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Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Swearingen

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SUMMARY

Withdrawal from a joint-county district

- Requires a board of county commissioner's comprehensive plan for withdrawal from a joint-county alcohol, drug addiction, and mental health service district ("joint-county district") to include additional information about the new district and its continuation of services.
- Requires the Director of the Ohio Department of Mental Health and Addiction Services (OhioMHAS) to approve the comprehensive plan within one year from the date the board adopts the resolution to withdraw.

Composition and appointment of ADAMHS boards

- Modifies the composition and appointment of boards of alcohol, drug addiction, and mental health services (ADAMHS boards) as follows:
 - Permits ADAMHS boards to have 18, 15, 12, 9, or 6 members, instead of only 18 or 14.
 - Expands the appointment authority of boards of county commissioners to two-thirds of ADAMHS board seats, and, proportionally reduces the appointment authority of the OhioMHAS Director to one-third of ADAMHS board seats.
 - Modifies the qualifications ADAMHS board members must have to hold a board seat by requiring one-third of board members to hold at least one of six enumerated qualifications, instead of at least one member for each qualification.
 - Permits the appointing authority to remove an ADAMHS board member at will, instead of for enumerated causes, and eliminates the requirement that the board member be given the opportunity for a hearing before the removal.

- Clarifies that the current authority of an ADAMHS board to remove its executive director for cause applies at any time, contingent upon any written contract between the board and the executive director.

Authority of ADAMHS boards

- Removes the current dispute resolution process required if a party to a contract with an ADAMHS board seeks to terminate the contract.
- Clarifies that although ADAMHS board contracts are exempt from state contract competitive bidding requirements, an ADAMHS board can choose to use a process for selecting and entering into contracts based on a competitive or other basis.
- Eliminates the requirement that ADAMHS boards take certain actions based on data in monthly reports from community addiction services providers, made available to the boards by OhioMHAS.
- Removes obsolete provisions describing past local and statewide reports regarding each ADAMHS board's work on the existing county hub program to combat opioid addiction.

Taxing authority

- Requires revenue from a joint-county district property tax to be expended for the benefit of the residents of the county from which it is collected.
- Requires a member county of a joint-county district and, in certain circumstances, a withdrawing county from such a district to continue to levy and collect an ADAMHS-related tax following reorganization of the district.
- Requires, under certain circumstances, a new ADAMHS-related county tax to be labeled as a renewal for ballot language purposes based solely on its collections.

DETAILED ANALYSIS

Overview

Boards of alcohol, drug addiction, and mental health services (ADAMHS boards) are local boards that plan for mental health and addiction services locally and contract with providers for prevention, treatment, and recovery supports for individuals in need.¹ The bill makes changes to the composition and authority of those boards.

Current law requires an alcohol, drug addiction, and mental health service district to be established in any county, or combination of counties, with a population of 50,000 or more, subject to the approval of the Director of the Ohio Department of Mental Health and Addiction Services (OhioMHAS).² A service district comprised of one county is referred to as a "single-

¹ Ohio Department of Mental Health and Addiction Services, *ADAMH Boards*, available [here](#).

² R.C. 340.01(B).

county district” and a service district comprised of more than one county is referred to as a “joint-county district.” Each service district must establish an ADAMHS board.

Withdrawal from a joint-county district

The bill establishes additional requirements for the comprehensive plan a board of county commissioners must submit when requesting withdrawal from a joint-county district. Currently, the board of county commissioners of any county in a joint-county district may request withdrawal from the service district by submitting to the OhioMHAS Director, the impacted ADAMHS board, and the boards of county commissioners of each county in the district a resolution requesting withdrawal from the district with a comprehensive plan for the withdrawal. The plan must provide for the equitable adjustment and division of all district services, assets, property, debts, and obligations.

The bill requires the comprehensive plan for withdrawal to include the following additional information:

- Proposed bylaws for the operation of the new district;
- A list of potential board members;
- A list of the behavioral health services available in the new district, including inpatient, outpatient, prevention, and housing services;
- A plan ensuring no disruption in behavioral health services in the new district; and
- Provision for employing an executive director of the new district.

It also sets a deadline by which the OhioMHAS Director must approve the comprehensive plan for withdrawal. Specifically, the plan must be approved within one year of the date the resolution to withdraw was adopted by the board of county commissioners.³

ADAMHS board membership

The bill makes a number of changes relating to the composition and appointment of ADAMHS board members. As part of those changes, the bill includes associated revisions to eliminate outdated references to dates and prior versions of the statute and to make other adjustments related to statutory reorganization.

Number of board members

The bill creates additional options for the size of ADAMHS boards, which currently can have 18 or 14 members, and allows the size of the boards to be later revised. Former law, which established ADAMHS boards with 18 members, was amended to permit the boards to elect to reduce to 14 members before September 30, 2013. To reduce size in a single-county district, an ADAMHS board was required to notify the board of county commissioners and receive that board’s approval. In a joint-county district, a proposed reduction could not occur if

³ R.C. 340.01(B).

the proposal was rejected by a majority of the boards of county commissioners. The ADAMHS board and the one or more boards of county commissioners were required to notify OhioMHAS of an election to reduce to a 14-member board by January 1, 2014. If notice was timely provided, the ADAMHS board seats reduced from 18 to 14 by attrition as current members' terms expired.⁴

Under the bill, a new ADAMHS board may be established with any of the following number of members:

- 18 members;
- 15 members;
- 12 members;
- 9 members; or
- 6 members.

Similarly, an ADAMHS board that exists on the bill's effective date can continue as an 18-member board, or can elect to reduce to 15, 12, 9, or 6 members.

In a single-county district, the size of the ADAMHS board is determined by the board of county commissioners of the county that constitutes the district. In a joint-county district, the size of the board is determined jointly by all of the boards of county commissioners that constitute the district.

The first determination of an ADAMHS board's size after the bill's effective date must be made by July 1, 2022. In making the determination, the one or more relevant boards of county commissioners must adopt a resolution specifying the selected size and notify OhioMHAS of the selection. After the first determination, a resolution regarding an ADAMHS board's size cannot be adopted more than once every four calendar years.⁵

Appointment of board members

The bill expands the appointment authority of boards of county commissioners to two-thirds of ADAMHS board seats, and, proportionally reduces the appointment authority of the OhioMHAS Director to one-third of ADAMHS board seats. Under current law, the board or boards of county commissioners appoint 10 members of 18-member ADAMHS boards and 8 members of 14-member boards. The OhioMHAS Director appoints 8 members of 18-member boards and 6 members of 14-member boards.⁶

⁴ R.C. 340.02.

⁵ R.C. 340.02(A) and (B).

⁶ R.C. 340.02(C).

Qualifications of board members

The bill modifies qualification requirements ADAMHS board members must meet to hold a board seat. Under current law, the OhioMHAS Director must ensure that each board has the following:

- At least one member who is a clinician with experience in the delivery of mental health services;
- At least one member who is a person who has received or is receiving mental health services;
- At least one member who is a parent or other relative of a person who has received or is receiving mental health services;
- At least one member who is a clinician with experience in the delivery of addiction services⁷;
- At least one member who is a person who has received or is receiving addition services; and
- At least one member who is a parent or other relative of a person who has received or is receiving addiction services.

The bill modifies this requirement to require one-third of ADAMHS board members to meet at least one of the above qualifications. Of that one-third, one member must be a person who has received or is receiving mental health services and one member must be a person who has received or is receiving addiction services. Each of the remaining positions included in the one-third must be filled by persons holding any of the above qualifications. The bill makes all appointing authorities – both the OhioMHAS Director and boards of county commissioners – responsible for ensuring these membership requirements are met.⁸

Removal of board members

The bill permits the appointing authority to remove an ADAMHS board member at will, and eliminates the requirement that the board member be given the opportunity for a hearing before the removal. Current law permits the appointing authority to remove a board member for neglect of duty, misconduct, or malfeasance in office.⁹

⁷ Both clinician requirements can be met by the same individual if the individual has the requisite experience.

⁸ R.C. 340.02(C).

⁹ R.C. 340.02(C).

Executive director

The bill clarifies that the current authority of an ADAMHS board to remove its executive director for cause applies *at any time*, contingent upon any written contract between the board and the executive director.¹⁰

Contracts with providers

The bill removes the current dispute resolution process required if a party to a contract with an ADAMHS board seeks to terminate the contract. Current law requires ADAMHS boards to contract with facilities and providers relating to the provision of addiction services and recovery supports, and imposes a specific dispute resolution process that must be followed if a party to the contract proposes to not renew the contract. In place of the current dispute resolution process, the bill provides that any party to the contract can terminate the contract at any time by providing the other party written notice at least 30 days before the termination date.¹¹

The bill clarifies that although current law exempts ADAMHS board contracts from state contract competitive bidding requirements, an ADAMHS board can choose to establish and use a process for selecting and entering into contracts on a competitive basis or any other basis the board considers appropriate.¹²

Monthly reporting

The bill eliminates the current requirement that ADAMHS boards take certain actions based on data in monthly reports from community addiction services providers, made available to the boards by OhioMHAS.

Under current law, unchanged by the bill, a community addiction services provider must report monthly to OhioMHAS specified data and information regarding individuals on the provider's wait list. It further requires OhioMHAS to make the reports available electronically to ADAMHS boards, in a manner that provides information about an individual to the individual's ADAMHS board.¹³ The bill, however, eliminates the requirements that each ADAMHS board:

1. Acknowledge to OhioMHAS that the board has received and reviewed the information;
2. Use the information to determine whether any opioid and co-occurring drug addiction services and recovery supports are not meeting the needs of the alcohol, drug addiction, and mental health service district that the board serves; and

¹⁰ R.C. 340.04.

¹¹ R.C. 340.036(D).

¹² R.C. 340.036(E).

¹³ R.C. 5119.362 and 5119.364, not in the bill.

3. Inform OhioMHAS of its determination.¹⁴

County hub program reports

The bill removes outdated requirements pertaining to past reports on the county hub program to combat opioid addiction, but does not otherwise alter the operation of the program. The provisions being removed required that:

1. By January 1, 2020, each ADAMHS board submit a report to OhioMHAS summarizing the board's work on, and progress toward, addressing each of the purposes of the county hub program to combat opioid addiction, as enumerated under existing law; and
2. OhioMHAS aggregate the reports and submit a report of statewide data to the Governor and the General Assembly.¹⁵

Taxing authority

Under continuing law, an ADAMHS board in a joint-county district may, with voter approval, levy property tax within the joint-county district to fund the district's operations (referred to in this analysis as a "district tax").¹⁶ Boards of county commissioners also may, with voter approval, levy property tax to fund either the county's share of expenses of a joint-county district of which it is a member ("county contribution tax") or the operations of the county's single-county district ("single county tax").¹⁷

The bill makes several changes to the authority to levy district, county contribution, and single county taxes. First, the bill limits which residents within a joint-county district may benefit from district and county contribution tax revenue. Second, the bill expressly stipulates the circumstances in which a county contribution or single county tax must continue to be levied following the reorganization of a joint-county district. Third, the bill requires, in circumstances related to the withdrawal of a county from a joint-county district, a new county contribution or single county tax to be designated as a renewal for ballot language purposes only.

Tax revenue use limitations

The bill requires revenue from a district tax to be expended for the benefit of the residents of the county from which the revenue is collected.¹⁸ Under current law, an ADAMHS board in a joint-county district has discretion in how to spend district tax revenue within the district, regardless of county lines, provided the use is authorized by law and as approved by voters.

¹⁴ R.C. 340.20, repealed, with a conforming change in R.C. 5119.363.

¹⁵ R.C. 340.30.

¹⁶ R.C. 5705.19, not in the bill.

¹⁷ R.C. 5705.221.

¹⁸ R.C. 340.01(C).

Similarly, the bill requires revenue from a county contribution tax, which is ultimately paid to a joint-county district of which the county is a member, to be expended by the ADAMHS board only for the benefit of the residents of that county.¹⁹

The bill's tax revenue use limitations apply to tax years ending on or after the bill's 90-day effective date, regardless of when the applicable tax is approved by voters.²⁰

Reorganization of a joint-county district

Under continuing law, a county contribution tax submitted to voters must identify the name of the joint-county district of which the county is a member.²¹ When a county joins or withdraws from a joint-county district, though, the name and legal identity of the district changes. Since a county contribution tax is approved to fund a specific joint-county district, the county may no longer be able to levy a county contribution tax after the reorganization of that district.

In such circumstances, the bill requires a county that remains part of a newly reorganized joint-county district to continue to levy its county contribution tax that was previously approved by voters. The contribution tax is levied pursuant to the same terms approved by voters for the defunct joint-county district and is used to fund the county's share of expenses for the new joint-county district. If the board of county commissioners of that county approves the renewal or replacement of the county contribution tax, the question of the tax submitted to voters and the election notice must identify the name of the new joint-county district instead of the defunct district.²²

The bill similarly requires a withdrawing county to continue to levy a county contribution tax pursuant to the terms approved by voters, but only if the county joins a new joint-county district or establishes its own single-county district in the year following its withdrawal. The question of renewing or replacing such a county tax and the election notice must also identify the name of the new joint- or single-county district instead of the defunct district.²³

The bill's treatment of county taxes following a reorganization of a joint-county district is similar to a provision in continuing law requiring a district tax to continue to be levied in a county that withdraws from a joint-county district, until the district tax expires or is renewed or replaced.²⁴

¹⁹ R.C. 5705.221(D).

²⁰ Section 4.

²¹ R.C. 5705.25, not in the bill.

²² R.C. 5705.221(E).

²³ R.C. 5705.221(F).

²⁴ R.C. 340.01(B).

The bill's reorganization-related county tax modifications apply to tax years ending on or after the bill's 90-day effective date, regardless of when the applicable tax is approved by voters.²⁵

Renewal designation based on collections

As explained above, if a county withdraws from a joint-county district that levies a district tax, that tax will continue to be levied in the withdrawing county until the tax expires or is renewed or replaced. If a board of county commissioners proposes to levy a county contribution or single county tax to take effect once the district tax ceases to be levied in that withdrawing county, the question of the tax submitted for voter approval will, under current law, appear in the same manner as any other new county contribution or single county tax.

Instead, the bill requires the county contribution or single county tax to be labeled as a renewal, renewal and increase, or renewal and decrease in the ballot language and election notice, but only if three conditions are satisfied. First, the county must withdraw from a joint-county district. Second, the joint-county district from which the county withdraws must levy a district tax in the tax year the county withdraws from the district. Third, the board of county commissioners of the withdrawing county must adopt a resolution approving the levy of a county contribution or single county tax to begin in the tax year immediately following the year the district tax expires or is renewed or replaced.

Such a county tax would not be labeled as a renewal on the ballot and in the election notice under current law since the board of county commissioners is a different taxing authority than the ADAMHS board, and a tax may only be renewed by the taxing authority that imposes it.

Unlike renewal levies, this renewal designation does not account for the application of the H.B. 920 tax reduction factors that applied to the former district tax, and, as a result, the county contribution or single county tax will be functionally treated as a new tax. The H.B. 920 tax reduction factor, for most levies, is a tax credit that generally prevents increases in tax collections due to appreciation in property value, except appreciation resulting from new construction.²⁶ The tax reduction factor does not actually affect the voted rate of a tax, but it does gradually impact the collections that may otherwise be generated by a particular levy.

As a result, the description of the applicable county tax as a renewal, renewal and increase, or renewal and decrease is not based on its voted rate relative to the former district tax, nor does it depend on whether the tax continues to be levied by the same taxing authority, as is the case with renewal levies. Instead, the description in this case is based solely on the collections of the new county tax relative to the former district tax.

To that end, the bill requires the county auditor to certify to the board of county commissioners whether revenue from the proposed county contribution or single county tax in

²⁵ Section 4.

²⁶ R.C. 319.301, not in the bill.

the first year it would be levied is estimated to be equal to or higher or lower than the district tax collections in that county in the last year the district tax is levied. County commissioners must then certify the county auditor’s determination to the board of elections, so the board may designate the county contribution or single county tax as a renewal, renewal and increase, or a renewal and decrease, respectively, in the ballot language and election notice.²⁷

The bill’s special renewal ballot language designation for these taxes applies to resolutions adopted by boards of county commissioners authorizing such taxes on or after 100 days after the bill’s 90-day effective date.²⁸

HISTORY

Action	Date
Introduced	12-22-21

H0523-I-134/ar

²⁷ R.C. 5705.221(A) and (G).

²⁸ Section 4.