



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 422
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Fraizer and West

Reid J. Fleeson, Research Analyst

SUMMARY

- Makes changes to municipal corporation laws relating to actions at law for recovery of unpaid rents and charges for village utility services and for unpaid rates and charges for disposal services.
- Establishes new regulations and authority regarding rates and charges, fees, and other billing issues for municipal services and provides a complaint process for persons to make improper billing complaints to public service providers.
- Creates the Billing Appeals Board within the Ohio Environmental Protection Agency (OEPA) to hear municipal service billing appeals.
- Requires OEPA to create a hotline for filing appeals and provide information about appeals and the appeals process and other related information.
- Requires the OEPA Director to adopt rules regarding Billing Appeals Board composition, evaluating appeals for determining the need for a hearing, hearing processes and procedures, and standards for resolving complaints.

DETAILED ANALYSIS

Introduction

The bill makes changes to Ohio municipal corporation laws relating to actions for recovery of unpaid rents and charges for village utility services and for unpaid rates and charges for disposal services. The bill also provides for other new regulations and authority regarding rates and charges, fees, and other billing issues for municipal services. Finally, the bill establishes a Billing Appeals Board within the Ohio Environmental Protection Agency (OEPA) to address billing and payment complaints regarding municipal services. It is not clear how these

alterations might impact Municipal Home Rule authority granted by the Ohio Constitution and how the courts might address any such impact.¹

Under current law, municipal corporations in Ohio are either villages or cities. A village has a population of less than 5,000; a city has a population of 5,000 or more.²

For purposes of the analysis, “village utility service” include electricity, gas, and other similar utility services provided through a village’s board of trustees of public affairs.³ “Disposal service,” under this analysis, refers to the collection or disposal of garbage, ashes, animal and vegetable refuse, dead animals, or animal offal.⁴ The bill defines “municipal services” as disposal services and the furnishing of supplies of water.⁵

Village utility service actions at law

The bill provides that when village utility service rents and charges have not been paid when due, the village may collect them by actions at law in the village’s name from an owner, tenant, or other person who is liable to pay them. Currently, the law says those rents and charges may be collected by actions at law in the village’s name. Under the bill and continuing law, those unpaid rents and charges may also be certified to the county auditor to be collected as other village taxes.⁶

Disposal service actions at law

The bill provides that, except for amounts certified to the county auditor, the legislative authority of a municipal corporation that has established a rate or charge for disposal service, which has gone unpaid, may collect it by actions at law in the name of the municipal corporation from an owner, tenant, or other person who is liable to pay the rents or charges.⁷ Under current law, which the bill does not change, unpaid rates or charges for those services, in an amount that is at least \$250, may be certified to the county auditor for collection as other taxes.⁸

Municipal services authority

The bill creates various other new regulations and authority regarding municipal services.

¹ Municipal Home Rule, <http://www.lsc.state.oh.us/documents/reference/current/membersonlybriefs/133Municipal%20Home%20Rule.pdf>, pp. 2, 3, 7, and 8.

² Ohio Constitution, Article 18, Section 1.

³ R.C. 735.29.

⁴ R.C. 701.10, not in the bill.

⁵ R.C. 701.20(D); R.C. Chapter 743 and 701.10, not in the bill.

⁶ R.C. 735.29(C).

⁷ R.C. 701.101.

⁸ R.C. 701.10, not in the bill.

Financial responsibility

The bill provides that any person who contracts to receive municipal services is financially responsible for paying all rates, fees, charges, and costs associated with the delivery of that service.⁹

Certifying liens

If the municipal corporation legislative authority attempts to certify a lien to the county auditor (for water service, village utility services, or disposal service)¹⁰ against a property or brings an action (an action at law to collect for water service, village utility services, or disposal service)¹¹ due to unpaid municipal service rates or charges, the bill establishes a rebuttable presumption that amounts exceeding the termination amount cannot be certified as a lien, or recovered by the action, against the property owner.

The presumption may be rebutted by any of the following based on a preponderance of the evidence:

- The property owner agreed to pay all the unpaid rates and charges, after having been given notice of the delinquent amount;
- The property owner occupies the residence;
- The municipal corporation attempted to mitigate any unpaid rates or charges by strictly adhering to its established protocol for terminating service for delinquent customer;
- Any other evidence demonstrating that the municipal corporation mitigated the amount of unpaid rates and charges before proceeding against the property owner.

These provisions regarding certifying a lien do not abridge or laminate any cause of action a municipal corporation may have against the tenant personally, or other persons liable for the unpaid rents or charges.¹²

Under the bill, “property owner” means the person who owns the residential property to which municipal services are provided and all of the following apply:

⁹ R.C. 701.21.

¹⁰ R.C. 701.20(B). The definition of “certify a lien” in the bill includes village water, electric, gas, and other public utility service. But, “municipal service” does not include village electric, gas, and other utility services. This is ambiguous, but since “certify a lien” includes village water service, which is also a municipal service under the bill, it is likely that service is what is included when the municipal corporation seeks to certify a lien under this provision. The ambiguity could be clarified.

¹¹ R.C. 701.20(A). Similar ambiguity exists for the definition of “bring an action” as for “certify a lien” in the note above since “municipal service” does not include village electric, gas, or other utility service. But, it is likely, since “bring an action” includes actions for village water service, that service is what is addressed when a municipal corporation brings an action. The ambiguity could be clarified.

¹² R.C. 701.22.

- The person does not occupy the property;
- The tenant or other occupant is contractually responsible to pay the charges and fees imposed for the municipal services;
- If the residential property consists of two or more dwelling units, both of the following must be true:
 - Each dwelling unit has a separate meter;
 - The tenant or other occupant of each dwelling unit is contractually responsible to pay the charges and fees imposed for the municipal services provided to the unit in which they reside.¹³

A “tenant” under the bill is a person entitled under a rental agreement to the use and occupancy of residential premises¹⁴ to the exclusion of others. A “dwelling unit” is a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.¹⁵

The “termination amount” means the amount of rates or charges for municipal services that when unpaid results in the termination of those services under the municipal corporation regulations.¹⁶

Tenant reinstatement fee

A municipal corporation’s legislative authority may establish a tenant reinstatement fee for municipal services. The fee may be applied if the tenant requests to reestablish municipal services after such services have been terminated by the municipal service provider or the tenant.¹⁷

Tracking unpaid rates

A municipal corporation’s legislative authority may track any unpaid rates or charges owed by a person for any municipal services between residential properties if:

- The person who contracted for municipal services currently has a debit or credit regarding the municipal services provided to the person; and

¹³ R.C. 701.20(F).

¹⁴ Residential premises are dwelling units, as defined under the bill, but with many notable exclusions, consisting of, for example, prisons, college dormitories, and hospitals. R.C. 5321.01(A) and (C), not in the bill.

¹⁵ R.C. 701.20(C).

¹⁶ R.C. 701.20(G).

¹⁷ R.C. 701.23.

- Municipal services provided to that person have been terminated at one residential property and established at another residential property.¹⁸

Billing details and history review

A municipal corporation's legislative authority may access and review the billing details and histories of any person who contracts to receive municipal services in order to identify and track unpaid rates or charges.¹⁹

Billing complaints

Right to make complaint

The bill provides that a person believing to have been improperly billed for municipal services may file a complaint with the municipal services provider. Under the bill, a "municipal service provider" is any entity created by a municipal corporation's legislative authority to provide municipal services.

Complaint process

A municipal services provider must establish a method for persons to make improper billing complaints. The provider must investigate every complaint received and resolve each complaint within ten business days. If the provider is unable to timely resolve the complaint, it must provide the person who filed the complaint a status report every five business days following the end of the ten-day period.

If a complaint is not resolved to the complaining person's satisfaction, the person may appeal the matter to the Billing Appeals Board in OEPA (discussed next) if the amount in dispute is \$300 or more.²⁰

Billing Appeals Board in OEPA

The bill creates the Billing Appeals Board (the Board) within OEPA. The Board must hear appeals of improper billing complaints for municipal services: (1) previously filed with the municipal service provider, (2) that have not been resolved to the complaining person's satisfaction, and (3) involve a disputed amount of \$300 or more. The Board must also hear appeals from property owners in cases where a tenant who is financially responsible for paying for municipal services failed to pay and the property owner was held responsible as a result.²¹

In connection with an appeal, the Board may access and review the billing details and histories of a person who contracts to receive municipal services in order to identify unpaid rates or charges.²²

¹⁸ R.C. 701.24.

¹⁹ R.C. 701.25.

²⁰ R.C. 701.26.

²¹ R.C. 3745.60 and 3745.61.

²² R.C. 3745.64.

Hotline

The bill requires OEPA to create a hotline to do the following:

- Allow a person to file an appeal regarding an improper billing complaint for municipal services;
- To provide information for filing an appeal, the appeals process, and other related information.²³

Rules

The OEPA Director is required to adopt rules under the Administrative Procedure Act (R.C. Chapter 119) regarding the Board, including for the following:

- The Board's composition, which shall include either three or five members, appointed by the Director;
- A procedure by which complaints are evaluated, to determine whether a hearing is warranted;
- Hearing procedures and processes;
- Standards by which the Board resolves complaints.²⁴

HISTORY

Action	Date
Introduced	09-16-21

H0422-I-134/ks

²³ R.C. 3745.63.

²⁴ R.C. 3745.62.