

**As Reported by the Senate Environment and Natural Resources  
Committee**

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

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

**Senator Niehaus**

**—**

**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

<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
<del>(C)</del> (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
<del>(D)</del> (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
<del>(E)</del> (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 <del>functioning</del> <u>design, installation, and operation</u> of a sewage	232
treatment system.	233
<del>(F)</del> (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
<del>(G)</del> (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
<u>the treatment or dispersal of sewage in the soil of a property</u>	239
<u>where a household sewage treatment system is located.</u>	240



(K) "Manufacturer" means any person that manufactures sewage treatment systems or components of systems. 241  
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. The rules shall provide that a 590  
property owner that is required under rules to connect to a 591  
municipal central sewer system not be required to submit to 592  
annexation by the municipal corporation as a condition of 593  
connecting to the municipal central sewer system. However, if, on 594  
or before July 1, 2010, a municipal corporation has entered into a 595  
sewer service agreement with a sewer service provider and the 596  
agreement requires annexation as a condition for allowing 597  
connection to a municipal central sewer system, a property owner 598  
may be required to submit to annexation by the municipal 599  
corporation as a condition for connecting to the municipal central 600  
sewer system. 601

A board of health shall not require the connection to a 602  
central sewer system under rules adopted under division (A)(16) of 603  
this section if a board of county commissioners has adopted a 604  
resolution requiring connection under section 6117.51 of the 605  
Revised Code. 606

(17) Prescribe standards for the inspection of septage 607  
hauling truck tanks by boards of health, including, but not 608  
limited to, tank seal safety specifications; 609

(18) Establish standards and testing methods to ensure that 610  
all septic tanks, other disposal component tanks, dosing tanks, 611  
pump vaults, household sewage treatment disposal system holding 612  
tanks and privy vaults, or other applicable sewage disposal system 613  
components manufactured after the effective date of this section 614  
and used in this state are watertight and structurally sound; 615

(19) Require a board of health to give notice and an 616  
opportunity for a hearing, pursuant to section 3718.11 of the 617  
Revised Code, to an affected property owner regarding any of the 618  
following: 619

(a) The denial of an installation, operation, or alteration 620  
permit for a sewage treatment system; 621

(b) The imposition of a condition on the installation of a 622  
sewage treatment system; 623

(c) The required replacement of a sewage treatment system; 624

(d) Any other final order or decision of a board of health 625  
that is made under this chapter concerning which a property owner 626  
is claiming to be aggrieved or adversely affected. 627

The rules also shall establish procedures for giving such 628  
notice and for conducting the hearing required in rules adopted 629  
under division (A)(19) of this section. 630

(20) Prescribe standards for the regulation of gray water 631  
recycling systems; 632

(21) Prohibit a sewage treatment system from causing a public 633  
health nuisance; 634

(22) Define economic impact for purposes of division (B) of 635  
this section and section 3718.022 of the Revised Code. 636

The council may adopt other rules under division (A) of this 637  
section that it determines are necessary to implement this chapter 638  
and to protect the public health and welfare. 639

At least sixty days prior to adopting a rule under division 640  
(A) of this section, the council shall provide boards of health 641  
and any other interested parties an opportunity to comment on the 642  
rule. 643

(B)(1) In accordance with section 3709.20 or 3709.21 of the 644  
Revised Code, as applicable, and subject to review by and approval 645

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

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

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

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

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

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

(d) Unless otherwise authorized by this chapter or rules  
adopted under it, the proposed rule does not require design  
changes to a sewage treatment system, or component thereof, that  
differ from a design authorized in rules adopted under division

(A) of this section, including rules adopted under division (A)(1) 677  
or (A)(3)(a)(iii) or (iv) of this section, or approved by the 678  
director under section 3718.04 of the Revised Code. 679

(e) The proposed rule does not require operation or 680  
maintenance procedures for a sewage treatment system that conflict 681  
with operation or maintenance procedures authorized in rules 682  
adopted under division (A) of this section, including rules 683  
adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this 684  
section, or approved by the director under section 3718.04 of the 685  
Revised Code. 686

(4) If a board of health fails to submit a proposed rule to 687  
the director or fails to demonstrate that the board has considered 688  
the economic impact of the proposed rule, the rule shall have no 689  
force or effect and is not enforceable. 690

**Sec. 3718.023.** (A) In accordance with rules adopted under 691  
division (A) of section 3718.02 of the Revised Code, a board of 692  
health shall approve or deny the installation, operation, or 693  
alteration of sewage treatment systems the use of which has been 694  
authorized in those rules or that have been approved for use in 695  
this state by the director of health under section 3718.04 of the 696  
Revised Code. The board shall approve an installation, operation, 697  
or alteration only in the health district in which the board has 698  
jurisdiction. A board shall approve the installation, operation, 699  
or alteration of a sewage treatment system through the issuance of 700  
a permit in accordance with rules adopted under section 3718.02 of 701  
the Revised Code. A board shall not approve the installation, 702  
operation, or alteration of a sewage treatment system if the 703  
installation, operation, or alteration is not appropriate for the 704  
site at which the use of the system is or is proposed to be 705  
located. In determining whether to approve or disapprove the 706  
installation, operation, or alteration of a sewage treatment 707

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

The board shall permit a property owner to select a sewage 718  
treatment system for use by the property owner from those systems 719  
that have been approved for use in the state, from the least 720  
expensive system to the most expensive system, and a property 721  
owner may select any such system regardless of its cost, provided 722  
that the system selected will comply with all applicable 723  
requirements and standards established under this chapter and 724  
rules adopted under it. 725

(B) A board of health shall ensure that the design and 726  
installation of a soil absorption system prevents public health 727  
nuisances. In addition, a board of health shall ensure that a 728  
sewage treatment system that is installed after the effective date 729  
of this section shall not discharge into a ditch, stream, pond, 730  
lake, natural or artificial waterway, drain tile, or other surface 731  
water or onto the surface of the ground unless authorized by a 732  
national pollutant discharge elimination system permit issued 733  
under Chapter 6111. of the Revised Code and rules adopted under 734  
it. In addition, a board shall ensure that a sewage treatment 735  
system shall not discharge into an abandoned well, a drainage 736  
well, a dry well, a cesspool, a sinkhole, or another connection to 737  
ground water. If a household sewage treatment system serving a 738  
two- or three-family dwelling or a small flow on-site sewage 739



treatment system is classified as a class V injection well, a 740  
board of health shall ensure that the system complies with rules 741  
adopted under section 6111.043 of the Revised Code and with 742  
Chapter 3745-34 of the Administrative Code. 743

(C) For purposes of the approval or denial of the 744  
installation, operation, or alteration of a sewage treatment 745  
system under this section, "economic impact" means all of the 746  
following, as applicable: 747

(1) The cost to the property owner for the installation of 748  
the proposed sewage treatment system, including the cost of 749  
progressive or incremental installation of the system; 750

(2) The cost of an alternative system, including the cost of 751  
progressive or incremental installation of the system, that, when 752  
installed and maintained properly, will not create a public health 753  
nuisance compared to the proposed sewage treatment system; 754

(3) The costs of repairing the sewage treatment system, 755  
including the cost of progressive or incremental repairs, as 756  
opposed to replacing the system with a new system. 757

(D) An application for an installation permit that is 758  
accepted by a board of health prior to January 1, 2012, shall be 759  
valid for three years from the date of the submission of the 760  
complete application and the accompanying application fee. 761

(E) An installation permit issued by a board of health prior 762  
to January 1, 2012, shall be valid until January 1, 2013, unless 763  
extended by a board of health for not more than an additional six 764  
months. 765

**Sec. 3718.024.** The director of health in cooperation with a 766  
board of health shall assess the familiarity of the board's staff 767  
with best management practices in the use of sewage treatment 768  
systems, as necessary, and conduct appropriate training to educate 769

the board's staff in those best management practices and in the 770  
use of any new sewage treatment system technology that is 771  
recommended for use by the sewage treatment system technical 772  
advisory committee created in section 3718.03 of the Revised Code. 773

**Sec. 3718.025.** The environmental protection agency shall not 774  
require a board of health to enter into a memorandum of 775  
understanding or any other agreement with the agency regarding the 776  
issuance of national pollutant discharge elimination system 777  
permits for off-lot household sewage treatment systems. Rather, a 778  
representative of a board of health may meet with a person who 779  
intends to install such a system to determine the feasibility of 780  
the system and refer the person to the agency to secure a national 781  
pollutant discharge elimination system permit for the system if 782  
needed. The environmental protection agency shall make revisions 783  
to any applicable general national pollutant discharge elimination 784  
system permits, issued pursuant to the federal Water Pollution 785  
Control Act as defined in section 6111.01 of the Revised Code, so 786  
that such a memorandum of understanding is not required. A board 787  
of health voluntarily may enter into a memorandum of understanding 788  
with the environmental protection agency to implement a general 789  
national pollutant discharge elimination system permit. The agency 790  
shall work with boards of health to facilitate securing national 791  
pollutant discharge elimination system permits on behalf of 792  
property owners in counties without a memorandum of understanding. 793

**Sec. 3718.03.** (A) There is hereby created the sewage 794  
treatment system technical advisory committee consisting of the 795  
director of health or the director's designee and ~~ten~~ thirteen 796  
members who are knowledgeable about sewage treatment systems and 797  
technologies. The director or the director's designee shall serve 798  
as committee secretary and may vote on actions taken by the 799  
committee. Of the ~~ten~~ thirteen members, ~~four~~ five shall be 800

appointed by the governor, ~~three~~ four shall be appointed by the 801  
president of the senate, and ~~three~~ four shall be appointed by the 802  
speaker of the house of representatives. 803

(1) Of the members appointed by the governor, one shall 804  
represent academia and shall be active in teaching or research in 805  
the area of on-site wastewater treatment, one shall be a 806  
representative of the public who is not employed by the state or 807  
any of its political subdivisions and who does not have a 808  
pecuniary interest in ~~household~~ sewage treatment systems, one 809  
shall be ~~an~~ a registered professional engineer ~~from~~ employed by 810  
the environmental protection agency, ~~and~~ one shall be selected 811  
from among soil scientists in the division of soil and water 812  
resources in the department of natural resources, and one shall be 813  
a representative of a statewide organization representing 814  
townships. 815

(2) Of the members appointed by the president of the senate, 816  
one shall be a health commissioner who is a member of and 817  
recommended by the association of Ohio health commissioners, one 818  
shall represent the interests of manufacturers of ~~household~~ sewage 819  
treatment systems, ~~and~~ one shall represent installers and service 820  
providers, and one shall be a person with demonstrated experience 821  
in the design of sewage treatment systems. 822

(3) Of the members appointed by the speaker of the house of 823  
representatives, one shall be a health commissioner who is a 824  
member of and recommended by the association of Ohio health 825  
commissioners, one shall represent the interests of manufacturers 826  
of ~~household~~ sewage treatment systems, ~~and~~ one shall be a 827  
sanitarian who is registered under Chapter 4736. of the Revised 828  
Code and who is a member of the Ohio environmental health 829  
association, and one shall be a registered professional engineer 830  
with experience in sewage treatment systems. 831

(B) Terms of members appointed to the committee shall be for 832

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

Members may be reappointed. Vacancies shall be filled in the 837  
same manner as provided for original appointments. Any member 838  
appointed to fill a vacancy occurring prior to the expiration date 839  
of the term for which the member was appointed shall hold office 840  
for the remainder of that term. A member shall continue to serve 841  
after the expiration date of the member's term until the member's 842  
successor is appointed or until a period of sixty days has 843  
elapsed, whichever occurs first. The applicable appointing 844  
authority may remove a member from the committee for failure to 845  
attend two consecutive meetings without showing good cause for the 846  
absences. 847

(C) The technical advisory committee annually shall select 848  
from among its members a chairperson and a vice-chairperson ~~and a~~. 849  
The secretary ~~to~~ shall keep a record of its proceedings. A 850  
majority vote of the members of the full committee is necessary to 851  
take action on any matter. The committee may adopt bylaws 852  
governing its operation, including bylaws that establish the 853  
frequency of meetings. 854

(D) Serving as a member of the sewage treatment system 855  
technical advisory committee does not constitute holding a public 856  
office or position of employment under the laws of this state and 857  
does not constitute grounds for removal of public officers or 858  
employees from their offices or positions of employment. Members 859  
of the committee shall serve without compensation for attending 860  
committee meetings. 861

(E) A member of the committee shall not have a conflict of 862  
interest with the position. For the purposes of this division, 863  
"conflict of interest" means the taking of any action that 864

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  
list of available alternative systems and the estimated cost of  
each system.~~

(G) The chairperson of the committee shall prepare and submit 896  
an annual report concerning the activities of the committee to the 897  
general assembly not later than ninety days after the end of the 898  
calendar year. The report shall discuss the number of applications 899  
submitted under section 3718.04 of the Revised Code for the 900  
approval of a new sewage treatment system or a component of a 901  
system, the number of such systems and components that were 902  
approved, any information that the committee considers beneficial 903  
to the general assembly, and any other information that the 904  
chairperson determines is beneficial to the general assembly. If 905  
other members of the committee determine that certain information 906  
should be included in the report, they shall submit the 907  
information to the chairperson not later than thirty days after 908  
the end of the calendar year. 909

(H) The department shall provide meeting space for the 910  
committee. The committee shall be assisted in its duties by the 911  
staff of the department. 912

(I) Sections 101.82 to 101.87 of the Revised Code do not 913  
apply to the sewage treatment system technical advisory committee. 914

**Sec. 3718.04.** (A) A manufacturer seeking approval for the 915  
installation and use of a sewage treatment system or a component 916  
of a system in this state that differs in design or function from 917  
systems or components of systems the use of which is authorized in 918  
rules adopted under section 3718.02 of the Revised Code shall 919  
request an application form from the department of health. The 920  
applicant shall complete the form and include with it all of the 921  
information that is required by the department and the sewage 922  
treatment system technical advisory committee. The applicant shall 923  
submit a completed application and all required information to the 924  
director of health. 925

(B) Upon receipt of an application, the director shall 926

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

Not later than ninety days after receipt of a complete 944  
application, the committee shall recommend approval or disapproval 945  
of the application and submit its recommendation in writing to the 946  
director. The director shall approve or disapprove the application 947  
not later than sixty days after the committee submits its 948  
recommendation to the director or, if the committee fails to 949  
recommend approval or disapproval within the required time, not 950  
later than one hundred twenty days after the submission of a 951  
complete application. If the director fails to approve or 952  
disapprove an application within the required time, the 953  
application shall be deemed approved. 954

(C) In approving or disapproving an application, the director 955  
shall use the standards ~~and~~, guidelines, and protocols that the 956  
committee developed with the department for that purpose. The 957  
director shall not approve an application that fails to comply 958

with those standards ~~and~~, guidelines, and protocols. If the 959  
committee ~~advises~~ recommends approval or disapproval of an 960  
application, the director ~~concerning the application, the director~~ 961  
shall consider the ~~advice~~ committee's recommendation before 962  
approving or disapproving the application. ~~However, if~~ If the 963  
committee fails to provide advice or if the committee fails to 964  
~~provide advice within a reasonable period of time before the~~ 965  
~~director is required to approve or disapprove the application~~ 966  
recommend approval or disapproval of the application within the 967  
required time, the director may approve or disapprove the 968  
application without considering the advice of the committee. ~~Not~~ 969  
~~later than ninety days after receipt of a complete application,~~ 970  
~~the director shall approve or disapprove the application in~~ 971  
~~writing. If the director fails to approve or disapprove the~~ 972  
~~application within that ninety day period, the application shall~~ 973  
~~be deemed approved~~ The director shall establish and include any 974  
appropriate terms and conditions with the approval of a sewage 975  
treatment system or component of a system for use in this state. 976  
For purposes of establishing soil absorption specifications for a 977  
sewage treatment system, the terms and conditions shall include 978  
standards regarding the sizing of the system. 979

(D) If the director approves an application under this 980  
section, the director shall notify the applicant in writing. The 981  
director also shall notify boards of health in accordance with the 982  
procedures established in rules adopted under section 3718.02 of 983  
the Revised Code that the sewage treatment system or component of 984  
a system that is the subject of the application is approved for 985  
statewide use. If the director disapproves an application under 986  
this section, the director shall notify the applicant in writing 987  
and provide a brief explanation for the disapproval. 988

(E) Decisions of the director approving or disapproving 989  
applications under this section may be appealed in accordance with 990



Chapter 119. of the Revised Code. 991

(F) No approval shall be required under this section with 992  
respect to a sewage treatment system or component of a system that 993  
has been approved by the director prior to the effective date of 994  
this amendment unless the manufacturer of the system or component 995  
changes the design or seeks modifications to any terms and 996  
conditions of the prior approval. 997

(G) The director may revoke the approval of a sewage 998  
treatment system or component of a system if the director finds, 999  
based on substantial evidence, that the system or component fails 1000  
to comply with applicable standards for the system or component. 1001  
The revocation of an approval under this division may be appealed 1002  
in accordance with Chapter 119. of the Revised Code. 1003

**Sec. 3718.041.** An installer or manufacturer of a sewage 1004  
treatment system or component of a system the use of which has 1005  
been authorized in rules adopted under section 3718.02 of the 1006  
Revised Code may request from the director of health a written 1007  
statement acknowledging that the system or component of a system 1008  
is approved for use in this state and that the approval is 1009  
equivalent in all respects to the approval of a system or 1010  
component of a system under section 3718.04 of the Revised Code. 1011  
The director may approve or deny such a request as the director 1012  
determines appropriate. 1013

**Sec. 3718.05.** The director of health shall do all of the 1014  
following: 1015

(A) Administer and enforce this chapter and the rules of the 1016  
public health council adopted under it; 1017

(B) Examine records of boards of health, in accordance with 1018  
rules adopted by the council, that are determined necessary to 1019  
ascertain compliance with this chapter and rules adopted under it; 1020

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

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

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

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

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

**Sec. 3718.06.** (A)(1) A board of health shall establish fees in accordance with section 3709.09 of the Revised Code for the purpose of carrying out its duties under this chapter and rules

adopted under it, including ~~a fee~~ fees for ~~an~~ installation ~~permit~~ 1052  
permits, operation permits, and alteration permits issued by the 1053  
board. All fees so established and collected by the board shall be 1054  
deposited in a special fund of the district to be used exclusively 1055  
by the board in carrying out those duties. 1056

(2) In accordance with Chapter 119. of the Revised Code, the 1057  
public health council may establish by rule a fee to be collected 1058  
from applicants for installation permits and alteration permits 1059  
issued under rules adopted under this chapter. The director of 1060  
health shall use not more than seventy-five per cent of the 1061  
proceeds from that fee for administering and enforcing this 1062  
chapter and the rules adopted under it by the council. The 1063  
director shall use not less than twenty-five per cent of the 1064  
proceeds from that fee to establish a program in cooperation with 1065  
boards of health to fund installation and evaluation of sewage 1066  
treatment system new technology pilot projects through grants or 1067  
other agreements. In the selection of pilot projects, the director 1068  
shall consult with the sewage treatment system technical advisory 1069  
committee. A board of health shall collect and transmit the fee- 1070  
to the director pursuant to section 3709.092 of the Revised Code. 1071  
~~The director shall use the money so credited solely for the~~ 1072  
~~administration and enforcement of this chapter and the rules~~ 1073  
~~adopted under it by the public health council.~~ 1074

(B) The director may submit recommendations to the public 1075  
health council regarding the amount of the fee collected under 1076  
division (A)(2) of this section for installation and alteration 1077  
permits. When making the recommendations, the director shall 1078  
submit a report stating the current and projected expenses of 1079  
administering and enforcing this chapter and the rules adopted 1080  
under it ~~by the council~~ and of the sewage treatment system new 1081  
technology pilot projects program established under this section 1082  
and the total of all money that has been deposited to the credit 1083

of the general operations fund under division (A)(2) of this 1084  
section. The director may include in the report any 1085  
recommendations for modifying the requirements established under 1086  
this chapter and the rules adopted under it by the council. 1087

**Sec. 3718.09.** (A) A board of health may issue, modify, 1088  
suspend, or revoke enforcement orders to a registration or permit 1089  
holder or other person directing the holder or person to abate a 1090  
violation of this chapter, any rule adopted or order issued under 1091  
it, or a condition of a registration or permit issued under it 1092  
within a specified, reasonable time. If an order issued under this 1093  
division is neglected or disregarded, the applicable board of 1094  
health may proceed in accordance with section 3707.02 of the 1095  
Revised Code. 1096

(B) The health commissioner or the commissioner's designated 1097  
representative, without prior notice or hearing and in accordance 1098  
with the rules of the public health council, may issue an 1099  
emergency order requiring any action necessary to meet a public 1100  
health emergency or to prevent or abate an imminent and 1101  
substantial threat to surface water or ground water regarding 1102  
domestic septage management or regarding a sewage treatment system 1103  
that is being operated in a manner that does not comply with this 1104  
chapter or rules adopted under it. A person to whom such an 1105  
emergency order is issued immediately shall comply with the order. 1106  
A person so ordered may apply to the issuer of the order for a 1107  
hearing, which shall be held as soon as possible, but not later 1108  
than twenty days after the issuer's receipt of the application for 1109  
a hearing. 1110

**Sec. 3718.11.** (A) A property owner may request a hearing with 1111  
the board of health for any reason described in division (A)(19) 1112  
of section 3718.02 of the Revised Code. A property owner may 1113  
appeal the results of the hearing to either of the following: 1114

(1) The court of common pleas of the county in which the 1115  
property owner's land is located; 1116

(2) A sewage treatment system appeals board that is 1117  
established in accordance with this section. 1118

(B) A property owner that wishes to appeal to a sewage 1119  
treatment system appeals board shall file the appeal with the 1120  
board of health within whose jurisdiction the property owner's 1121  
land is located. Upon receipt of a filing, the board of health 1122  
shall send the filing of the appeal to the chairperson of the 1123  
sewage treatment system appeals board for the county in which the 1124  
board of health has jurisdiction. 1125

(C)(1) Not later than ninety days after the effective date of 1126  
this section, a sewage treatment system appeals board shall be 1127  
appointed for each county as follows: 1128

(a) One member shall be appointed by the health commissioner 1129  
of the general health district having jurisdiction in the county. 1130

(b) One member shall be appointed by the judge of the probate 1131  
court of the county having the longest continuous service as a 1132  
judge of the probate court. 1133

(c) One member shall be appointed by the director of health. 1134

(2) Terms of appointment to a sewage treatment system appeals 1135  
board shall be for two years. Members may be reappointed. 1136  
Vacancies shall be filled in the same manner as provided for 1137  
original appointments. Any member appointed to fill a vacancy 1138  
occurring prior to the expiration of the term for which the member 1139  
was appointed shall hold office for the remainder of that term. 1140

(3) The person appointed by the judge of the probate court 1141  
shall serve as chairperson of the board. A majority vote of the 1142  
members of the board is necessary to take action on any matter. 1143  
The chairperson of the board shall designate the time and location 1144

for a hearing before the board. Members of the board shall serve 1145  
without compensation. 1146

(4) A board of health shall send an appeal that has been 1147  
filed with the board of health under division (B) of this section 1148  
to the sewage treatment system appeals board immediately after the 1149  
appeal has been filed. Not later than forty-five days after a 1150  
hearing before a sewage treatment system appeals board, the board 1151  
shall issue a written decision concerning an appeal before the 1152  
board. 1153

(5) The judge of the probate court who made an appointment to 1154  
the board under this section shall establish due process 1155  
procedures to be used by the applicable sewage treatment system 1156  
appeals board appointed under this section for the purpose of 1157  
hearing appeals regarding orders and decisions of a board of 1158  
health. All appeals before the applicable sewage treatment system 1159  
appeals board shall be conducted in accordance with those 1160  
procedures. The procedures may include filing fees applicable to 1161  
appeals conducted by the sewage treatment system appeals board. 1162

(D) An appeal before a sewage treatment system appeals board 1163  
is final, and no further appeal may be taken. 1164

**Sec. 6117.51.** If the board of health of the health district 1165  
within which a new public sewer construction project is proposed 1166  
or located passes a resolution stating that the reason for the 1167  
project is to reduce or eliminate an existing health problem or a 1168  
hazard of water pollution, the board of county commissioners of 1169  
the county, by resolution, may order the owner of any premises 1170  
located in a sewer district in the county, the owner's agent, 1171  
lessee, or tenant, or any other occupant of the premises to 1172  
connect the premises to the sewer for the purpose of discharging 1173  
sewage or other waste that the board determines is originating on 1174  
the premises, to make use of the connection, and to cease the 1175

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

(A) Any discharge authorized by a permit issued under 1185  
division (J) of section 6111.03 of the Revised Code other than a 1186  
discharge to or from a semipublic disposal system as defined in 1187  
division (B)(1)(a) of section 3709.085 of the Revised Code; 1188

(B) Wastes resulting from the keeping of animals; 1189

(C) Any premises that are not served by a common sewage 1190  
collection system when the foundation wall of the structure from 1191  
which sewage or other waste originates is more than ~~two~~ three 1192  
hundred feet from the nearest boundary of the right-of-way within 1193  
which the sewer is located; 1194

(D) Any premises that are served by a common sewage 1195  
collection system when both the foundation wall of the structure 1196  
from which the sewage or other waste originates and the common 1197  
sewage collection system are more than ~~two~~ three hundred feet from 1198  
the nearest boundary of the right-of-way within which the public 1199  
sewer is located; 1200

(E) Any dwelling house located on property that is listed on 1201  
the county's agricultural land tax list as being valued for tax 1202  
purposes as land devoted exclusively to agricultural use under 1203  
section 5713.31 of the Revised Code, when the foundation wall of 1204  
the dwelling house is ~~two~~ three hundred feet or less from the 1205  
nearest boundary of the right-of-way within which the sewer is 1206

located, if both of the following also apply: 1207

(1) The sewer right-of-way for the property on which the 1208  
dwelling house is located was obtained by appropriation due to a 1209  
public exigency pursuant to division (B) of section 307.08, 1210  
6101.181, 6115.211, 6117.39, or 6119.11 of the Revised Code. 1211

(2) The local health department has certified that the 1212  
~~household~~ sewage disposal system is functioning properly. 1213

The board shall not direct an order under this section to a 1214  
resident tenant unless it determines that the terms of the tenancy 1215  
are such that the owner lacks sufficient rights of access to 1216  
permit the owner to comply with the terms of the order. 1217

An owner, agent, lessee, tenant, or occupant shall comply 1218  
with the order of the board within ninety days after the 1219  
completion of service of the order upon that person as provided in 1220  
this section. The board, upon written application filed prior to 1221  
the expiration of the ninety-day period, may waive compliance with 1222  
any order either temporarily or permanently and conditionally or 1223  
unconditionally. 1224

In its resolution, the board shall direct its clerk, or the 1225  
clerk's designee, to serve its order upon the owner, agent, 1226  
lessee, tenant, or occupant. Service of the order shall be made 1227  
personally, by leaving the order at the usual place of residence 1228  
with a person of suitable age and discretion then residing 1229  
therein, or by certified mail addressed to the owner, agent, 1230  
lessee, tenant, or occupant at that person's last known address or 1231  
to the address to which tax bills are sent. If it appears by the 1232  
return of service or the return of the order forwarded by 1233  
certified mail that the owner, agent, lessee, tenant, or occupant 1234  
cannot be found, that person shall be served by publication of the 1235  
order once in a newspaper of general circulation within the 1236  
county, or if that person refuses service, that person shall be 1237



served by ordinary mail addressed to that person's last known 1238  
address or to the address to which tax bills are sent. The return 1239  
of the person serving the order or a certified copy of the return, 1240  
or a returned receipt for the order forwarded by certified mail 1241  
accepted by the addressee or anyone purporting to act for the 1242  
addressee, is prima-facie evidence of the service of the order 1243  
under this section. The return of the person attempting to serve 1244  
the order, or the return to the sender of the order forwarded by 1245  
certified mail with an indication on the return of the refusal of 1246  
the addressee to accept delivery, is prima-facie evidence of the 1247  
refusal of service. 1248

No owner, agent, lessee, tenant, or occupant shall violate an 1249  
order issued under this section. Upon request of the board, the 1250  
prosecuting attorney shall prosecute in a court of competent 1251  
jurisdiction any owner, agent, lessee, tenant, or occupant who 1252  
violates an order issued under this section. Each day that a 1253  
violation continues after conviction for the violation of an order 1254  
issued under this section and the final determination thereof is a 1255  
separate offense. The court, for good cause shown, may grant a 1256  
reasonable additional period of time for compliance after 1257  
conviction. 1258

Any owner, agent, lessee, tenant, or occupant violating an 1259  
order issued under this section also may be enjoined from 1260  
continuing in violation. Upon request of the board, the 1261  
prosecuting attorney shall bring an action in a court of competent 1262  
jurisdiction for an injunction against the owner, agent, lessee, 1263  
tenant, or occupant violating an order. 1264

The Ohio water development authority created under section 1265  
6121.02 of the Revised Code, in addition to its other powers, has 1266  
the same power and shall be governed by the same procedures in a 1267  
waste water facilities service area, or in any area adjacent to a 1268  
public sewer operated by the authority, as a board of county 1269

commissioners in a county sewer district under this section, 1270  
except that the authority shall act by order, and the attorney 1271  
general, upon request of the authority, shall prosecute any person 1272  
who violates an order of the authority issued under this section. 1273

**Section 2.** That existing sections 711.05, 711.10, 3718.01, 1274  
3718.02, 3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 6117.51 1275  
of the Revised Code are hereby repealed. 1276

**Section 3.** Notwithstanding any provision of law to the 1277  
contrary, Chapter 3701-29 of the Ohio Administrative Code adopted 1278  
pursuant to Section 120.02 of Am. Sub. H.B. 119 of the 127th 1279  
General Assembly, as amended by Am. Sub. H.B. 1 and Sub. H.B. 363 1280  
of the 128th General Assembly, shall remain in effect as it exists 1281  
on the effective date of this act until it is superseded by the 1282  
rules that are required to be adopted under section 3718.02 of the 1283  
Revised Code as amended by this act. The rules that are required 1284  
to be adopted under that section as amended by this act shall not 1285  
take effect prior to January 1, 2012. 1286

**Section 4.** Not later than thirty days after the effective 1287  
date of this section, the Governor, President of the Senate, and 1288  
Speaker of the House of Representatives shall appoint the new 1289  
members to the Sewage Treatment System Technical Advisory 1290  
Committee that are required to be appointed under section 3718.03 1291  
of the Revised Code as amended by this act. 1292

The Governor shall appoint the person representing a 1293  
statewide organization representing townships for an initial term 1294  
of one year. Thereafter, the person appointed to that position 1295  
shall be appointed to a three-year term as required by section 1296  
3718.03 of the Revised Code. 1297

The President of the Senate shall appoint the person who is 1298  
required to have demonstrated experience in the design of 1299

household sewage treatment systems for an initial term of two 1300  
years. Thereafter, the person appointed to that position shall be 1301  
appointed to a three-year term as required by section 3718.03 of 1302  
the Revised Code. 1303

The Speaker of the House of Representatives shall appoint the 1304  
person that is required to be a registered professional engineer 1305  
with experience in sewage treatment systems for an initial term of 1306  
three years. Thereafter, the person appointed to that position 1307  
shall be appointed to a three-year term as required by section 1308  
3718.03 of the Revised Code. 1309

**Section 5.** That Section 3 of Am. H.B. 416 of the 127th 1310  
General Assembly be amended to read as follows: 1311

**Sec. 3.** (A) Not later than three months after the effective 1312  
date of this section, the Director of Natural Resources shall 1313  
convene an advisory board consisting of the following persons with 1314  
an interest in the Great Lakes-St. Lawrence River Basin Water 1315  
Resources Compact: 1316

(1) The Director of Natural Resources or the Director's 1317  
designee, who shall serve as chairperson of the advisory board; 1318

(2) The Director of Environmental Protection or the 1319  
Director's designee; 1320

(3) The Director of Development or the Director's designee; 1321

(4) The following members appointed by the Governor: 1322

(a) One water quality expert from the faculty or staff of an 1323  
Ohio college or university; 1324

(b) One representative of a statewide environmental advocacy 1325  
organization; 1326

(c) One representative of a local environmental advocacy 1327  
organization in the Lake Erie Basin; 1328

(d) One representative of a sustainable economic development organization in the Lake Erie Basin;	1329 1330
(e) One representative of the travel and tourism industry;	1331
(f) One representative of the electric utility industry;	1332
(g) One representative of a county government in the Lake Erie Basin.	1333 1334
(5) The following members appointed by the President of the Senate:	1335 1336
(a) Two members of the Senate who shall not be members of the same political party;	1337 1338
(b) One representative of the bottled water industry;	1339
(c) One representative of a statewide land conservation advocacy organization;	1340 1341
(d) One representative of agricultural interests in the Lake Erie Basin;	1342 1343
(e) One representative of the aggregates industry;	1344
(f) One representative of the pulp and paper industry;	1345
(g) One representative of a large manufacturer with a facility located within the Lake Erie Basin;	1346 1347
(h) One member of the public.	1348
(6) The following members appointed by the Speaker of the House of Representatives:	1349 1350
(a) Two members of the House of Representatives who shall not be members of the same political party;	1351 1352
(b) One representative of a municipal government in the Lake Erie Basin;	1353 1354
(c) One expert in hydrogeology from the faculty or staff of an Ohio college or university;	1355 1356

(d) One representative of a locally based organization in the 1357  
Lake Erie Basin that assists in the development and implementation 1358  
of a plan for the protection and management of surface and ground 1359  
water resources in a watershed; 1360

(e) One representative of a fish and wildlife advocacy 1361  
organization; 1362

(f) One representative of residential developers; 1363

(g) One representative of the chemical industry; 1364

(h) One representative of the petroleum industry with a 1365  
facility located within the Lake Erie Basin. 1366

All appointments shall be made to the advisory board not 1367  
later than thirty days after the effective date of this section. 1368  
The advisory board shall meet on a regular basis. Vacancies on the 1369  
advisory board shall be filled in the manner provided for original 1370  
appointments. Members of the advisory board shall receive no 1371  
compensation for serving on the board. The Department of Natural 1372  
Resources shall provide technical support to the advisory board. 1373

(B) The advisory board shall be convened for the purpose of 1374  
developing recommendations for legislation that is necessary to 1375  
implement and effectuate the requirements and purposes of the 1376  
Great Lakes-St. Lawrence River Basin Water Resources Compact. The 1377  
recommendations shall address, but not be limited to, the 1378  
following: 1379

(1) The evaluation and recommendation of the threshold levels 1380  
to be included in the implementing legislation for regulating new 1381  
or increased water withdrawals in the state, considering at least 1382  
all of the following: 1383

(a) The number of withdrawals that will be regulated; 1384

(b) The relative impact of those withdrawals; 1385

(c) The practicality of regulating those withdrawals; 1386

(d) The alternatives that are available in the establishment 1387  
of a permitting program in order to meet the water management 1388  
objectives of this state. 1389

(2) The establishment of requirements regarding the review of 1390  
lists of existing water users in the portion of the Great 1391  
Lakes-St. Lawrence River Basin that is in this state; 1392

(3) The establishment of a process for use by persons that 1393  
wish to appeal their inclusion in the list of existing water 1394  
users; 1395

(4) The establishment of conservation objectives with respect 1396  
to the Great Lakes-St. Lawrence River Basin Water Resources 1397  
Compact and the development of the state's water conservation and 1398  
efficiency programs; 1399

(5) The method for determining the capacity of existing 1400  
facilities as required in Section 4.12.2 of the Great Lakes-St. 1401  
Lawrence River Basin Water Resources Compact. 1402

(C) The advisory board shall present its final 1403  
recommendations to the Governor and the General Assembly not later 1404  
than ~~eighteen months after the effective date of this section~~ 1405  
December 15, 2010. It is the intent of the General Assembly that 1406  
the recommendations of the advisory board will represent a 1407  
consensus of the board's members regarding the issues presented to 1408  
and discussed by the board. However, if a consensus cannot be 1409  
reached on any or all of the issues before the board, one or more 1410  
minority opinions may accompany the recommendations of the board. 1411

(D) Upon submission of its recommendations under division (C) 1412  
of this section, the advisory board shall cease to exist. 1413

**Section 6.** That existing Section 3 of Am. H.B. 416 of the 1414  
127th General Assembly is hereby repealed. 1415