



Amber Hardesty

Final Analysis
Legislative Service Commission

Am. S.B. 192
127th General Assembly
(As Passed by the General Assembly)

Sens. Gardner, Carey, Niehaus, Coughlin, Harris, Spada

Reps. Wolpert, Combs, J. McGregor, Flowers

Effective date: Emergency, April 8, 2008

ACT SUMMARY

- Requires the Treasurer of State to liquidate the Tobacco Use Prevention and Control Endowment Fund.
- Authorizes a board of health to contract with a board of county commissioners for a county building department to inspect plumbing in buildings within the health district.
- Authorizes a board of health to contract with another board of health for the inspection of plumbing within the first board's health district.
- Permits the contracts for inspections to specify residential buildings, nonresidential buildings, or both so long as the inspector is certified for the type of building designated.
- Requires plumbing inspectors for a county building department to be certified by the Superintendent of Industrial Compliance pursuant to qualifications the Superintendent adopts by rule.
- Prohibits inspections by the Division of Industrial Compliance in a health district where the county building department is authorized to perform plumbing inspections pursuant to a contract with a board of health and in a health district where another health district is authorized to perform inspections pursuant to a contract.

CONTENT AND OPERATION

Liquidation of Tobacco Use Prevention and Control Endowment Fund

The act requires the Treasurer of State to liquidate the Tobacco Use Prevention and Control Endowment Fund. The Fund is administered by the Tobacco Use Prevention and Control Foundation. The first \$40 million in proceeds from the liquidation are to be held in the custody of the Treasurer of State, but not as part of the state treasury. The \$40 million is to be made available to the Foundation solely to pay contractual or other legally binding obligations that were entered into by the Foundation on or before the effective date of the act. The remaining proceeds from the liquidation are to be deposited into the state treasury to the credit of the Jobs Fund, which is created by the act. (Section 3.)

Plumbing inspections

The Division of Industrial Compliance in the Department of Commerce has general authority to inspect plumbing in nonresidential buildings. This authority does not apply in municipal corporations that are certified by the state Board of Building Standards to inspect plumbing or in health districts that employ one or more plumbing inspectors. (R.C. 3703.01(A)(1), (2), and (3) and (B)(1)(a) and (b).)

Former law did not expressly authorize a county building department to inspect plumbing, and there was no provision for a health district to contract with a board of county commissioners for its county building department to inspect plumbing within the health district. A recent opinion of the Ohio Attorney General (2006 Op. Att'y Gen. No. 2006-040) concluded that "absent express statutory authority, the board of health of a general health district may not, pursuant to contract or otherwise, delegate to a county its duty to perform plumbing inspections. In addition, certification of a county building department and its personnel by the Board of Building Standards under R.C. 3781.10(E)(1) or (2) does not authorize such department or its personnel to perform plumbing inspections."

Plumbing inspection under the act

Contract with a county building department

The act enables a board of health of a health district to enter into a contract with a board of county commissioners for the county building department to inspect plumbing in buildings within the health district. The contract may designate that the county building department inspect either residential or nonresidential buildings, or both types of buildings, so long as the department

employs a plumbing inspector certified as the act requires to inspect the types of buildings the contract designates. (R.C. 3703.01(C)(1) and 3781.03(C).)

The act specifies that the Division of Industrial Compliance may not inspect plumbing or collect plumbing inspection fees in the types of buildings in a health district where the county building department is authorized to inspect those types of buildings. (R.C. 3703.01(B)(1)(c).) The act also specifies that a county building department has no authority to inspect plumbing or to collect plumbing inspection fees unless it is authorized to do so pursuant to a contract with a board of health of a health district. (R.C. 3703.01(B)(2).) And a county building department cannot inspect plumbing or collect plumbing inspection fees in municipal corporations that are certified by the state Board of Building Standards to inspect plumbing (R.C. 3703.01(B)(1)(a)).

Contract with another health district

The act authorizes the board of health of a health district to enter into a contract with the board of health of another health district to authorize the latter board to inspect plumbing in buildings within the former board's district. The contract may designate the inspection of residential, nonresidential, or both types of buildings, so long as the board that will perform the inspections employs an inspector certified to inspect the type of buildings the contract designates. This authority is available regardless of whether the board that contracts for plumbing inspections has certified plumbing inspectors in its own employ. (R.C. 3703.01(C)(2).)

The act specifies that the Division of Industrial Compliance may not inspect plumbing or collect plumbing inspection fees in health districts that have entered into a contract with another health district to inspect plumbing within its district. (R.C. 3703.01(B)(1)(d).)

Certification required

The act requires the Superintendent of Industrial Compliance to adopt rules prescribing minimum qualifications for certifying or recertifying plumbing inspectors employed by a county building department under the contracts authorized by the act in the same manner as ongoing law requires for plumbing inspectors of a health district. Accordingly, all plumbing inspectors must be certified to conduct plumbing inspections for health districts regardless of whether the health district employs its own certified plumbing inspectors or contracts for inspection services from a county building department or another health district. (R.C. 3703.01(B)(1)(b), (B)(4), (C)(1), (C)(2), and (D).)

HISTORY

ACTION	DATE
Introduced	06-26-07
Reported, S. State & Local Gov't & Veterans Affairs	12-06-07
Passed Senate (32-0)	12-11-07
Reported, H. Local and Municipal Government and Urban Revitalization	03-12-08
Passed House (89-5)	04-08-08
Senate concurred in House amendments (29-3)	04-08-08

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