

1 HB95  
2 203957-1  
3 By Representative Rich  
4 RFD: Ways and Means General Fund  
5 First Read: 04-FEB-20  
6 PFD: 02/03/2020

1  
2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, the Alabama Onsite  
9 Wastewater Board is responsible for examining,  
10 licensing, and regulating persons engaged in the  
11 manufacture, installation, or servicing of onsite  
12 sewage systems in the state.

13 This bill would delete the requirement that  
14 the board transfer certain unspent and unencumbered  
15 funds in the Alabama Onsite Wastewater Board Fund  
16 to the State General Fund at the end of each fiscal  
17 year.

18 This bill would increase the maximum  
19 administrative fine the board may impose for a  
20 violation of law or rule of the board or the  
21 Alabama Department of Public Health and would allow  
22 the board to recover actual court costs sustained  
23 as the result of a violation.

24 Amendment 621 of the Constitution of Alabama  
25 of 1901, now appearing as Section 111.05 of the  
26 Official Recompilation of the Constitution of  
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a  
2 new or increased expenditure of local funds from  
3 becoming effective with regard to a local  
4 governmental entity without enactment by a 2/3 vote  
5 unless: it comes within one of a number of  
6 specified exceptions; it is approved by the  
7 affected entity; or the Legislature appropriates  
8 funds, or provides a local source of revenue, to  
9 the entity for the purpose.

10 The purpose or effect of this bill would be  
11 to require a new or increased expenditure of local  
12 funds within the meaning of the amendment. However,  
13 the bill does not require approval of a local  
14 governmental entity or enactment by a 2/3 vote to  
15 become effective because it comes within one of the  
16 specified exceptions contained in the amendment.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT  
21

22 To amend Sections 34-21A-6 and 34-21A-25, Code of  
23 Alabama 1975, relating to the Alabama Onsite Wastewater Board;  
24 to delete the requirement that the board transfer certain  
25 funds to the State General Fund at the end of each fiscal  
26 year; to increase the maximum fine allowed for violations from  
27 \$1,000 to \$5,000 per violation; to authorize the board to

1 recover actual court costs sustained as the result of a  
2 violation; and in connection therewith would have as its  
3 purpose of effect the requirement of a new or increased  
4 expenditure of local funds within the meaning of Amendment 621  
5 of the Constitution of Alabama of 1901, now appearing as  
6 Section 111.05 of the Official ReCompilation of the  
7 Constitution of Alabama of 1901, as amended.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 34-21A-6 and 34-21A-25 of the  
10 Code of Alabama 1975, are amended to read as follows:

11 "§34-21A-6.

12 ~~"(a) There is hereby established a separate special~~  
13 ~~fund in the State Treasury to be known as the "Alabama Onsite~~  
14 ~~Wastewater Board Fund." All receipts and monies collected~~  
15 ~~under this chapter shall be deposited in the fund and used~~  
16 ~~only to carry out the provisions of this chapter. The fund~~  
17 ~~shall be disbursed only by warrant of the ~~state~~ Comptroller~~  
18 ~~upon the State Treasury upon itemized vouchers approved by the~~  
19 ~~executive director. No funds shall be withdrawn or expended~~  
20 ~~except as budgeted and allotted according to Sections 41-4-80~~  
21 ~~to 41-4-96, inclusive, and 41-19-1 to 41-19-12, inclusive, and~~  
22 ~~only in amounts as stipulated in the general appropriation~~  
23 ~~bill or other appropriation bills.~~

24 ~~"(b) Any funds unspent and unencumbered at the end~~  
25 ~~of each fiscal year that exceed 25 percent of the board's~~  
26 ~~budget for the previous fiscal year shall be transferred to~~  
27 ~~the State General Fund.~~

1           "§34-21A-25.

2           "(a) Any person who undertakes or attempts to  
3 undertake the business of manufacturing, installing,  
4 servicing, cleaning, repairing, or maintaining any onsite  
5 sewage system or equipment without first having obtained and  
6 having possession of a current, valid license from the board  
7 or who knowingly presents or files false information with the  
8 board for the purpose of obtaining a license or otherwise  
9 fraudulently obtains a license, or who knowingly violates ~~any~~  
10 ~~provision of~~ this chapter regulating the onsite sewage  
11 industry shall be guilty of a Class A misdemeanor, as defined  
12 by the state criminal code.

13           "(b) Whenever it appears to the board that an  
14 individual has violated or is about to violate this chapter,  
15 ~~it~~ the board may in its own name petition the circuit court of  
16 the county where the violation is occurring or is about to  
17 occur to issue a temporary restraining order or other  
18 appropriate injunctive relief enjoining the violation.

19           "(c) The board may reprimand in writing any licensee  
20 who provides substandard or dangerous service, repair, or  
21 installation or who otherwise violates this chapter.

22           "(d) The board may levy and collect an  
23 administrative fine not to exceed ~~one thousand dollars~~  
24 ~~(\$1,000)~~ five thousand dollars (\$5,000) for each violation of  
25 this chapter or a rule, as amended, of the board or Alabama  
26 Department of Public Health rules pertaining to the

1 manufacture, installation, servicing, cleaning, or maintenance  
2 of an onsite sewage system or portable toilets.

3 "(e) In addition to or in lieu of the criminal  
4 penalties and administrative sanctions provided in this  
5 chapter, the board may issue an order to any person, firm, or  
6 corporation engaged in any activity, conduct, or practice  
7 constituting a violation of this chapter directing the person,  
8 firm, or corporation to immediately cease and desist from the  
9 activity, conduct, practice, or performance of any work then  
10 being done or about to be commenced. The order shall be issued  
11 in the name of the State of Alabama under the authority of the  
12 board. A person, firm, or corporation that does not comply  
13 with a cease and desist order shall be deemed in violation of  
14 this chapter and shall be subject to all disciplinary powers,  
15 penalties, fines, and remedies available to the board.

16 "(f) In addition to any administrative fine, the  
17 board may recover any interest and costs of hearing sustained  
18 within the state as the result of the conduct of any licensee  
19 or other person who violates this chapter or the rules of the  
20 board or the Alabama Department of Public Health."

21 Section 2. Although this bill would have as its  
22 purpose or effect the requirement of a new or increased  
23 expenditure of local funds, the bill is excluded from further  
24 requirements and application under Amendment 621 because the  
25 bill defines a new crime or amends the definition of an  
26 existing crime.

1                   Section 3. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.