it and shall be deemed approved if the system does not cause a public health nuisance or, if the system is causing a public health nuisance as provided in 323
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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 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. 582
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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. However, if, on or before July 1, 2010, a municipal corporation has entered into a sewer service agreement with a sewer service provider, or entered into an agreement under section 701.07, 709.192, 715.69, 715.691, 715.70, 715.71, or 715.72 of the Revised Code, and the agreement requires annexation as a condition for allowing connection to a municipal central sewer system, a property owner may be required to submit to annexation by the municipal corporation as a condition for connecting to the municipal central sewer system. 586
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A board of health shall not require the connection to a central sewer system under rules adopted under division (A)(16) of this section if a board of county commissioners has adopted a resolution requiring connection under section 6117.51 of the Revised Code. 603
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(17) Prescribe standards for the inspection of septage hauling truck tanks by boards of health, including, but not limited to, tank seal safety specifications; 608
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(18) Establish standards and testing methods to ensure that all septic tanks, other disposal component tanks, dosing tanks, pump vaults, household sewage treatment disposal system holding 611
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tanks and privy vaults, or other applicable sewage disposal system 614
components manufactured after the effective date of this section 615
and used in this state are watertight and structurally sound; 616

(19) Require a board of health to give notice and an 617
opportunity for a hearing, pursuant to section 3718.11 of the 618
Revised Code, to an affected property owner regarding any of the 619
following: 620

(a) The denial of an installation, operation, or alteration 621
permit for a sewage treatment system; 622

(b) The imposition of a condition on the installation of a 623
sewage treatment system; 624

(c) The required replacement of a sewage treatment system; 625

(d) Any other final order or decision of a board of health 626
that is made under this chapter concerning which a property owner 627
is claiming to be aggrieved or adversely affected. 628

The rules also shall establish procedures for giving such 629
notice and for conducting the hearing required in rules adopted 630
under division (A)(19) of this section. 631

(20) Prescribe standards for the regulation of gray water 632
recycling systems; 633

(21) Prohibit a sewage treatment system from causing a public 634
health nuisance; 635

(22) Define economic impact for purposes of division (B) of 636
this section and section 3718.022 of the Revised Code. 637

The council may adopt other rules under division (A) of this 638
section that it determines are necessary to implement this chapter 639
and to protect the public health and welfare. 640

At least sixty days prior to adopting a rule under division 641
(A) of this section, the council shall provide boards of health 642
and any other interested parties an opportunity to comment on the 643

rule. 644

(B)(1) In accordance with section 3709.20 or 3709.21 of the 645
Revised Code, as applicable, and subject to review by and approval 646
of the director under division (C) of section 3718.05 of the 647
Revised Code, a board of health may adopt rules necessary for the 648
public health providing for more stringent standards ~~governing~~ 649
~~household sewage treatment systems, installers, service providers,~~ 650
~~or septage haulers~~ than those established in rules of the public 651
health council adopted under division (A) of this section. A In 652
proposing or adopting the rules, a board of health shall consider 653
and document the economic impact of the rules on property owners 654
within the applicable health district. 655

(2) A board that intends to adopt such rules shall notify the 656
department of health of the proposed rules and submit a copy of 657
the proposed rules and the documentation of the economic impact of 658
the rules at least ninety days prior to the proposed date of 659
adoption. The director shall approve or disapprove any such 660
proposed rule within ninety days after receiving ~~notice of it~~ 661
~~under this division~~ a copy of the proposed rule from the board of 662
health. ~~If the director fails to approve or disapprove a proposed~~ 663
~~rule within ninety days after receiving notice of it, the proposed~~ 664
~~rule shall be deemed approved.~~ 665

(3) In reviewing a proposed rule, the director shall approve 666
the rule if all of the following apply: 667

(a) The proposed rule is not in conflict with this chapter or 668
rules adopted under it. 669

(b) The proposed rule is authorized by division (B) of this 670
section. 671

(c) The proposed rule is no less stringent than rules adopted 672
by the public health council. 673

(d) Unless otherwise authorized by this chapter or rules 674

adopted under it, the proposed rule does not require design 675
changes to a sewage treatment system, or component thereof, that 676
differ from a design authorized in rules adopted under division 677
(A) of this section, including rules adopted under division (A)(1) 678
or (A)(3)(a)(iii) or (iv) of this section, or approved by the 679
director under section 3718.04 of the Revised Code. 680

(e) The proposed rule does not require operation or 681
maintenance procedures for a sewage treatment system that conflict 682
with operation or maintenance procedures authorized in rules 683
adopted under division (A) of this section, including rules 684
adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this 685
section, or approved by the director under section 3718.04 of the 686
Revised Code. 687

(4) If a board of health fails to submit a proposed rule to 688
the director or fails to demonstrate that the board has considered 689
the economic impact of the proposed rule, the rule shall have no 690
force or effect and is not enforceable. 691

Sec. 3718.023. (A) In accordance with rules adopted under 692
division (A) of section 3718.02 of the Revised Code, a board of 693
health shall approve or deny the installation, operation, or 694
alteration of sewage treatment systems the use of which has been 695
authorized in those rules or that have been approved for use in 696
this state by the director of health under section 3718.04 of the 697
Revised Code. The board shall approve an installation, operation, 698
or alteration only in the health district in which the board has 699
jurisdiction. A board shall approve the installation, operation, 700
or alteration of a sewage treatment system through the issuance of 701
a permit in accordance with rules adopted under section 3718.02 of 702
the Revised Code. A board shall not approve the installation, 703
operation, or alteration of a sewage treatment system if the 704
installation, operation, or alteration is not appropriate for the 705

site at which the use of the system is or is proposed to be 706
located. In determining whether to approve or disapprove the 707
installation, operation, or alteration of a sewage treatment 708
system, including the progressive or incremental installation or 709
alteration of a system, a board shall consider the economic impact 710
on the property owner, the state of available technology, and the 711
nature and economics of various alternatives. A board shall 712
provide written documentation of such economic impact if requested 713
by the property owner. In addition, the board shall ensure that a 714
system, when installed and maintained properly, will not create a 715
public health nuisance and shall require a system to comply with 716
the requirements established in division (B) of this section and 717
other applicable requirements of this chapter. 718

The board shall permit a property owner to select a sewage 719
treatment system for use by the property owner from those systems 720
that have been approved for use in the state, from the least 721
expensive system to the most expensive system, and a property 722
owner may select any such system regardless of its cost, provided 723
that the system selected will comply with all applicable 724
requirements and standards established under this chapter and 725
rules adopted under it. 726

(B) A board of health shall ensure that the design and 727
installation of a soil absorption system prevents public health 728
nuisances. In addition, a board of health shall ensure that a 729
sewage treatment system that is installed after the effective date 730
of this section shall not discharge into a ditch, stream, pond, 731
lake, natural or artificial waterway, drain tile, or other surface 732
water or onto the surface of the ground unless authorized by a 733
national pollutant discharge elimination system permit issued 734
under Chapter 6111. of the Revised Code and rules adopted under 735
it. In addition, a board shall ensure that a sewage treatment 736
system shall not discharge into an abandoned well, a drainage 737

well, a dry well, a cesspool, a sinkhole, or another connection to 738
ground water. If a household sewage treatment system serving a 739
two- or three-family dwelling or a small flow on-site sewage 740
treatment system is classified as a class V injection well, a 741
board of health shall ensure that the system complies with rules 742
adopted under section 6111.043 of the Revised Code and with 743
Chapter 3745-34 of the Administrative Code. 744

(C) For purposes of the approval or denial of the 745
installation, operation, or alteration of a sewage treatment 746
system under this section, "economic impact" means all of the 747
following, as applicable: 748

(1) The cost to the property owner for the installation of 749
the proposed sewage treatment system, including the cost of 750
progressive or incremental installation of the system; 751

(2) The cost of an alternative system, including the cost of 752
progressive or incremental installation of the system, that, when 753
installed and maintained properly, will not create a public health 754
nuisance compared to the proposed sewage treatment system; 755

(3) The costs of repairing the sewage treatment system, 756
including the cost of progressive or incremental repairs, as 757
opposed to replacing the system with a new system. 758

(D) An application for an installation permit that is 759
accepted by a board of health prior to January 1, 2012, shall be 760
valid for three years from the date of the submission of the 761
complete application and the accompanying application fee. 762

(E) An installation permit issued by a board of health prior 763
to January 1, 2012, shall be valid until January 1, 2013, unless 764
extended by a board of health for not more than an additional six 765
months. 766

Sec. 3718.024. The director of health in cooperation with a 767

board of health shall assess the familiarity of the board's staff 768
with best management practices in the use of sewage treatment 769
systems, as necessary, and conduct appropriate training to educate 770
the board's staff in those best management practices and in the 771
use of any new sewage treatment system technology that is 772
recommended for use by the sewage treatment system technical 773
advisory committee created in section 3718.03 of the Revised Code. 774

Sec. 3718.025. The environmental protection agency shall not 775
require a board of health to enter into a memorandum of 776
understanding or any other agreement with the agency regarding the 777
issuance of national pollutant discharge elimination system 778
permits for off-lot household sewage treatment systems. Rather, a 779
representative of a board of health may meet with a person who 780
intends to install such a system to determine the feasibility of 781
the system and refer the person to the agency to secure a national 782
pollutant discharge elimination system permit for the system if 783
needed. The environmental protection agency shall make revisions 784
to any applicable general national pollutant discharge elimination 785
system permits, issued pursuant to the federal Water Pollution 786
Control Act as defined in section 6111.01 of the Revised Code, so 787
that such a memorandum of understanding is not required. A board 788
of health voluntarily may enter into a memorandum of understanding 789
with the environmental protection agency to implement a general 790
national pollutant discharge elimination system permit. The agency 791
shall work with boards of health to facilitate securing national 792
pollutant discharge elimination system permits on behalf of 793
property owners in counties without a memorandum of understanding. 794

Sec. 3718.03. (A) There is hereby created the sewage 795
treatment system technical advisory committee consisting of the 796
director of health or the director's designee and ~~ten~~ thirteen 797
members who are knowledgeable about sewage treatment systems and 798

technologies. The director or the director's designee shall serve 799
as committee secretary and may vote on actions taken by the 800
committee. Of the ~~ten~~ thirteen members, ~~four~~ five shall be 801
appointed by the governor, ~~three~~ four shall be appointed by the 802
president of the senate, and ~~three~~ four shall be appointed by the 803
speaker of the house of representatives. 804

(1) Of the members appointed by the governor, one shall 805
represent academia and shall be active in teaching or research in 806
the area of on-site wastewater treatment, one shall be a 807
representative of the public who is not employed by the state or 808
any of its political subdivisions and who does not have a 809
pecuniary interest in ~~household~~ sewage treatment systems, one 810
shall be ~~an~~ a registered professional engineer ~~from~~ employed by 811
the environmental protection agency, ~~and~~ one shall be selected 812
from among soil scientists in the division of soil and water 813
resources in the department of natural resources, and one shall be 814
a representative of a statewide organization representing 815
townships. 816

(2) Of the members appointed by the president of the senate, 817
one shall be a health commissioner who is a member of and 818
recommended by the association of Ohio health commissioners, one 819
shall represent the interests of manufacturers of ~~household~~ sewage 820
treatment systems, ~~and~~ one shall represent installers and service 821
providers, and one shall be a person with demonstrated experience 822
in the design of sewage treatment systems. 823

(3) Of the members appointed by the speaker of the house of 824
representatives, one shall be a health commissioner who is a 825
member of and recommended by the association of Ohio health 826
commissioners, one shall represent the interests of manufacturers 827
of ~~household~~ sewage treatment systems, ~~and~~ one shall be a 828
sanitarian who is registered under Chapter 4736. of the Revised 829
Code and who is a member of the Ohio environmental health 830

association, and one shall be a registered professional engineer 831
with experience in sewage treatment systems. 832

(B) Terms of members appointed to the committee shall be for 833
three years, with each term ending on the same day of the same 834
month as did the term that it succeeds. Each member shall serve 835
from the date of appointment until the end of the term for which 836
the member was appointed. 837

Members may be reappointed. Vacancies shall be filled in the 838
same manner as provided for original appointments. Any member 839
appointed to fill a vacancy occurring prior to the expiration date 840
of the term for which the member was appointed shall hold office 841
for the remainder of that term. A member shall continue to serve 842
after the expiration date of the member's term until the member's 843
successor is appointed or until a period of sixty days has 844
elapsed, whichever occurs first. The applicable appointing 845
authority may remove a member from the committee for failure to 846
attend two consecutive meetings without showing good cause for the 847
absences. 848

(C) The technical advisory committee annually shall select 849
from among its members a chairperson and a vice-chairperson ~~and a~~ 850
The secretary ~~to~~ shall keep a record of its proceedings. A 851
majority vote of the members of the full committee is necessary to 852
take action on any matter. The committee may adopt bylaws 853
governing its operation, including bylaws that establish the 854
frequency of meetings. 855

(D) Serving as a member of the sewage treatment system 856
technical advisory committee does not constitute holding a public 857
office or position of employment under the laws of this state and 858
does not constitute grounds for removal of public officers or 859
employees from their offices or positions of employment. Members 860
of the committee shall serve without compensation for attending 861
committee meetings. 862

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

(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~~ 894
~~list of available alternative systems and the estimated cost of~~ 895
~~each system.~~ 896

(G) The chairperson of the committee shall prepare and submit 897
an annual report concerning the activities of the committee to the 898
general assembly not later than ninety days after the end of the 899
calendar year. The report shall discuss the number of applications 900
submitted under section 3718.04 of the Revised Code for the 901
approval of a new sewage treatment system or a component of a 902
system, the number of such systems and components that were 903
approved, any information that the committee considers beneficial 904
to the general assembly, and any other information that the 905
chairperson determines is beneficial to the general assembly. If 906
other members of the committee determine that certain information 907
should be included in the report, they shall submit the 908
information to the chairperson not later than thirty days after 909
the end of the calendar year. 910

(H) The department shall provide meeting space for the 911
committee. The committee shall be assisted in its duties by the 912
staff of the department. 913

(I) Sections 101.82 to 101.87 of the Revised Code do not 914
apply to the sewage treatment system technical advisory committee. 915

Sec. 3718.04. (A) A manufacturer seeking approval for the 916
installation and use of a sewage treatment system or a component 917
of a system in this state that differs in design or function from 918
systems or components of systems the use of which is authorized in 919
rules adopted under section 3718.02 of the Revised Code shall 920
request an application form from the department of health. The 921
applicant shall complete the form and include with it all of the 922
information that is required by the department and the sewage 923
treatment system technical advisory committee. The applicant shall 924

submit a completed application and all required information to the 925
director of health. 926

(B) Upon receipt of an application, the director shall 927
examine the application and all accompanying information to 928
determine if the application is complete. If the director 929
determines that the application is not complete, the director 930
shall notify the applicant not later than ~~fourteen~~ sixty days 931
after ~~determining~~ submission of the application that the 932
application is not complete, provide a description of the 933
information that is missing from the application, and return the 934
application and all accompanying information to the applicant. The 935
applicant may resubmit the application to the director if the 936
application includes the information that was identified by the 937
director. Not later than ~~fourteen~~ thirty days after receipt of a 938
complete application, the director shall notify the committee of 939
the complete application and send a copy of the complete 940
application and all accompanying information to the committee 941
together with a request that the committee ~~advise~~ recommend that 942
the director ~~on the approval~~ approve or ~~disapproval of~~ disapprove 943
the system. 944

Not later than ninety days after receipt of a complete 945
application, the committee shall recommend approval or disapproval 946
of the application and submit its recommendation in writing to the 947
director. The director shall approve or disapprove the application 948
not later than sixty days after the committee submits its 949
recommendation to the director or, if the committee fails to 950
recommend approval or disapproval within the required time, not 951
later than one hundred twenty days after the submission of a 952
complete application. If the director fails to approve or 953
disapprove an application within the required time, the 954
application shall be deemed approved. 955

(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 with those standards ~~and~~, guidelines, and protocols. If the committee ~~advises~~ recommends approval or disapproval of an application, the director ~~concerning the application, the director~~ shall consider the advice committee's recommendation before approving or disapproving the application. ~~However, if~~ If the committee fails to provide advice or if the committee fails to ~~provide advice within a reasonable period of time before the director is required to approve or disapprove the application~~ recommend approval or disapproval of the application within the required time, the director may approve or disapprove the application without considering the advice of the committee. ~~Not later than ninety days after receipt of a complete application, the director shall approve or disapprove the application in writing. If the director fails to approve or disapprove the application within that ninety day period, the application shall be deemed approved~~ The director shall establish and include any appropriate terms and conditions with the approval of a sewage treatment system or component of a system for use in this state. For purposes of establishing soil absorption specifications for a sewage treatment system, the terms and conditions shall include standards regarding the sizing of the system.

(D) If the director approves an application under this section, the director shall notify the applicant in writing. The director also shall notify boards of health in accordance with the procedures established in rules adopted under section 3718.02 of the Revised Code that the sewage treatment system or component of a system that is the subject of the application is approved for statewide use. If the director disapproves an application under this section, the director shall notify the applicant in writing

and provide a brief explanation for the disapproval. 989

(E) Decisions of the director approving or disapproving 990
applications under this section may be appealed in accordance with 991
Chapter 119. of the Revised Code. 992

(F) No approval shall be required under this section with 993
respect to a sewage treatment system or component of a system that 994
has been approved by the director prior to the effective date of 995
this amendment unless the manufacturer of the system or component 996
changes the design or seeks modifications to any terms and 997
conditions of the prior approval. 998

(G) The director may revoke the approval of a sewage 999
treatment system or component of a system if the director finds, 1000
based on substantial evidence, that the system or component fails 1001
to comply with applicable standards for the system or component. 1002
The revocation of an approval under this division may be appealed 1003
in accordance with Chapter 119. of the Revised Code. 1004

Sec. 3718.041. An installer or manufacturer of a sewage 1005
treatment system or component of a system the use of which has 1006
been authorized in rules adopted under section 3718.02 of the 1007
Revised Code may request from the director of health a written 1008
statement acknowledging that the system or component of a system 1009
is approved for use in this state and that the approval is 1010
equivalent in all respects to the approval of a system or 1011
component of a system under section 3718.04 of the Revised Code. 1012
The director may approve or deny such a request as the director 1013
determines appropriate. 1014

Sec. 3718.05. The director of health shall do all of the 1015
following: 1016

(A) Administer and enforce this chapter and the rules of the 1017
public health council adopted under it; 1018

(B) Examine records of boards of health, in accordance with 1019
rules adopted by the council, that are determined necessary to 1020
ascertain compliance with this chapter and rules adopted under it; 1021

(C) Review and approve or disapprove rules proposed by boards 1022
of health under division (B) of section 3718.02 of the Revised 1023
Code. The director shall not disapprove a proposed rule unless the 1024
director determines that the proposed rule conflicts with this 1025
chapter or rules adopted under section 3718.02 of the Revised Code 1026
by the public health council or fails to promote public health or 1027
environmental protection. If the director disapproves a proposed 1028
rule, the director shall provide a written explanation of the 1029
director's disapproval to the board of health that proposed the 1030
rule. 1031

(D) Survey boards of health as required by section 3718.07 of 1032
the Revised Code; 1033

(E) Develop with the sewage treatment system technical 1034
advisory committee standards ~~and~~, guidelines, and protocols for 1035
use by the director in approving or disapproving a sewage 1036
treatment system under section 3718.04 of the Revised Code and an 1037
application form for use by applicants for that approval, 1038
including identification of the information that must be included 1039
with the form; 1040

(F) Provide instructions on the operation and maintenance of 1041
a sewage treatment system. The director shall provide the 1042
operation and maintenance instructions on the department of 1043
health's web site. In addition, the director shall provide a copy 1044
of the operation and maintenance instructions when the director 1045
receives a written request for the instructions. 1046

(G) Develop educational programs, in conjunction with boards 1047
of health, to educate owners of sewage treatment systems regarding 1048
the proper operation and maintenance of those systems. 1049

Sec. 3718.06. (A)(1) A board of health shall establish fees 1050
in accordance with section 3709.09 of the Revised Code for the 1051
purpose of carrying out its duties under this chapter and rules 1052
adopted under it, including ~~a fee~~ fees for ~~an~~ installation ~~permit~~ 1053
permits, operation permits, and alteration permits issued by the 1054
board. All fees so established and collected by the board shall be 1055
deposited in a special fund of the district to be used exclusively 1056
by the board in carrying out those duties. 1057

(2) In accordance with Chapter 119. of the Revised Code, the 1058
public health council may establish by rule a fee to be collected 1059
from applicants for installation permits and alteration permits 1060
issued under rules adopted under this chapter. The director of 1061
health shall use not more than seventy-five per cent of the 1062
proceeds from that fee for administering and enforcing this 1063
chapter and the rules adopted under it by the council. The 1064
director shall use not less than twenty-five per cent of the 1065
proceeds from that fee to establish a program in cooperation with 1066
boards of health to fund installation and evaluation of sewage 1067
treatment system new technology pilot projects through grants or 1068
other agreements. In the selection of pilot projects, the director 1069
shall consult with the sewage treatment system technical advisory 1070
committee. A board of health shall collect and transmit the fee- 1071
to the director pursuant to section 3709.092 of the Revised Code. 1072
~~The director shall use the money so credited solely for the~~ 1073
~~administration and enforcement of this chapter and the rules~~ 1074
~~adopted under it by the public health council.~~ 1075

(B) The director may submit recommendations to the public 1076
health council regarding the amount of the fee collected under 1077
division (A)(2) of this section for installation and alteration 1078
permits. When making the recommendations, the director shall 1079
submit a report stating the current and projected expenses of 1080
administering and enforcing this chapter and the rules adopted 1081

under it ~~by the council~~ and of the sewage treatment system new 1082
technology pilot projects program established under this section 1083
and the total of all money that has been deposited to the credit 1084
of the general operations fund under division (A)(2) of this 1085
section. The director may include in the report any 1086
recommendations for modifying the requirements established under 1087
this chapter and the rules adopted under it by the council. 1088

Sec. 3718.09. (A) A board of health may issue, modify, 1089
suspend, or revoke enforcement orders to a registration or permit 1090
holder or other person directing the holder or person to abate a 1091
violation of this chapter, any rule adopted or order issued under 1092
it, or a condition of a registration or permit issued under it 1093
within a specified, reasonable time. If an order issued under this 1094
division is neglected or disregarded, the applicable board of 1095
health may proceed in accordance with section 3707.02 of the 1096
Revised Code. 1097

(B) The health commissioner or the commissioner's designated 1098
representative, without prior notice or hearing and in accordance 1099
with the rules of the public health council, may issue an 1100
emergency order requiring any action necessary to meet a public 1101
health emergency or to prevent or abate an imminent and 1102
substantial threat to surface water or ground water regarding 1103
domestic septage management or regarding a sewage treatment system 1104
that is being operated in a manner that does not comply with this 1105
chapter or rules adopted under it. A person to whom such an 1106
emergency order is issued immediately shall comply with the order. 1107
A person so ordered may apply to the issuer of the order for a 1108
hearing, which shall be held as soon as possible, but not later 1109
than twenty days after the issuer's receipt of the application for 1110
a hearing. 1111

Sec. 3718.11. (A) A property owner may request a hearing with 1112

the board of health for any reason described in division (A)(19) 1113
of section 3718.02 of the Revised Code. A property owner may 1114
appeal the results of the hearing to either of the following: 1115

(1) The court of common pleas of the county in which the 1116
property owner's land is located; 1117

(2) A sewage treatment system appeals board that is 1118
established in accordance with this section. 1119

(B) A property owner that wishes to appeal to a sewage 1120
treatment system appeals board shall file the appeal with the 1121
board of health within whose jurisdiction the property owner's 1122
land is located. Upon receipt of a filing, the board of health 1123
shall send the filing of the appeal to the chairperson of the 1124
sewage treatment system appeals board for the county in which the 1125
board of health has jurisdiction. 1126

(C)(1) Not later than ninety days after the effective date of 1127
this section, a sewage treatment system appeals board shall be 1128
appointed for each county as follows: 1129

(a) One member shall be appointed by the health commissioner 1130
of the general health district having jurisdiction in the county. 1131

(b) One member shall be appointed by the judge of the probate 1132
court of the county having the longest continuous service as a 1133
judge of the probate court. 1134

(c) One member shall be appointed by the director of health. 1135

(2) Terms of appointment to a sewage treatment system appeals 1136
board shall be for two years. Members may be reappointed. 1137
Vacancies shall be filled in the same manner as provided for 1138
original appointments. Any member appointed to fill a vacancy 1139
occurring prior to the expiration of the term for which the member 1140
was appointed shall hold office for the remainder of that term. 1141

(3) The person appointed by the judge of the probate court 1142

shall serve as chairperson of the board. A majority vote of the 1143
members of the board is necessary to take action on any matter. 1144
The chairperson of the board shall designate the time and location 1145
for a hearing before the board. Members of the board shall serve 1146
without compensation. 1147

(4) A board of health shall send an appeal that has been 1148
filed with the board of health under division (B) of this section 1149
to the sewage treatment system appeals board immediately after the 1150
appeal has been filed. Not later than forty-five days after a 1151
hearing before a sewage treatment system appeals board, the board 1152
shall issue a written decision concerning an appeal before the 1153
board. 1154

(5) The judge of the probate court who made an appointment to 1155
the board under this section shall establish due process 1156
procedures to be used by the applicable sewage treatment system 1157
appeals board appointed under this section for the purpose of 1158
hearing appeals regarding orders and decisions of a board of 1159
health. All appeals before the applicable sewage treatment system 1160
appeals board shall be conducted in accordance with those 1161
procedures. The procedures may include filing fees applicable to 1162
appeals conducted by the sewage treatment system appeals board. 1163

(D) An appeal before a sewage treatment system appeals board 1164
is final, and no further appeal may be taken. 1165

Sec. 6117.51. If the board of health of the health district 1166
within which a new public sewer construction project is proposed 1167
or located passes a resolution stating that the reason for the 1168
project is to reduce or eliminate an existing health problem or a 1169
hazard of water pollution, the board of county commissioners of 1170
the county, by resolution, may order the owner of any premises 1171
located in a sewer district in the county, the owner's agent, 1172
lessee, or tenant, or any other occupant of the premises to 1173

connect the premises to the sewer for the purpose of discharging 1174
sewage or other waste that the board determines is originating on 1175
the premises, to make use of the connection, and to cease the 1176
discharge of the sewage or other waste into a cesspool, ditch, 1177
private sewer, privy, septic tank, semipublic disposal system as 1178
defined in division (B)(1)(a) of section 3709.085 of the Revised 1179
Code, or other outlet if the board finds that the sewer is 1180
available for use and is accessible to the premises following a 1181
determination and certification to the board by a registered 1182
professional engineer designated by it as to the availability and 1183
accessibility of the sewer. This section does not apply to any of 1184
the following: 1185

(A) Any discharge authorized by a permit issued under 1186
division (J) of section 6111.03 of the Revised Code other than a 1187
discharge to or from a semipublic disposal system as defined in 1188
division (B)(1)(a) of section 3709.085 of the Revised Code; 1189

(B) Wastes resulting from the keeping of animals; 1190

(C) Any premises that are not served by a common sewage 1191
collection system when the foundation wall of the structure from 1192
which sewage or other waste originates is more than ~~two~~ three 1193
hundred feet from the nearest boundary of the right-of-way within 1194
which the sewer is located; 1195

(D) Any premises that are served by a common sewage 1196
collection system when both the foundation wall of the structure 1197
from which the sewage or other waste originates and the common 1198
sewage collection system are more than ~~two~~ three hundred feet from 1199
the nearest boundary of the right-of-way within which the public 1200
sewer is located; 1201

(E) Any dwelling house located on property that is listed on 1202
the county's agricultural land tax list as being valued for tax 1203
purposes as land devoted exclusively to agricultural use under 1204

section 5713.31 of the Revised Code, when the foundation wall of 1205
the dwelling house is ~~two~~ three hundred feet or less from the 1206
nearest boundary of the right-of-way within which the sewer is 1207
located, if both of the following also apply: 1208

(1) The sewer right-of-way for the property on which the 1209
dwelling house is located was obtained by appropriation due to a 1210
public exigency pursuant to division (B) of section 307.08, 1211
6101.181, 6115.211, 6117.39, or 6119.11 of the Revised Code. 1212

(2) The local health department has certified that the 1213
~~household~~ sewage disposal system is functioning properly. 1214

The board shall not direct an order under this section to a 1215
resident tenant unless it determines that the terms of the tenancy 1216
are such that the owner lacks sufficient rights of access to 1217
permit the owner to comply with the terms of the order. 1218

An owner, agent, lessee, tenant, or occupant shall comply 1219
with the order of the board within ninety days after the 1220
completion of service of the order upon that person as provided in 1221
this section. The board, upon written application filed prior to 1222
the expiration of the ninety-day period, may waive compliance with 1223
any order either temporarily or permanently and conditionally or 1224
unconditionally. 1225

In its resolution, the board shall direct its clerk, or the 1226
clerk's designee, to serve its order upon the owner, agent, 1227
lessee, tenant, or occupant. Service of the order shall be made 1228
personally, by leaving the order at the usual place of residence 1229
with a person of suitable age and discretion then residing 1230
therein, or by certified mail addressed to the owner, agent, 1231
lessee, tenant, or occupant at that person's last known address or 1232
to the address to which tax bills are sent. If it appears by the 1233
return of service or the return of the order forwarded by 1234
certified mail that the owner, agent, lessee, tenant, or occupant 1235

cannot be found, that person shall be served by publication of the 1236
order once in a newspaper of general circulation within the 1237
county, or if that person refuses service, that person shall be 1238
served by ordinary mail addressed to that person's last known 1239
address or to the address to which tax bills are sent. The return 1240
of the person serving the order or a certified copy of the return, 1241
or a returned receipt for the order forwarded by certified mail 1242
accepted by the addressee or anyone purporting to act for the 1243
addressee, is prima-facie evidence of the service of the order 1244
under this section. The return of the person attempting to serve 1245
the order, or the return to the sender of the order forwarded by 1246
certified mail with an indication on the return of the refusal of 1247
the addressee to accept delivery, is prima-facie evidence of the 1248
refusal of service. 1249

No owner, agent, lessee, tenant, or occupant shall violate an 1250
order issued under this section. Upon request of the board, the 1251
prosecuting attorney shall prosecute in a court of competent 1252
jurisdiction any owner, agent, lessee, tenant, or occupant who 1253
violates an order issued under this section. Each day that a 1254
violation continues after conviction for the violation of an order 1255
issued under this section and the final determination thereof is a 1256
separate offense. The court, for good cause shown, may grant a 1257
reasonable additional period of time for compliance after 1258
conviction. 1259

Any owner, agent, lessee, tenant, or occupant violating an 1260
order issued under this section also may be enjoined from 1261
continuing in violation. Upon request of the board, the 1262
prosecuting attorney shall bring an action in a court of competent 1263
jurisdiction for an injunction against the owner, agent, lessee, 1264
tenant, or occupant violating an order. 1265

The Ohio water development authority created under section 1266
6121.02 of the Revised Code, in addition to its other powers, has 1267

the same power and shall be governed by the same procedures in a 1268
waste water facilities service area, or in any area adjacent to a 1269
public sewer operated by the authority, as a board of county 1270
commissioners in a county sewer district under this section, 1271
except that the authority shall act by order, and the attorney 1272
general, upon request of the authority, shall prosecute any person 1273
who violates an order of the authority issued under this section. 1274

Section 2. That existing sections 711.05, 711.10, 3718.01, 1275
3718.02, 3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 6117.51 1276
of the Revised Code are hereby repealed. 1277

Section 3. Notwithstanding any provision of law to the 1278
contrary, Chapter 3701-29 of the Ohio Administrative Code adopted 1279
pursuant to Section 120.02 of Am. Sub. H.B. 119 of the 127th 1280
General Assembly, as amended by Am. Sub. H.B. 1 and Sub. H.B. 363 1281
of the 128th General Assembly, shall remain in effect as it exists 1282
on the effective date of this act until it is superseded by the 1283
rules that are required to be adopted under section 3718.02 of the 1284
Revised Code as amended by this act. The rules that are required 1285
to be adopted under that section as amended by this act shall not 1286
take effect prior to January 1, 2012. 1287

Section 4. Not later than thirty days after the effective 1288
date of this section, the Governor, President of the Senate, and 1289
Speaker of the House of Representatives shall appoint the new 1290
members to the Sewage Treatment System Technical Advisory 1291
Committee that are required to be appointed under section 3718.03 1292
of the Revised Code as amended by this act. 1293

The Governor shall appoint the person representing a 1294
statewide organization representing townships for an initial term 1295
of one year. 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

The President of the Senate shall appoint the person who is 1299
required to have demonstrated experience in the design of 1300
household sewage treatment systems for an initial term of two 1301
years. Thereafter, the person appointed to that position shall be 1302
appointed to a three-year term as required by section 3718.03 of 1303
the Revised Code. 1304

The Speaker of the House of Representatives shall appoint the 1305
person that is required to be a registered professional engineer 1306
with experience in sewage treatment systems for an initial term of 1307
three years. Thereafter, the person appointed to that position 1308
shall be appointed to a three-year term as required by section 1309
3718.03 of the Revised Code. 1310

Section 5. That Section 3 of Am. H.B. 416 of the 127th 1311
General Assembly be amended to read as follows: 1312

Sec. 3. (A) Not later than three months after the effective 1313
date of this section, the Director of Natural Resources shall 1314
convene an advisory board consisting of the following persons with 1315
an interest in the Great Lakes-St. Lawrence River Basin Water 1316
Resources Compact: 1317

(1) The Director of Natural Resources or the Director's 1318
designee, who shall serve as chairperson of the advisory board; 1319

(2) The Director of Environmental Protection or the 1320
Director's designee; 1321

(3) The Director of Development or the Director's designee; 1322

(4) The following members appointed by the Governor: 1323

(a) One water quality expert from the faculty or staff of an 1324
Ohio college or university; 1325

(b) One representative of a statewide environmental advocacy 1326

organization;	1327
(c) One representative of a local environmental advocacy organization in the Lake Erie Basin;	1328
(d) One representative of a sustainable economic development organization in the Lake Erie Basin;	1330
(e) One representative of the travel and tourism industry;	1332
(f) One representative of the electric utility industry;	1333
(g) One representative of a county government in the Lake Erie Basin.	1334
(5) The following members appointed by the President of the Senate:	1336
(a) Two members of the Senate who shall not be members of the same political party;	1337
(b) One representative of the bottled water industry;	1338
(c) One representative of a statewide land conservation advocacy organization;	1339
(d) One representative of agricultural interests in the Lake Erie Basin;	1340
(e) One representative of the aggregates industry;	1341
(f) One representative of the pulp and paper industry;	1342
(g) One representative of a large manufacturer with a facility located within the Lake Erie Basin;	1343
(h) One member of the public.	1344
(6) The following members appointed by the Speaker of the House of Representatives:	1349
(a) Two members of the House of Representatives who shall not be members of the same political party;	1350
(b) One representative of a municipal government in the Lake	1351

Erie Basin;	1355
(c) One expert in hydrogeology from the faculty or staff of an Ohio college or university;	1356 1357
(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;	1358 1359 1360 1361
(e) One representative of a fish and wildlife advocacy organization;	1362 1363
(f) One representative of residential developers;	1364
(g) One representative of the chemical industry;	1365
(h) One representative of the petroleum industry with a facility located within the Lake Erie Basin.	1366 1367
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.	1368 1369 1370 1371 1372 1373 1374
(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:	1375 1376 1377 1378 1379 1380
(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:	1381 1382 1383 1384

(a) The number of withdrawals that will be regulated;	1385
(b) The relative impact of those withdrawals;	1386
(c) The practicality of regulating those withdrawals;	1387
(d) The alternatives that are available in the establishment	1388
of a permitting program in order to meet the water management	1389
objectives of this state.	1390
(2) The establishment of requirements regarding the review of	1391
lists of existing water users in the portion of the Great	1392
Lakes-St. Lawrence River Basin that is in this state;	1393
(3) The establishment of a process for use by persons that	1394
wish to appeal their inclusion in the list of existing water	1395
users;	1396
(4) The establishment of conservation objectives with respect	1397
to the Great Lakes-St. Lawrence River Basin Water Resources	1398
Compact and the development of the state's water conservation and	1399
efficiency programs;	1400
(5) The method for determining the capacity of existing	1401
facilities as required in Section 4.12.2 of the Great Lakes-St.	1402
Lawrence River Basin Water Resources Compact.	1403
(C) The advisory board shall present its final	1404
recommendations to the Governor and the General Assembly not later	1405
than eighteen months after the effective date of this section	1406
<u>December 15, 2010</u> . It is the intent of the General Assembly that	1407
the recommendations of the advisory board will represent a	1408
consensus of the board's members regarding the issues presented to	1409
and discussed by the board. However, if a consensus cannot be	1410
reached on any or all of the issues before the board, one or more	1411
minority opinions may accompany the recommendations of the board.	1412
(D) Upon submission of its recommendations under division (C)	1413
of this section, the advisory board shall cease to exist.	1414

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

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