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Office

S.C.R. 10
133rd General Assembly

Resolution Analysis

Version: As Adopted by the Senate

Primary Sponsor: Sen. Lehner

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SUMMARY

- Approves proposed revisions to Ohio Department of Health rules that establish standards for boards of health and local health departments and a formula for distributing state subsidy funds.
- Conforms to existing law, which requires the rules to be approved by concurrent resolution of the General Assembly before taking effect.

DETAILED ANALYSIS

Background on legislative approval of rules governing boards of health and local health departments

In 1981, the 114th General Assembly enacted Am. Sub. H.B. 694, a general appropriations act that included a provision requiring the Public Health Council of the Ohio Department of Health (ODH) to adopt rules establishing the following:

- Minimum standards and optimum achievable standards for boards of health and local health departments;
- A formula for distribution of state subsidy funds according to the level at which the standards are met.¹

Note that the 129th General Assembly, as part of H.B. 487, abolished the Public Health Council and transferred its duties to the Director of Health.² Accordingly, the Director of Health is now charged with adopting the rules.

¹ R.C. 3701.342.

² See <https://www.lsc.ohio.gov/documents/gaDocuments/analyses129/12-hb487-129.pdf>.

Concurrent resolution required

The statute contains another provision – one requiring the foregoing ODH rules to be approved by concurrent resolution of the Ohio General Assembly before they may take effect.³ (Other rules subject to approval in this manner include those of the State Board of Education establishing health education standards and curriculum.⁴) The legislature last approved ODH rules in 2011 when the 129th General Assembly concurred in H.C.R. 29.⁵

Proposed revisions to ODH rules

S.C.R. 10 would approve the Director of Health’s latest revisions to the rules establishing minimum and optimum achievable standards for boards and health departments and a formula for distributing state subsidy funds.⁶ Under existing statutory law, funds are to be distributed to boards and health departments according to the level at which the standards are met.

According to ODH, these rule revisions were proposed to satisfy five-year review requirements.⁷ As noted in the text of S.C.R. 10, on August 1, 2018, ODH held public hearings on the matter and later in the month, the Joint Committee on Agency Rule Review (JCARR) considered the proposed rules, but took no action against them.

At present, the Director seeks to amend the following Ohio Administrative Code rules – 3701-36-01, 3701-36-02, 3701-36-03, 3701-36-05, 3701-36-11, and 3701-36-14 – and to rescind and propose new rules for 3701-36-10 and 3701-36-12. The Director also aims to rescind rules 3701-36-04 and 3701-36-13.⁸ The changes to each rule are described briefly in the table below.

Rule	Subject	Rule Changes
3701-36-01	Definitions	Deletes several terms, including references to the former Public Health Council, and updates the definition of “optimal achievable standards.”
3701-36-02	Purpose and scope	Deletes certain terms.
3701-36-03	Minimum standards	Authorizes the Director of Health to grant variances or waivers from rule requirements for good cause; allows a health district to employ either a full-time commissioner or part-time commissioner with a

³ R.C. 3701.342.

⁴ R.C. 3301.0718.

⁵ H.C.R. 29.

⁶ S.C.R. 10.

⁷ See e.g., http://www.registerofohio.state.oh.us/pdfs/3701/0/36/3701-36-03_PH_OF_A_RS_20180622_1633.pdf.

⁸ See <http://www.registerofohio.state.oh.us/rules/search>.

Rule	Subject	Rule Changes
		full-time administrator; adjusts the due dates for subsidy applications and reports.
3701-36-04	Promoting the public's health	Rescinds the rule requiring each local health department to provide programs in such a manner as to protect and promote the public's health for the communities each board of health serves.
3701-36-05	Collect, report, and share public health quality indicators	<p>Makes changes to the following quality indicators:</p> <ol style="list-style-type: none"> 1. Aligns certain collected data with the state's health improvement plan; 2. With respect to emergency preparedness indicators, requires local health districts to respond within one hour of a drill; 3. Reorganizes and adds new public health measures to the environmental health services indicators; 4. Regarding vaccination indicators, updates references to the vaccinations required by the Ohio Revised Code by including the seventh and twelfth grade requirements.⁹
3701-36-10	Payment of health district subsidies	With respect to provisions governing the computation of health district subsidies, removes references to "fifty cents per capita." Also authorizes the Director of Health to require health districts to apply for accreditation by July 1, 2018, and be accredited by July 1, 2020.
3701-36-11	Certification of compliance and financial disclosure	Adjusts the due dates for state subsidy applications.

⁹ S.B. 121 of the 131st General Assembly enacted a requirement that students be immunized about meningococcal disease at the age recommended by ODH. See R.C. 3313.671(A)(3) and (E). While a student must show proof of vaccinations generally before entering kindergarten, in the case of meningococcal disease, such proof must instead be provided before entering the seventh and twelfth grades. See Ohio Department of Health, *School Immunization Summary for School Year 2019-20*, available at https://odh.ohio.gov/wps/portal/gov/odh/know-our-programs/school-nursing-program/media/School_Immunization_Summary_for_School_Year_2019.

Rule	Subject	Rule Changes
3701-36-12	Review process for assessing compliance	With respect to the Director of Health's evaluation of local health departments for compliance with ODH standards, removes provisions establishing review teams composed of local health department staff. Also provides for an informal review process under which local health districts may participate.
3701-36-13	Informal hearing process	Rescinds the provisions regarding informal hearings concerning local health departments. (Similar language incorporated in proposed rule 3701-36-12.)
3701-36-14	Cost methodology	Updates references to Ohio Revised Code sections.

HISTORY

Action	Date
Offered	11-18-19
Reported, S. Health, Human Services & Medicaid	02-27-20
Adopted by the Senate (32-0)	07-21-20