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133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Schaffer and Roegner

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SUMMARY

- Changes the composition of local boards of health; boards with five members must have a physician, a registered nurse, a licensed health care professional, and one member that represents business interests in the district.
- Allows local boards of health, during a health emergency and with the vote of a supermajority of its members, to reject orders from the State Department of Health as it applies in the local health district.
- Prohibits local boards of health from stating, in notifications to the public, that a person "will be" or "shall be" prosecuted, and only allows the local board to state a person "may be" prosecuted.
- Allows certain licensed health care professionals to receive up to five hours of continuing education credit for a year of service on a local board of health.

DETAILED ANALYSIS

Changes to local boards of health

Background

Ohio is divided into health districts, which are their own separate political subdivisions, distinct from counties, and which are administered by local boards of health. There are three types of local health districts: general health districts, city health districts, and combined health districts. General health districts include all the villages, townships, and unincorporated areas of a county. City health districts are comprised of a municipal corporation. Any number of general and city health districts may combine by agreement and become combined health districts. Under current law, boards of health of general health districts have five members, but city and

combined health districts may deviate from this default rule, and have more. For example, Summit County, a charter county with home rule powers, has nineteen.[1]

The members of a local board of health of a general health district are appointed by the district advisory council, which consists of the president of the board of county commissioners, the chief executive of each municipal corporation not constituting a city health district, and the chairperson of the board of township trustees of each township. In city health districts, the mayor generally appoints the members, subject to approval from the city's legislative authority. The district advisory council (DAC) or the mayor appoints all five members, unless the board of health has created a health district licensing council,[2] in which case the DAC or mayor appoints four members, and the licensing council appoints one. Under current law, local boards of health must have at least one physician, with due regard being made to equal representation of the entire district.[3]

Changes under the bill

The bill adds requirements for the membership in the local boards of health. Under the bill, for boards of health with five members, one member must be a physician, one member must be a nurse, one member must be a licensed health care professional, and one member must represent the business interests of the health district. This last member may be appointed by the health district licensing council, but if no such council has been created, then the DAC or mayor must appoint such a member. A "licensed health care professional" includes physicians, podiatrists, pharmacists, dentists, chiropractors, doctors of osteopathic medicine, or optometrists. For boards of health with more than five members, one member must be a physician, one member must be a registered nurse, and the remainder of the majority of members must consist of licensed health care professionals, so that together the nurse, physician, and licensed health care professionals make up a majority of the board of health. In addition, for boards of health with seven members, two members must represent the business interests of the district, and for boards of health with greater than seven members, three members must represent the business interests of the district.[4]

Local boards of health and state health orders

ODH has "supervision of all matters relating to the preservation of the life and health of the people and have ultimate authority in matters of quarantine and isolation." In addition, the ODH may "make special or standing orders or rules . . . for preventing the spread of contagious or infectious diseases . . ." and may also "make and enforce orders in local matters . . . when an

[1] R.C. 3709.01, not in the bill. See also https://www.scph.org/board-health.

[2] Health district licensing councils, created under R.C. 3709.41, not in the bill, are appointed by the DAC or whichever authority appoints the members of a board of health, and consist of "one representative of each business activity for which the board of health operates a licensing program."

[3] R.C. 3709.03, 3709.05, and 3709.07.

[4] R.C. 3709.03, 3709.05, and 3709.07.

emergency exists, or when the board of health of a general or city health district has neglected or refused to act with sufficient promptness or efficiency."[5] ODH is to adopt "rules establishing minimum standards and optimum achievable standards for boards of health and local health departments."[6] Ohio law forbids anyone from violating "any rule the director of health or department of health adopts or . . . issues under this chapter to prevent a threat to the public caused by a pandemic, epidemic, or bioterrorism event."[7] And, local boards of health and other local authorities "shall enforce quarantine and isolation orders, and the rules the department of health adopts."[8]

The bill adds a new provision that, under certain circumstances, supersedes the above ODH sections. Under the new provision, during a public health emergency caused by an epidemic, infectious disease, or disaster, local boards of health may reject ODH orders after collaboratively consulting with ODH, and with the approval of a supermajority of local board's members. A supermajority is at least two-thirds of the members of a board of health, which is four out of five members of a board of health with five members, five out of seven for a board of health with seven members, and so on. Upon rejection of the order, the state health order does not apply to that health district, and residents of the health district are not bound to obey the state health order.[9]

Notifications to the public regarding prosecution

Under current law, any person who violates an order of the local board of health "shall be fined not more than one hundred dollars or imprisoned not more than ninety days, or both," except that "no person shall be imprisoned for the first offense." In addition, unless there is a public health emergency caused by an epidemic, an infectious or a communicable disease, or a disaster emergency condition or event, the local board of health may not commence prosecution of an alleged violator of a local health order until 20 days after the person has been notified of the alleged violation, and the person has not cured the violation.

The bill addresses this notification, prohibiting local boards of health from saying that a person "will be" or "shall be" prosecuted, and only allowing the local board to say that the person "may be" prosecuted. This limitation on language also applies to any communication from the local board of health to the public, if the communication is regarding an emergency endangering the public health caused by an epidemic, an infectious, or a communicable disease, or a disaster condition or event.[10]

[5] R.C. 3701.13, not in the bill.

[6] R.C. 3701.342, not in the bill.

[7] R.C. 3701.352, not in the bill.

[8] R.C. 3701.56, not in the bill.

[9] R.C. 3709.221.

[10] R.C. 3709.99.

Continuing education credits for licensed healthcare professionals

The bill also allows health care professionals who are licensed under the following entities to receive up to five hours of continuing education credit for a year of service on a local board of health: the State Dental Board, the State Board of Nursing, the State Vision Professionals Board, the State Board of Pharmacy, the State Medical Board, and the State Chiropractic Board. The bill gives the member credit at a rate of one credit hour per 60 minutes of service.[11] This is in addition to the compensation of up to $80 per day that board members receive when the board meets, for a maximum of 18 times a year.[12]

HISTORY

Action	Date
Introduced	08-04-20

S0348-I-133/ks

[11] R.C. 4745.041. These licensing agencies are located in Chapters 4715, 4723, 4725, 4729, 4731, and 4734 of the Revised Code respectively.

[12] R.C. 3709.02, not in the bill.