



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 236 of the 128th G.A.

**Date:** March 23, 2010

**Status:** As Introduced

**Sponsor:** Rep. Newcomb

**Local Impact Statement Procedure Required:** Yes

**Contents:** To revise the Household Sewage and Small Flow On-Site Sewage Treatment Systems Law, to establish the Household Sewage Treatment System Revolving Loan Program and the Household Sewage Treatment System Grant Program, and to make an appropriation

### State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Transfer of \$10 million to the Household Sewage Treatment System Revolving Loan Fund; Transfer of \$5 million to the Household Sewage Treatment System Grant Fund; Potential increase for rule promulgation and administration	Transfer of \$5 million to the Household Sewage Treatment System Grant Fund; Potential increase for rule promulgation and administration	Potential increase for administration
<b>Sewage Treatment System Innovation Fund (Fund 5CJ0)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase for rule promulgation and administration	Potential increase for rule promulgation and administration	Potential increase for administration
<b>Household Sewage Treatment System Revolving Loan Fund (Fund 5EY0 - New)</b>			
Revenues	Gain of \$10 million from the GRF	Potential gain for grants, gifts, repayments, and other contributions	Potential gain for grants, gifts, repayments, and other contributions
Expenditures	Increase	Increase	Increase
<b>Household Sewage Treatment System Grant Fund (Fund 5EZ0 - New)</b>			
Revenues	Gain of \$5 million from the GRF	Gain of \$5 million from the GRF	Potential gain for grants, gifts, and other contributions
Expenditures	Increase of \$5 million	Increase of \$5 million	Increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The bill creates the Household Sewage Treatment System Revolving Loan Fund (Fund 5EY0) and specifies that the Director of Budget and Management is to transfer \$10 million 30 days after the effective date of the bill from the GRF to Fund 5EY0.

The Household Sewage Treatment System Grant Fund (Fund 5EZ0) is also created and the Director of Budget and Management is to transfer \$5 million in both FY 2010 and in FY 2011 from the GRF to Fund 5EZ0. ODH will use these funds to provide loans and grants to eligible persons and eligible projects.

- The bill creates the Household Sewage Treatment System Grant and Household Sewage Treatment System Revolving Loan programs. ODH will incur additional administration costs for the programs. The number of additional employees required to implement and administer the programs is unknown at this time.
- The bill makes changes to the law regarding sewage treatment systems. As a result, there will be costs to ODH associated with rule promulgation and administration. Additionally, the bill requires ODH to submit a report prior to the submission of a proposed rule concerning sewage treatment systems and provide a copy of that report to every member of the General Assembly. This report will increase costs to ODH.

### Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010	FY 2011	FUTURE YEARS
<b>Local Boards of Health</b>			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Increase	Increase	Increase
<b>County Auditor</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- According to the Association of Health Commissioners (AOHC), costs for implementation of any rule changes for household sewage treatment programs could be up to \$10,000 per local board. This would include administrative costs such as informing the public of changes, educating board staff and the public, passing of local regulations if necessary, reprinting of pamphlets and educational materials, dealing with increased call volume, and holding of additional community meetings.
- H.B. 236 would not create a minimum standard in regard to the sewage treatment systems law. Thus, there could be variations in that law for the local boards of health. AOHC estimates that local boards of health may need to provide additional education to installers and providers to explain the variation.
- AOHC estimates that the requirement regarding the development of a program for the maintenance of sewage treatment systems could increase costs for the boards. The costs would depend upon the level of involvement/additional duties required on the part of local boards of health in rules and if the board could charge fees for any duties undertaken.

- The county auditor may incur an increase in costs associated with placing the amount of a loan from the Household Sewage Treatment System Revolving Loan Program on the general tax list and duplicate. According to the County Commissioners Association of Ohio, the cost would depend on the number of individuals choosing to place the loan on the tax list and duplicate and the amount of description required to be placed on the list and any associated notices.
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## **Detailed Fiscal Analysis**

### **Background**

A household sewage treatment system is a system, or a part of such a system, that receives sewage from a single-family, two-family, or three-family dwelling. A small flow on-site sewage treatment system is a system, other than a household sewage treatment system, that treats not more than 1,000 gallons of sewage a day and that does not require a National Pollutant Discharge Elimination System permit issued by the Ohio Environmental Protection Agency.

The Ohio Department of Health (ODH) regulates sewage treatment systems and the Public Health Council establishes state minimum rules for siting, permitting, installing, altering, operating, and abandoning sewage treatment and disposal systems. Local boards of health are tasked with the associated permitting, inspecting, and enforcing of the law.

In 2005, H.B. 231 of the 125th General Assembly made changes to the Household Sewage Treatment Systems Law and established a comprehensive body of law governing the regulation of household sewage treatment systems. However, H.B. 119 of the 127th General Assembly contained substantial amendments to the law regarding the regulation of household sewage treatment systems. The sewage treatment system rules adopted by the Public Health Council that became effective on January 1, 2007 as a result of H.B. 231 were rescinded. H.B. 119 also enacted several uncodified provisions into state law that took effect July 1, 2007 and remain in effect until July 1, 2009. H.B. 1 of the 128th General Assembly extended the expiration date until January 1, 2010. H.B. 363 of the 128th General Assembly extends the expiration date until July 1, 2010. H.B. 236 amends the Household and Small Flow On-Site Sewage Treatment Systems Law and amends many of the statutes that were suspended and reinstates the operation of those suspended statutes.

### **Sewage treatment system rules**

The bill makes changes to the rules the Public Health Council is to adopt. The bill addresses, among other things, the rules governing the siting and designing of systems, inspecting systems, bonding of installers, providers, and haulers, maintaining

sewage treatment systems, and connecting to a central sewer system. Some of those changes are discussed below.

- The bill eliminates requirements that rules be adopted governing soil absorption specifications. Additionally, the bill prohibits the Public Health Council, the Sewage Treatment System Technical Advisory Committee, and the Director of Health from establishing soil absorption specifications and vertical separation distances for sewage treatment systems. Instead, it requires these specifications and distances to be established by boards of health in accordance with the bill.
- The bill requires the Council to adopt rules authorizing rather than requiring a board of health to inspect a sewage treatment system. Currently, an inspection is required 18 months after installation.
- The bill requires the Public Health Council to adopt rules requiring a board of health to develop a program for the maintenance of sewage treatment systems that are operated within the health district governed by the board. The rules must require the submission of maintenance reports by persons operating sewage treatment systems at least every five years.
- The bill requires the Public Health Council to adopt rules specifying conditions and circumstances under which a property owner is required to connect to an available central sewer system.
- The bill authorizes boards of health to adopt rules establishing standards governing the use of sewage treatment systems that are more or less stringent than those established by the Public Health Council.

### **Approval of sewage treatment systems**

The bill requires the Sewage Treatment System Technical Advisory Committee, to develop with ODH, rules that establish standards and guidelines for use approving sewage treatment systems or components of a system. The rules must require the Director to approve sewage treatment systems representing a range of available systems from low-cost systems to high-cost systems that will not create a public health nuisance.

The bill declares that a board of health has sole authority to approve sewage treatment systems or components of systems for use within the health district that is governed by the board. The use of the systems or components of systems must be approved based on applicable local conditions and in accordance with rules adopted by the board. Systems representing a range of available systems from low-cost systems to high-cost systems that will not create a public health nuisance must be approved.

## **Public health nuisance**

The bill declares that a sewage treatment system is causing a public health nuisance if any of the following situations occur: (1) an inspection of the property at which the system is located reveals odor, color, or other visual manifestations of raw or poorly treated sewage, (2) water samples taken at or near the property exceed 5,000 fecal coliform counts per 100 milliliters in two or more samples when five or fewer samples are taken or in more than 20% when more than five are taken, or (3) water samples taken at or near the property exceed 576 e. coli counts per 100 milliliters in two or more samples when five or fewer samples are taken or in more than 20% when more than five are taken.

## **Fiscal impact on state entities**

ODH will incur an increase in costs for rule promulgation and administration. LSC assumes that ODH will use GRF moneys to pay for this since funds in the Sewage Treatment Innovation Fund (5CJ0) will likely not be sufficient to pay for these costs.

The Ohio Environmental Protection Agency (OEPA) may incur a minimal increase in costs. This cost would be associated with additional staff hours for sorting through the rule change.

## **Fiscal impact on local entities**

According to the Association of Ohio Health Commissioners (AOHC), the costs for implementation of any rule changes for household sewage treatment programs could be up to \$10,000 per local board. This would include administrative costs such as informing the public of changes, educating the board staff and the public, passing local regulations if necessary, reprinting of pamphlets and educational materials, dealing with increased call volume, and holding additional community meetings. Additionally, AOHC states that H.B. 236 would not create a statewide minimum standard in regard to the sewage treatment systems law. Thus, there could be variations for the boards of health. This variation could increase costs to boards since the boards could have increased educational duties for installers and providers. For instance, an installer could operate in six or more counties; if the standards are different in each, the boards may need to provide additional education to these providers to explain the variations.

Lastly, the requirement regarding the development of a program for the maintenance of sewage treatment systems that are operated within the health district could increase costs for the boards. The costs would depend upon the level of involvement and/or additional duties required on the part of local boards of health in rules and if the board could charge fees for any duties undertaken.

The requirement that a property owner, under certain circumstances, is required to connect to an available central sewer system could have an impact on local entities. LSC assumes that the local entities would charge property owners to connect to the central sewer system and that these charges would likely offset most of the costs

associated with connection. It appears that some local governmental entities currently have ordinances that require connection to available central sewer systems.

### **Reports regarding rules of the Public Health Council**

The bill requires that not later than 30 days prior to the submission of a proposed rule concerning sewage treatment systems by the Public Health Council, the Council and the Director of Health must prepare a written report and provide a copy of the report to every member of the General Assembly. The bill specifies what is to be included in the report, but includes a determination of the economic reasonableness and the technical feasibility of the rule and a determination of the financial impact that the rule may have on the public's ability to purchase housing.

The bill declares that if a rule adopted by the Public Health Council or a board of health has a substantial negative financial impact on the public's ability to purchase housing, the rule has no force or effect.

#### **Fiscal impact on state entities**

ODH will incur an increase in costs as a result of the requirement for the report. LSC assumes that ODH will use GRF moneys to pay for this since funds in the Sewage Treatment Innovation Fund (5CJ0) may not be sufficient to pay for these costs.

### **Household Sewage Treatment System Revolving Loan and Grant programs**

#### **Loan program**

The bill creates the Household Sewage Treatment System Revolving Loan Program in ODH and creates the Household Sewage Treatment System Revolving Loan Fund (Fund 5EY0). The fund consists of money appropriated and/or transferred to it, as well as any grants, gifts, or contributions of money received for deposit. Additionally, any interest and investment income is to be credited to the fund. The fund is to be used to make loans to eligible individuals for eligible projects. The bill transfers \$10 million in cash from the General Revenue Fund within 30 days after the effective date of the bill. The bill outlines eligibility. The bill specifies that the rules established for the program must address procedures and requirements to allow an eligible person who receives a loan to have the repayment of the loan assessed as part of the person's real property taxes. The rules must require the Director to certify to the applicable county auditor the amount of the repayment of a loan that is to be so assessed for purposes of placement on the general tax list and duplicate. The bill establishes appropriate procedures for placing the amount certified on the general tax list and duplicate.

#### **Grant program**

The bill creates the Household Sewage Treatment System Grant Program in ODH and creates the Household Sewage Treatment System Grant Fund (Fund 5EZ0). The fund consists of money appropriated and/or transferred to it, as well as any grants, gifts, or contributions of money received for deposit. Additionally, any interest and investment income is to be credited to the fund. The fund is to be used for grants to

eligible individuals for eligible projects. The bill transfers \$5 million in cash in both fiscal year 2010 and 2011 from the General Revenue Fund.

**Fiscal impact on state entities**

ODH will incur an increase in costs for rule promulgation and the implementation and administration of the loan and grant programs. It is unknown how many additional employees will be needed to administer these programs.

**Fiscal impact on local entities**

Local boards of health may have some involvement with the administration of the programs at the local level. The cost associated with this will depend upon the rules drafted and the level of involvement required on the part of the boards.

The county auditor may incur an increase in costs associated with placing the amount of a loan from the Household Sewage Treatment System Revolving Loan Program on the general tax list and duplicate. According to the County Commissioners Association of Ohio, the cost would depend on the number of individuals choosing to place the loan on the tax list and duplicate and the amount of description required to be placed on the list and any associated notices.