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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 338\*  
134<sup>th</sup> General Assembly

## Bill Analysis

[Click here for S.B. 338's Fiscal Note](#)

**Version:** As Reported by Senate Agriculture and Natural Resources

**Primary Sponsor:** Sen. Lang

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### SUMMARY

- Requires the Directors of Agriculture and Health to each adopt rules establishing a method for evaluating a registered environmental health specialist's (EHS) and EHS in training's knowledge of the laws governing food safety, including the Ohio Uniform Food Safety Code.
- Specifies that the evaluations must solely use an objective written or electronic assessment that complies with specified requirements.
- Requires the evaluations to be part of board of health surveys that determine if individual boards are qualified to administer and enforce the laws governing retail food establishments and food service operations.
- Prohibits the Directors from using any other assessment than that established by the rules.
- Allows the Directors to require a registered EHS or EHS in training to participate in a field review portion of the survey for training and educational purposes, but prohibits the Directors from using that participation for evaluation purposes.

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\* This analysis was prepared before the report of the Senate Agriculture and Natural Resources Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

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## DETAILED ANALYSIS

### Evaluations of registered EHSs and EHSs in training

#### Background

Under current law, the Directors of Agriculture and Health administer the law governing retail food establishments and food service operations. The Director of Agriculture has responsibility over retail food establishments, and the Director of Health has responsibility over food service operations.

A retail food establishment is a place where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale (for example, a grocery store). A food service operation is a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation (for example, a restaurant). Generally, boards of health license these facilities and administer and enforce the food safety regulations that govern them. Registered environmental health specialists (EHS) and environmental health specialists in training (EHS in training) employed by or contracting with boards of health conduct inspections of these facilities. If a board licenses retail food establishments, the Director of Agriculture is responsible for evaluating the board's licensure and inspection program. If a board licenses food service operations, the Director of Health is responsible for evaluating the board's licensure and inspection program.<sup>1</sup>

#### Evaluations

The bill requires the Director of Agriculture and the Director of Health to each adopt rules establishing a method for evaluating a registered EHS's and EHS in training's knowledge of the laws governing food safety, including the Ohio Uniform Food Safety Code.<sup>2</sup>

It requires the evaluations to be included in the surveys that are conducted to assess a board of health to determine if the board is qualified to administer and enforce the laws governing retail food establishments and food service operations respectively.<sup>3</sup> If a survey demonstrates that a board of health does not have the capacity to appropriately enforce these regulations, a board of health could lose its authority as the licensor of food service operations or retail food establishments.<sup>4</sup>

Under the bill, the Directors may only evaluate a registered EHS or EHS in training through the use of an objective written or electronic assessment that complies with all of the following:

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<sup>1</sup> R.C. 3717.01, not in the bill; R.C. 3717.11, not in the bill.

<sup>2</sup> R.C. 3717.33 and 3717.52.

<sup>3</sup> R.C. 3717.33(H)(2) and 3717.52(B)(2).

<sup>4</sup> R.C. 3717.11, not in the bill.

1. It is developed by the appropriate Director in consultation with representatives from the Ohio Environmental Health Association and the Association of Ohio Health Commissioners;
2. It does not exceed 50 questions in length;
3. In order to pass the assessment, the individual must correctly answer 80% or more of the questions in the assessment. Questions on the exam must be derived from the most common violations cited during the previous inspection year; and
4. The individual is allowed to review the Ohio Uniform Food Safety Code during the assessment.<sup>5</sup>

For purposes of any field review portion of the survey, the Directors may require a registered EHS or EHS in training to participate in the field review for training and educational purposes. However, the bill prohibits the Director from using that participation to evaluate whether the registered EHS or EHS in training has sufficient knowledge of the laws governing food safety and of the Ohio Uniform Food Safety Code.<sup>6</sup>

The bill requires the Directors, in consultation with representatives from the Ohio Environmental Health Association and the Association of Ohio Health Commissioners, to review and update the assessment on at least a biennial basis.<sup>7</sup> The Directors must complete the initial development and implementation of the assessment within 180 days after the bill's effective date.<sup>8</sup>

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## HISTORY

Action	Date
Introduced	05-17-22
Reported, S. Agriculture and Natural Resources	---

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<sup>5</sup> R.C. 3717.33(H)(1) and 3717.52(B)(1).

<sup>6</sup> R.C. 3717.33(H)(3) and 3717.52(B)(3).

<sup>7</sup> R.C. 3717.33(H)(2) and 3717.52(B)(2).

<sup>8</sup> Section 3.