



Ohio Legislative Service Commission

Bill Analysis

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H.B. 352

128th General Assembly
(As Introduced)

Reps. Bolon, Fende, Luckie, B. Williams, Yuko

BILL SUMMARY

- Requires certain public water systems to conduct evaluations of their operating processes and correct deficiencies in those processes.
- Adds prohibitions and penalties to the Safe Drinking Water Law.

CONTENT AND OPERATION

Capability requirements of certain public water systems

(R.C. 6109.24)

Current law requires a public water system¹ that is a community water system,² or that is not a community water system and serves a nontransient population, and that proposes to begin providing water to the public after October 1, 1999, to demonstrate the technical, managerial, and financial capability of the system to comply with the Safe Drinking Water Law and rules adopted under it. Documentation of the demonstration must be submitted along with the submission of project plans. The Director of

¹ "Public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if the system has at least 15 service connections or regularly serves at least 25 individuals. "Public water system" includes any collection, treatment, storage, and distribution facilities under control of the operator of the system and used primarily in connection with the system, any collection or pretreatment storage facilities not under such control that are used primarily in connection with the system, and any water supply system serving an agricultural labor camp (R.C. 6109.01, not in the bill).

² "Community water system" means a public water system that has at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents (R.C. 6109.01, not in the bill).

Environmental Protection is required to adopt rules establishing the requirements governing the demonstration of technical, managerial, and financial capability. The Director can deny approval of project plans submitted if the public water system that submitted the plans fails to demonstrate technical, managerial, and financial capability to comply with the Safe Drinking Water Law and rules adopted under it.

The bill permits, for a public water system that existed before October 1, 1999, and that is a community water system, or that is not a community water system and serves a nontransient population, the Director of Environmental Protection to adopt rules in accordance with the Administrative Procedure Act requiring the system to (a) complete an evaluation of the technical, managerial, and financial capability of the public water system and (b) correct deficiencies identified in the evaluation if either of the following applies:

(a) The system has demonstrated a lack of technical, managerial, or financial capability through noncompliance with the Safe Drinking Water Law and the rules adopted under it; or

(b) The system has failed to correct significant deficiencies identified in a sanitary survey.

Penalties under Safe Drinking Water Law

(R.C. 6109.31, 6109.32, and 6109.99; R.C. 6109.33, not in the bill)

Civil penalties

Current law prohibits any person from violating the Safe Drinking Water Law, a rule adopted under it, or any order or term or condition of a license, license renewal, variance, or exemption granted by the Director of Environmental Protection under it.

Additionally, the bill prohibits any person from making any false material statement or representation in an application, license, record, report, or other document that is required to be submitted to the Director or the Attorney General under the Safe Drinking Water Law, rules adopted under it, or any order or term or condition of a license, license renewal, variance, or exemption granted by the Director under it.

The bill also prohibits any person from altering, changing, falsifying, or concealing any sample that is collected according to any sampling requirement established under the Safe Drinking Water Law or a rule adopted under it.

Furthermore, the bill prohibits any person from tampering with, altering, or interfering with the operation of a public water system without authorization of the owner or operator of the water system or the Director.

As current law establishes, any person who violates these provisions must pay a civil penalty of not more than \$25,000 for each violation, to be paid into the state treasury to the credit of the Drinking Water Protection Fund. Each day of noncompliance is a separate violation. The Director can request the Attorney General to bring an action for such a penalty against any person who violates these provisions. An action instituted by the Attorney General is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions. Under current law, the Attorney General, upon written request by the Director, must bring an action for injunction or another appropriate civil action against any person who is violating or threatening to violate these provisions. Also, the Director can investigate or make inquiries into any suspected violation of these provisions.

Criminal penalties

The bill adds criminal penalties for violations of the provisions described in "**Civil penalties**," above. The bill states that whoever recklessly violates those provisions is guilty of a misdemeanor and must be fined not more than \$25,000 or imprisoned not more than one year, or both. Each day of violation constitutes a separate offense. The bill also states that whoever knowingly violates those provisions is guilty of a felony and must be fined at least \$10,000, but not more than \$25,000, or imprisoned for at least two years, but not more than four years, or both. Each day of violation constitutes a separate offense. Finally, the bill requires the Attorney General, upon written request by the Director, to bring an action for injunction or another appropriate civil action or criminal prosecution against any person who is violating or threatening to violate those provisions.

HISTORY

ACTION	DATE
Introduced	11-04-09

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