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HB 1365 (Printer's No. 1694) Analysis

Date: May 9, 2017

**Amending the Sewage Facilities Act –
Adjusting permit-exempt inspection fee cap**

Prime Sponsor: Representative Daley

A. Synopsis of Bill

This bill amends the Sewage Facilities Act (Act 537 of 1966) to adjust the cap on the inspection fee, which may be charged by a municipality for a sewage enforcement officer's inspection of the site for a proposed permit-exempt septic system, in order to more fully pay for the actual cost of the inspection.

B. Summary and Analysis of Bill

Before installation of the system, a person must notify the municipality so that the municipality can verify that the proposed location meets the act's siting requirements. The maximum fee that a municipality is currently allowed to charge for a sewage enforcement officer's (SEO's) verification of the siting requirements is \$25, which was established by amendment of Act 537 in 1994. Under this bill, the fee cap will be adjusted to \$100.

The act would take effect in 60 days.

C. Relevant Current Law

Section 7 of Act 537 defines a permit-exempt system, as "an individual on-lot sewage system for a residential structure occupied or intended to be occupied by the property owner, or a member of his or her immediate family on a contiguous tract of land ten acres or more if the owner of the property was the owner of record as

of January 10, 1987,” except where a municipality or local agency requires a permit by ordinance. The provision, “if the owner of the property was the owner of record as of January 10, 1987,” is a grandfathering clause in Act 26 of 1989 (HB 52, PN 2259) that amended Act 537.¹

Section 7(a.1) of the Sewage Facilities Act authorizes a municipality to charge a fee, not to exceed \$25, to verify that a permit-exempt system is located according to delineated siting requirements—at least 200 feet from the perimeter of any property line, nonutility right-of-way, 100-year flood plain or any river, stream, creek, impoundment, well, watercourse, storm sewer, lake, dammed water, pond, spring, ditch, wetland, water supply or any other body of surface water, and 10 feet from any utility right-of-way.

D. Background of Bill

The bill was drafted in consultation with the Pennsylvania State Association of Township Supervisors (PSATS) and in response to PSATS Resolution 2013-37. An earlier draft proposed authorizing the Department of Environmental Protection (DEP) to establish a cap on the fee by regulation; however, that authorization was removed after consulting with the DEP Office of Legislative Liaison.

E. Effect of Bill

This bill reduces the fiscal impact on municipalities by requiring the property owner to pay a greater portion or possibly all of the actual cost of the inspection.

F. Issues, Policy Questions and Stakeholder Feedback

In PSATS having surveyed sewage enforcement officers in 2015 on their costs to perform permit-exempt system inspections on contiguous tracts of 10 acres or more, their reported average cost per DEP region ranged from \$100 to \$255 per inspection. DEP reported that a typical fee is \$200 per inspection. Under the current statutory cap of \$25, the municipality, which sets and collects the fee, absorbs the difference, passing the cost on to other taxpayers in the municipality. The proposed cap increase from \$25 to \$100 was agreed upon by PSATS and DEP.

G. Bill History

In the 2015-2016 Session, this bill was introduced as House Bill 914. The bill was passed by the House on March 16, 2016 (132-59). House Bill 914 was referred to the Senate Environmental Resources and Energy Committee on March 22, 2016, where it remained upon sine die adjournment. This legislation was also introduced in the Senate during the 2015-2016 Session as Senate Bill 780. Senate Bill 780 was referred to the Senate Environmental Resources and Energy Committee on May 15, 2015, where it remained upon sine die adjournment.

¹ Commonwealth of Pennsylvania, *Legislative Journal, Session of 1989*, 173D of the General Assembly, No. 51, Friday June 30, 1989, pp. 1421-1422.