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H.B. 422
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Reported by 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 that provide municipal services as defined by the bill may incur a slight uptick in administrative costs to establish a method for receiving and resolving billing complaints and to provide notice to property owners regarding the placement of a lien on the owner's property.

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 create a hotline for filing appeals and to 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 its 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).¹ 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 fees

The bill makes changes that may affect a municipal corporation's ability to collect unpaid fees and charges for municipal services² under certain circumstances. Under current law, municipal 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 the expense of pursuing this remedy would exceed the amount to be collected in many cases. Because of that uncertainty, it is plausible to assume that unpaid rates for many accounts would simply never be collected. While some municipal 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 municipal service providers overall.

Municipal corporations that provide municipal 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 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 who is not satisfied with the

¹ 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.

² Under the bill, municipal services include collection or disposal services as described in R.C. 701.10, sewerage services under R.C. 729.49, water services as described in R.C. Chapter 743, and services from waterworks under R.C. 735.29.

complaint resolution to appeal the matter to ERAC under the process described above. The bill also requires municipal service providers to notify property owners if a lien for unpaid municipal services fees is placed on the property. Providing this notice may also result in a slight increase in administrative expenses.