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OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 635
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Swearingen

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SUMMARY

- Re-establishes the Water and Sewer Commission (with a modified membership) and the Water and Sewer Fund, which were eliminated by S.B. 314 in 2012.
- Requires the Commission to use money in the fund for advances to local governments to pay for assessments for water and sewer lines extensions that are deferred or prohibited because the assessed land is agricultural land or is in an agricultural district.
- Requires the Commission, in the administration of the fund, to perform specified duties and responsibilities, including:
 - Determine, pursuant to specified standards, whether an advance of money should be made as requested by application, approve the amount of the advance to be made, and fix the maximum time within which the advance must be repaid;
 - Investigate the uses of those lands on which the deferred or exempted collection of assessments has been the basis for advances of money from the fund; and
 - Pay into the fund all repayments of money advanced from the fund and interest paid for delay in repayment of advances made from the fund.

DETAILED ANALYSIS

Overview

In 2012, S.B. 314 of the 129th General Assembly eliminated the Water and Sewer Commission and the Water and Sewer Fund. Prior to that, the law required the Commission to administer the fund and advance money from it to certain local governments to pay for water and sewer projects. S.B. 314 removed the authority of local governments to apply for those advances and related provisions regarding the repayment of the advanced money. As part of

the elimination of the Commission and fund, the act also eliminated a requirement that the Director of the Ohio Public Works Commission allocate to the fund the amount of certain obligations authorized for public infrastructure capital improvements.

The bill re-establishes the Water and Sewer Commission with a slightly different membership, and it recreates the Water and Sewer Fund with different funding sources.

Water and Sewer Fund

Under the bill, the Water and Sewer Fund consists of the following:

1. Money appropriated to the it by the General Assembly;
2. Money repaid to the fund by local governments that receive advances from it; and
3. Interest paid for delayed repayments.

The Water and Sewer Commission must administer the fund. The Commission must use money for advances to boards of county commissioners, legislative authorities of municipal corporations, boards of trustees of regional water and sewer districts, and governing boards of any other public entities (hereafter, local governments). The purpose of the advances is to pay for assessments for water and sewer lines extensions that are deferred or prohibited because the assessed land is agricultural land or is in an agricultural district.¹ Specifically, the bill authorizes the Commission to advance money from the fund to do all of the following:

1. Provide water and sewer facilities to aid in the establishment of new industrial plants, the expansion of existing industrial plants, or such other industrial development as may be defined by the Commission without undue financial burden on open lands over or along which the lines for such facilities are extended.
2. Provide water and sewer facilities to aid in the establishment of commercial and residential developments without undue financial burden upon open lands over or along which the lines for such facilities are extended, provided that advances specified in (1) above have priority over advances under (2).
3. Pay for assessments for water and sewer projects that are not collected on property because the property is located in an agricultural district in which those assessments are prohibited. Requests made by a local government under (3) have priority over requests submitted under (1) and (2) above. The advances must be repaid when the assessment is collected by the local government.²

¹ R.C. 929.03, 6103.052, and 6117.062.

² R.C. 6121.33.

The bill also re-establishes the Water and Sewer Administrative Fund consisting of money collected as fees pursuant to the bill (see below). The Commission must use money in the Administrative Fund solely to pay the Commission's administrative costs.³

Water and Sewer Commission

Duties and responsibilities

As stated above, the bill re-establishes the Water and Sewer Commission and its duties and responsibilities. As in former law, the Commission must, in the administration of the Water and Sewer Fund, do all of the following:

1. Consider applications for advances from the fund by local governments;
2. Determine, pursuant to the standards set forth in the bill (see below), whether an advance of money should be made as requested by application, approve the amount of the advance, if any, to be made, and fix the maximum time within which the advance must be repaid;
3. Collect from the appropriate local government requesting an advance from the Water and Sewer Fund a fee equal to 2% of any money advanced and pay the fees into the Water and Sewer Administrative Fund;⁴
4. Submit orders approving an advance from the Water and Sewer Fund to the Controlling Board for action. The Controlling Board must then determine whether the advance should be made. If the Board determines that the advance should be made, it must certify that action to the OBM Director for payment.⁵
5. Adopt rules pursuant to the Administrative Procedure Act that do all of the following:
 - a. Prescribe the form of application for advances from the Water and Sewer Fund and the time and manner of submitting the application;
 - b. Prescribe the criteria to determine the occurrence of a change in the use of property from agricultural land as referred to in the bill's provisions governing cancellation of an exemption from or deferment of an assessment;
 - c. Prescribe the criteria to consider for the disposition of requests for advances from the fund made by a local government; and
 - d. Prescribe standards for the use of boards of county commissioners in determining the disposition of requests for deferment of collection of an assessment pursuant to the bill.

³ R.C. 6121.30.

⁴ R.C. 6121.32(A) to (C).

⁵ R.C. 6121.32(D) and 6121.31(C).

6. Investigate the uses of those lands on which the deferred or prohibited collection of assessments has been the basis for advances of money from the Water and Sewer Fund, require local governments to repay the Commission the advances due as a result of changes in the use of property;
7. Pay into the Water and Sewer Fund all repayments of money advanced from the fund and interest paid for delay in repayment of advances made from the fund;
8. Defer the repayment by a board of county commissioners of money previously advanced from the Water and Sewer Fund when a board defers the collection of assessments;
9. Except for interest paid for delay in repayment of advances made from the Water and Sewer Fund, not charge any interest for money advanced from the fund. It is unclear whether the Commission charged interest under former law.
10. Employ personnel as are required to administer the above provisions.⁶

Membership

The bill attaches, for administrative purposes, the Commission to the Ohio Water Development Authority. Former law attached the Commission to the Department of Development. Similar to former law, the Commission members are as follows:

1. The Executive Director of the Ohio Water Development Authority or the Executive Director's representative. (Former law assigned the Director of Development or the Director's representative as a member of the Commission.)
2. The Director of Health or the Director's representative;
3. The Director of Agriculture or the Director's representative;
4. The Director of Natural Resources or the Director's representative;
5. Three members appointed by the Governor, as follows: (a) one representative of industry, (b) one who is a farmer whose major source of income is derived from farming, and (c) one representative of the public.

Additionally, the bill specifies all of the following concerning the Commission's organization and structure:

Initial appointments: Of the initial appointments made by the Governor, one member must be for a term ending one year after the bill's effective date, one must be for a term ending two years after that date, and one must be for a term ending three years after that date. Thereafter terms are for three years.

Vacancies: Vacancies are filled in the same manner as original appointments.

⁶ R.C. 6121.32(E) to (J).

Terms: Each term generally commences on December 20 and ends on December 19. Each appointed member must hold office from the appointment date until the end of the term. Any member appointed to fill a vacancy before the expiration of the predecessor's term must hold office for the remainder of that term. Any appointed member must continue in office subsequent to the term's expiration date until the member's successor takes office, or for an additional 60 days, whichever occurs first.

Compensation: Members receive no compensation other than for expenses incurred in the performance of their duties.

Chairperson: The Governor must designate the chairperson of the Commission, who serves for a one-year term.⁷

HISTORY

Action	Date
Introduced	06-24-24

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⁷ R.C. 6121.31(A) and (B).