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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 422  
(1\_134\_1567-2)  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 422's Bill Analysis](#)

**Version:** In House State and Local Government

**Primary Sponsors:** Reps. Fraizer and West

**Local Impact Statement Procedure Required:** No

Tom Wert, Senior Budget Analyst, and other LBO staff

### Highlights

- The Environmental Review Appeals Commission (ERAC) will incur one-time and ongoing costs to establish and maintain an appeals process for complaints regarding improper billing for certain subdivision services. ERAC staff estimate initial startup costs of approximately \$800,000, with ongoing annual expenses between \$250,000 and \$400,000. ERAC's current operating budget, fully supported by the GRF, is insufficient to cover these costs.
- Municipal corporations and counties that provide subdivision services as defined by the bill may incur a slight uptick in administrative costs to establish a method for receiving and resolving billing complaints.

### Detailed Analysis

#### Environmental Review Appeals Commission

The bill establishes a process for hearing appeals of improper billing complaints for certain subdivision services by the Environmental Review Appeals Commission (ERAC). ERAC must adopt rules regarding its procedures, processes, and decision standards for improper billing appeals. The bill requires ERAC to also create a hotline for filing appeals and provide information about appeals and the appeals process and other related information.

ERAC functions as a quasi-judicial appellate review body specifically for resolving environmental disputes resulting from various final actions taken by certain state agencies and local boards of health. The Commission receives 100% of its funding from the GRF and supports a three-member board and two staff (the Director and one program administrator/attorney). The current biennial appropriation is \$1.3 million (\$641,000 for FY 2022 and FY 2023).

According to ERAC staff, the agency currently does not have the expertise available to administer such a billing appeals process. Additional staff would need to be hired and then trained. The bill is silent on the manner in which ERAC is to fund the new duties prescribed under the bill.

While the number of hearings that could be filed annually is currently unknown, ERAC staff anticipate the need to create a program separate from ERAC's current appeals duties, which focus primarily on environmental disputes. A specially trained administrative professional would be needed along with clerical support. There would also be one-time costs associated with procuring office space, equipment, setting up a hotline, and installing case management software to log and track the filed appeals. ERAC is also required to develop rules for the new program, for which there would be certain one-time administrative costs. ERAC staff estimate initial startup costs at approximately \$800,000 (including \$500,000 for case management software plus other miscellaneous equipment, space, and training costs).<sup>1</sup> Ongoing operating costs are estimated to be \$250,000 to \$400,000 per year. If the number of appeals filed annually is more than appropriate for a single hearing officer and clerical staff to process, additional staff may be needed in the future.

## **Municipal service fee complaints**

The bill makes changes that may affect a municipal corporation or county's ability to collect unpaid fees and charges for subdivision services<sup>2</sup> under certain circumstances. Under current law subdivision service providers may place liens on properties for unpaid fees and rates. Under the bill a lien for unpaid rates may only be placed on an owner-occupied property or a property where the owner agreed to pay any unpaid amounts for services contracted for by a tenant. Instead, for tenant contracted services, the bill requires subdivision service providers to recoup unpaid fees by actions at law. It is unclear whether expense of this remedy may exceed the amount to be collected in many cases. Because of that uncertainty, it is plausible to assume that some unpaid rates for many accounts would simply never be collected. While some subdivision service providers would lose revenue under these circumstances, given that recouping unpaid rates via property liens can take years or decades, it is difficult to determine how or if these changes would impact cash flow for subdivision service providers overall.

Counties and municipal corporations that provide subdivision services may incur a slight uptick in administrative costs to comply with the bill's requirements to establish a method for persons receiving municipal services to make complaints of improper billing. The bill requires subdivision service providers to investigate every complaint received and resolve those complaints within ten business days. Under the bill, if a complaint is unable to be resolved in ten business days, the subdivision service provider must provide the person who filed the complaint with a status report every five business days following the initial period. The bill allows a person

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<sup>1</sup> These costs are variable as many of the determining factors will depend on the availability and cost of leased office space and procurement processes (i.e., Department of Administrative Services bidding process), especially for the case management software.

<sup>2</sup> Under the bill, subdivision services include collection or disposal services as described in R.C. 701.10, services of a sanitary facility described in R.C. 6117.02, sewerage services under R.C. 729.49, water services as described in R.C. chapters 743 and 6103, and services from waterworks under R.C. 735.29.

who is not satisfied with the complaint resolution to appeal the matter to ERAC under the process described above.

## **Synopsis of Fiscal Effect Changes**

The differences in the fiscal effects between the As Introduced and substitute (I\_134\_1567-2) versions of H.B. 422 are described below.

- The bill removes the requirement that the Ohio Environmental Protection Agency (Ohio EPA) establish the Billing Appeals Board within their agency and instead assigns the duties to hear certain billing disputes to the Environmental Review Appeals Commission (ERAC). Due to the size and funding of ERAC, additional staffing and capital/equipment expenses will likely be incurred as there will be limited ability to leverage existing resources within the agency. ERAC staff estimate that total one-time costs could be approximately \$800,000 (\$500,000 for case management software plus other miscellaneous capital/equipment and training costs). Ongoing operating costs are estimated to be \$250,000 to \$400,000 per year.
- Changes made by the bill regarding collection of unpaid fees and rates for specified subdivision services do not appear to have a substantive fiscal effect when compared to the As Introduced version.