



# Ohio Legislative Service Commission

## Bill Analysis

Bethany Boyd

### **Sub. H.B. 35\***

128th General Assembly

(As Reported by H. Local Government and Public Administration)

**Reps.** Dyer, B. Williams, Hagan, Boyd, Harris, Luckie, Amstutz

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## **BILL SUMMARY**

- Requires that the establishment of new sanitary districts organized wholly for the reduction of populations of biting arthropods, and that the withdrawal of political subdivisions from and the dissolution of sanitary districts so organized, be petitioned for and approved by the electors of the affected areas.
- Eliminates property taxation and eminent domain powers for sanitary districts so organized.

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## **CONTENT AND OPERATION**

### **Sanitary districts organized wholly for the reduction of populations of biting arthropods**

Current law authorizes the common pleas court of a county to establish a sanitary district within the county and, if a sanitary district is proposed that is located in more than one county, a special court consisting of one judge from the common pleas court of each county involved creates the district (R.C. 6115.04). Before the court may create a sanitary district, a petition that is signed by 500 freeholders, a majority of the freeholders, or the owners of more than half the property in the proposed district must be filed with the court, which must hold a hearing on the petition (R.C. 6115.05, 6115.07, and 6115.08). One of the purposes for which a sanitary district can be created is to reduce populations of biting arthropods and abate their breeding places (R.C. 6115.04(F)). Special provisions govern sanitary districts organized wholly for the

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\* This analysis was prepared before the report of the House Local Government and Public Administration Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

reduction of populations of biting arthropods<sup>1</sup> in certain respects, such as the composition of their boards of directors and advisory councils (see R.C. 6115.101 and 6115.102, not in the bill), but, generally, sanitary districts so organized have the same powers as other types of sanitary districts, including the power to levy property taxes, take property by eminent domain, and levy special assessments.

## **Petition and election procedures for establishment of a sanitary district organized wholly for the reduction of populations of biting arthropods**

### **Petition requirements**

The bill establishes special procedures for the establishment of a sanitary district organized wholly for the reduction of populations of biting arthropods. Under the bill, before a court establishes such a sanitary district, a petition must be filed in the office of the clerk of the court, signed by the lesser of 500 registered voters or 10% of the electors who voted for the office of Governor within the political subdivision in the most recent gubernatorial election in each political subdivision in which any portion of the sanitary district is proposed to be located. (R.C. 6115.051(A).)

The petition must set forth the proposed name of the sanitary district, the purpose for its creation, and a general description of the territory to be included in the district. The description need not be given by metes and bounds or by legal subdivisions, but it is sufficient if a generally accurate description is given of the territory to be organized as a sanitary district. The territory must include two or more political subdivisions or portions thereof and must not be included wholly within the limits of a single municipal corporation. The territory need not be contiguous, so long as it is situated so that the public health, safety, comfort, convenience, or welfare will be promoted by the organization of the territory described as a single sanitary district. (R.C. 6115.051(B)(1).)

No petition with the requisite signatures can be declared void because of alleged defects, but the court at any time may permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory or in any other particular. Several similar petitions or duplicate copies of the same petition for the organization of the same sanitary district may be filed and must together be regarded as one petition. The court must consider all such petitions that are filed prior to the election on the petition as though they had been filed with the first petition placed on file. (R.C. 6115.051(C).)

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<sup>1</sup> "Biting arthropods" include mosquitoes, ticks, biting flies, or other biting arthropods capable of transmitting disease to humans (R.C. 6115.01(G), not in the bill).

After receiving the petition with the requisite number of signatures, the court must submit the names and signatures of the petitioners to the appropriate boards of election of the counties in which the petitioners reside for verification of the petition signatures. The boards of election must notify the court of the sufficiency or insufficiency of the petition. If the petition contains a sufficient number of valid signatures, and if it appears that the purposes of the Sanitary District Law would be served by the creation of a sanitary district that is organized wholly for the reduction of populations of biting arthropods, the court must submit the question of whether such a sanitary district should be created to the electors residing within the territory in which the sanitary district is proposed to be located (R.C. 6115.051(D) and 6115.081(A)).

### **Procedures for placing question on the ballot**

The court must certify a copy of the court order proposing to create the sanitary district to the board of elections of each county in which any territory of the proposed sanitary district is located. The board of elections of each such county must make the necessary arrangements for the submission of the question to the electors of the proposed district on the day specified in the order and occurring not less than 75 days after the order is certified to the board of elections. The election must be held, canvassed, and certified in the same manner as regular elections for the election of county officers. (R.C. 6115.081(B).)

Notice of the election must be published in one or more newspapers that, in the aggregate, are of general circulation in the territory of the proposed sanitary district. The notice must be published once a week for two consecutive weeks prior to the election. If an applicable board of elections operates and maintains a web site, notice of the election also must be posted on the web site for 30 days prior to the election. The notice must state the purpose for the creation of the sanitary district and the time and place of the election. (R.C. 6115.081(C).)

### **Organization; powers; bonding requirements**

If a majority of the electors voting on the question vote in favor of creation of a sanitary district organized wholly for the reduction of populations of biting arthropods, the court must declare the district organized and give it a corporate name by which it thereafter is to be known.<sup>2</sup> A district so organized is a political subdivision of the state and a body corporate with all the powers of a corporation and has perpetual existence, with power to sue and be sued, to incur debts, liabilities, and obligations, to exercise the right of assessment as provided in the Sanitary District Law, to issue bonds, and to perform all acts necessary and proper for carrying out the purposes for which the

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<sup>2</sup> Presumably this corporate name is the name proposed in the petition (R.C. 6115.051(B)(2)).

district was created and for executing the powers with which it is invested. But a district so organized is not entitled to exercise the right of eminent domain or to levy property taxes. (R.C. 6115.081(E)(1), 6115.21, 6115.22, 6115.33, 6115.40, 6115.43, 6115.45, 6115.46, and 6115.47.)

In its decree, the court must designate the place where the office or principal place of business of the district is to be located, which must be within the district's corporate limits, if practicable, and which may be changed by order of the court. The regular meetings of the district's board of directors must be held at that office or place of business, but for cause may be adjourned to any other convenient place. The district's official records and files must be kept at the office. (R.C. 6115.081(E)(2).)

An order establishing the district is final and binding on the real property within the district and the organization of the district cannot be directly or collaterally questioned in any suit, action, or proceeding except as expressly authorized by the Sanitary District Law (R.C. 6115.081(E)(3)).

In the case of a sanitary district lying in more than one county, one common pleas court judge of each of the counties having land in the sanitary district sits as a court in the courthouse where the original petition was filed to make the findings required when there are objections to the district plan proposed by its board of directors. A majority of the judges is necessary to render a decision. (R.C. 6115.081(E)(4).)

Instead of the bonding procedures of current Sanitary District Law, the bill requires that at the time the petition is filed, or at any time after the filing but before the election on the petition, a bond must be filed, with security approved by the court, that is sufficient to pay all of the expenses connected with the proceedings if creation of the district is not approved. If at any time during the proceedings for creation of the district, the court is satisfied that the bond first executed is insufficient in amount, the court may require the execution of an additional bond within a time to be fixed, which must be not less than ten days distant, and upon failure of the petitioners to execute the additional bond, the petition must be dismissed. (R.C. 6115.06 and 6115.082.)

The bill specifies that the general Sanitary District Law relating to objections to a petition, the creation and naming of a district, the dismissal of proceedings, and suits against the creation of the district do not apply to a sanitary district that is proposed to be organized wholly for the reduction of populations of biting arthropods unless the board of health of a health district having jurisdiction within the territory in which the sanitary district is proposed to be located issues an order declaring a health emergency that requires the reduction of populations of biting arthropods (R.C. 6115.08). The bill also specifies that the general Sanitary District Law related to the creation of subdistricts

when an improvement will affect only a part of the district does not apply to a sanitary district so organized (R.C. 6115.69).

However, general Sanitary District Law does apply to a sanitary district that is organized wholly for the reduction of populations of biting arthropods, when, upon its qualification, the board of the sanitary district is required to prepare a plan for the improvement for which the district was created. After completion of the plan, the board must submit the plan to the Environmental Protection Agency for approval. Objections can be made to the official plan, as approved and adopted, in a hearing before judges of the county in which the district is located. (R.C. 6115.16.)

Current law provides that after the filing of a petition for the organization of a sanitary district, and before the district is organized, the costs of publication and other official costs of the proceedings must be paid out of the general funds of the county in which the petition is pending. The bill provides that if the district is organized, the costs are repaid to the county out of the first funds received from special assessments or from selling bonds. If the district is not established, costs are collected from the petitioners or their bondspersons. (R.C. 6115.46.)

### **Petition and election procedures for expansion of a sanitary district organized wholly for the reduction of populations of biting arthropods or for withdrawal of a political subdivision from, or dissolution of, such a district**

Under the bill, the petition and election procedures described above for establishment of a sanitary district that is organized wholly for the reduction of populations of biting arthropods also generally apply to (1) the expansion of such a sanitary district beyond its existing territory, instead of current Sanitary District Law for inclusions of property (R.C. 6115.091 and 6115.092), (2) the withdrawal of a political subdivision from such a sanitary district (R.C. 6115.093 and 6115.094), or (3) the dissolution of such a sanitary district (R.C. 6115.095 and 6115.096). The bill additionally states that the procedures and requirements established in Sanitary District Law for the payment of expenses before and after organization of the district apply to the expansion of a sanitary district that is organized wholly for the reduction of populations of biting arthropods (R.C. 6115.46).

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## **HISTORY**

### **ACTION**

### **DATE**

Introduced  
Reported, H. Local Gov't & Public Administration

02-19-09  
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