



COUNTY ADVISORY BULLETIN

CAB

Published by: County Commissioners Association of Ohio

37 West Broad Street, Suite 650 • Columbus, Ohio 43215-4195
Phone: 614-221-5627 • Fax: 614-221-6986 • www.ccao.org

BULLETIN 1994-08

AUGUST 1994

NEW LAW AUTHORIZING REVISION OF DOG CONTROL FEES AND ANIMAL SHELTERS TO ADMINISTER DRUGS FOR EUTHANASIA

INTRODUCTION

Ohio law requires a county to charge certain costs or fees against the owner or keeper of any stray or unlicensed dog seized by the dog warden and housed in a county dog pound until the dog is redeemed, sold or destroyed. The fees established by ORC 955.17 are uniform statewide and do not reflect differences in actual costs to each county in performing state mandated services. Recent legislation, HB 88, sponsored by Representative Marc Guthrie (D-Heath) permits county commissioners to conduct a cost analysis study to analyze and establish fees that may vary from county to county to reflect the actual direct and indirect cost to the county for seizing, housing and disposing of dogs.

The new law also authorizes an animal shelter licensed by the State Board of Pharmacy to directly purchase and administer drugs to euthanize animals and specifies the training necessary before employees of those facilities may perform euthanasia. An animal shelter is defined as a dog pound operated pursuant to Chapter 955 ORC or a facility operated by a humane society under Chapter 1717. Senator Bob Boggs (D-Jefferson), the Senate Minority Leader, offered this amendment at the request of Ashtabula County. This county had experienced increased cost and difficulty in obtaining veterinary services to euthanize animals following the retirement of a veterinarian who had authorized the local humane society to use his off premise drug license. The provisions authorizing animal shelters to directly obtain and administer euthanizing drugs will reduce the cost and improve efficiency of performing euthanasia in certain counties.

The purpose of this CAB is to explain the new county authority to perform a cost analysis study and to establish revised dog control fees that reflect the actual cost to the county of seizing, housing and disposing of dogs. This CAB also explains the new authority for the

licensure of animal shelters and the training of employees to use drugs to euthanize animals.

The law took effect June 29, 1994. Counties are urged to insert this CAB after the CCAO INFORMATION tab of the COUNTY COMMISSIONERS' HANDBOOK.

SUMMARY OF MAJOR STATUTORY CHANGES

The following table summarizes the statutory changes resulting from the enactment of HB 88.

ORC SECTION	SUMMARY
955.17(B)(C)(D)	Authorizes county commissioners to conduct or contract for the performance of a cost analysis study and increase fees for services required to be provided by the county dog warden. Fees may be less than or equal to, but not more than determined costs.
955.17(E)	Authorizes county commissioners to charge reasonable fees for miscellaneous services provided by the county dog warden. A cost analysis study is not required for these miscellaneous services.
3719.01(GG)	Defines animal shelter in the Uniform Controlled Substances Act and the Ohio Pharmacy Law as a facility operated by a humane society or a dog pound operated by the county.
4729.02	Authorizes licensed drug manufacturers and wholesalers to sell euthanizing drugs to animal shelters.
3719.04(A)	Requires animal shelters to keep a record of any euthanizing drugs they receive, administer or dispense.
3719.07(E)	Authorizes animal shelters licensed by the State Board of Pharmacy to possess and use drugs for the sole purpose of euthanizing animals.
3719.09(D)	Authorizes the State Board of Pharmacy to license animal shelters to purchase, possess and
4729.531	

	administer drugs for the sole purpose of euthanizing animals.
4729.532	Authorizes certification of animal shelter agents and employees who perform euthanasia by lethal injection. Requires the State Veterinary Medical Licensing Board to approve curriculum for a euthanasia technician certification course. Requires animal shelter agents or employees who euthanize animals by lethal injection to do so in a humane manner and specifies, by order of preference, acceptable methods for performing euthanasia by lethal injection. Requires animal shelter agents or employees who are currently performing animal euthanasia by means of lethal injection to obtain certification within 180 days after the effective date of the act.
4729.54	Requires animal shelters to file with the State Board of Pharmacy a notarized list of the drugs to be administered to animals and the trained personnel who are authorized to euthanize animals by means of lethal injection. This list must be submitted as a part of an application to administer euthanizing drugs.
4729.55	Requires animal shelters to maintain supervision and control over the possession and custody of its euthanizing drugs and requires at least one employee of the animal shelter to be certified to administer such drugs by lethal injection.
4729.99	Establishes the unlawful purchase, possession or use of euthanizing drugs by any unlicensed animal shelter as a first degree misdemeanor.

EXISTING COUNTY DOG LAW RESPONSIBILITIES AND FEES

Existing law, unchanged by HB 88, requires all dogs to be registered and requires anyone who owns or keeps a dog to keep the dog under control at all times. The law requires the county dog warden to patrol the county and to seize and impound unregistered and stray dogs. Dogs seized by the dog warden must be housed at the county authorized facilities for a period of time until the dog is redeemed by its owner, sold or destroyed. The dog warden is required to notify, by certified mail, any owner of a dog that can be determined from the current registration list. The owner of a registered dog has 14 days from the date of notice to redeem the dog before the dog may be sold or destroyed. If the dog is unregistered, the dog warden must post a notice in the dog pound or animal shelter describing the dog, the location where the dog was found and that the owner has 3 days from the posting of the notice to redeem the dog before the dog may be sold or destroyed. Through a provision of law that is seldom, if ever, used, any person may file an affidavit in court requiring the dog warden to seize any unregistered or stray dog.

The law establishes costs or fees that must be assessed against any owner whose dog is seized and impounded by the dog warden. The costs, which were last revised by the legislature in 1981, are as follows:

\$1 for filing an affidavit and issuing an order to seize a dog;

\$1.50 per day for housing and feeding the dog;

\$2 for serving or posting a notice to the owner;

\$2 for selling or destroying the dog;

\$4 for seizing the dog and delivering it to the pound.

The costs are a valid claim in favor of the county against the owner of a dog seized or impounded and not redeemed or sold. The county treasurer must recover these costs through a civil action against the owner. As a practical matter, costs are only collected against dog owners who redeem their dog upon payment of all costs to the dog warden and the purchase of a valid registration tag if the dog is unlicensed.

AUTHORIZATION TO PERFORM A COST ANALYSIS STUDY

As an alternative to charging the fees specified in law, the new law permits the county commissioners to adopt a resolution authorizing the county to perform or contract for the performance of a cost analysis study to determine the cost to the county of providing statutorily mandated services under the dog law. The resolution authorizing a cost analysis study should address the following issues:

1. Define the scope of the study.
2. Itemize each cost to be analyzed. The commissioners have discretion to widen the scope of the study to include all costs provided for by the dog law or to limit the study to certain specified costs.
3. Include all direct costs to the county for performing mandated services under ORC Sections 955.12, 955.15 and 955.16 (i.e. filing affidavits, seizing and delivering dogs to pound, serving or posting notice to owner, housing and feeding dog, selling or destroying dog.)
4. Indicate at the discretion of the commissioners whether the study will include any reasonable indirect costs incurred by other county offices in helping the dog warden perform mandated services. The commissioners determine which indirect costs they wish to include in the study.

AUTHORIZATION TO INCREASE DOG CONTROL FEES

After completing the study, the commissioners must hold a public hearing to consider any proposed fees that are suggested by the conclusions of the study. Prior to holding the hearing, commissioners must give reasonable notice in a newspaper of general circulation in the county of the date, time and place of the hearing.

After conducting the hearing the commissioners may adopt a resolution establishing fees to replace the fees that are specified in ORC Section 955.17 subject to the following conditions:

1. The revised fees may include the direct cost of providing specified services, any indirect costs to other county agencies in assisting the dog warden that were included in the study and the cost of conducting the cost analysis study. The cost of conducting the study may include the cost of contracting with a consultant to prepare the study.
2. The commissioners may adopt fees that are lower than or equal to, but not higher than, any fees suggested by the study. The commissioners may decide against any fee increase.
3. Fees may not be increased more than once every year.
4. Fee increases become effective only at the beginning of the calendar year. County officials should adopt a resolution authorizing a cost analysis study early enough in any given year so that the process may be completed before the start of the following calendar year.

OPTIONAL FEES FOR MISCELLANEOUS SERVICES

In addition to fees for statutorily mandated services, county commissioners may, by resolution, separately establish reasonable fees to cover costs of providing miscellaneous services performed by the dog warden that are not specifically required by the dog law. The establishment of optional fees for miscellaneous services does not require the performance of a cost analysis study. Miscellaneous services may include, but are not limited to the following:

1. Euthanasia at owner's request.
2. Cremation or disposal of carcass at owner's request.
3. Provision of boarding services.
4. Assistance to dog owners with on-property situations (e.g. releasing dogs that are accidentally caught or trapped, breaking up fights between owned dogs).

5. Transporting sick or injured dogs at owner's request.

The new law provides that costs and fees, including fees for miscellaneous services, may be collected against the owner of any dog seized and impounded or to which specific miscellaneous services have been provided.

OPTIONS FOR PREPARING A COST ANALYSIS STUDY

The law provides two options for preparing a cost analysis study:

1. The county may perform a cost analysis study in house using the staff, budget and records of the county dog warden and other county offices. The commissioners may assign performance of the study to the dog warden's office or another county office with the technical ability to prepare such a study.

2. The county may contract for the performance of a cost analysis study utilizing the services of a consultant who performs the cost analysis study.

Regardless of who performs the cost analysis study, it will be necessary for the person charged with this responsibility to gather detailed information on the direct costs to the county of performing services under ORC Sections 955.12, 955.15 and 955.16, and any indirect costs that the commissioners decide to include within the scope of the study.

Direct costs usually consist of line items for appropriation that have been included within an office budget. Indirect costs generally consist of overhead support services or central service costs that do not show up as line items in the budget but never-the-less are a cost of doing business.

SUGGESTIONS FOR PREPARING A COST ANALYSIS STUDY

The cost analysis study should identify service areas or functions that correspond to the services specified in ORC Section 955.17 to which direct and indirect costs of operating the dog warden's office may be assigned.

One method for identifying and categorizing the services of the dog warden's office is to assign all the functions specified in ORC Section 955.17 to the following service areas:

SERVICE AREA #1

FIELD OPERATIONS.

1. Seizing and delivering dogs to the pound or animal shelter
2. Serving or posting notice to the owner

3. Impounding procedures

SERVICE AREA #2

SHELTER FUNCTIONS

1. Housing and feeding dog per day
2. Disposition of dogs (redemption, selling, destroying)

Direct and indirect costs may then be assigned to each service area based on costs that are incurred in providing services within that service area. Examples of direct and indirect costs that might be included within these two service areas are shown in Table #1 at the end of this CAB.

COMMON COSTS

Many direct and indirect costs of the dog warden's office are really common costs that cannot be completely assigned to either Field Operations or Shelter Functions. Clearly many of the employees including the dog warden may have responsibilities in both service areas. Other costs including fringe benefits and indirect costs such as insurance and central support services should be divided proportionally between the service areas of Field Operations and Shelter Functions.

DETERMINATION OF UNIT COSTS FOR SERVICES

Unit costs may be established for each function based on common units of time, share of building space, unit of service provided or some other common unit of measurement.

In the case of a dog warden's office which is required as part of their field operations to respond to calls and complaints by investigating such calls, a common unit of measurement may be the number of runs made by the dog warden or deputies in response to calls.

In the case of shelter functions which involve housing, feeding, selling and destroying dogs, an appropriate common unit of measurement might be the cost per day per animal housed. Adoption or destruction of dogs might be calculated separately as there are additional costs beyond boarding fees associated with these services.

DETERMINING THE ACTUAL COST OF SERVICES

In order to determine the actual cost of providing a particular service, it is necessary to know the total cost of providing that service and the total number of times that a particular service was provided. The total cost can be calculated by adding all the direct and indirect

costs that may be assigned to a particular function. The total cost is then divided by the total number of times the service is provided to determine the actual unit cost of providing a particular service.

For example, the actual unit cost of providing field operations in a hypothetical county could be calculated as follows:

\$66,000 (total cost of conducting field operations)

divided by 2,500 (calls, investigations or runs initiated by dog warden's office)

equals \$26.40 (cost per call, investigation, or run)

It should be noted that potentially only 25% of the calls to the dog warden's office result in seizure and impoundment of a dog. And potentially only 25% of all dogs impounded will actually be redeemed by their owner and thus result in a billable service (seizure, delivery and impoundment of a dog and serving or posting notice to the owner). The remainder of these calls, investigations or runs will go unreimbursed and thus are subsidized by license revenue to the dog and kennel fund.

Under the fee schedule established in ORC Section 955.17 the county might be charging only \$6 (\$4 for seizing the dog and delivering to the pound and \$2 for serving or posting notice to the owner). This cost analysis for a hypothetical county suggests that the actual unit costs should be \$26.40 per seizure and impoundment.

You may charge the \$26.40 or less. A varied structure could be established based upon frequency of impoundment and/or breeding capability of the dog. Such a varied structure may serve to "reward" the more responsible dog owner whose pet's escape was truly a one-time accident and who had responsibly neutered the animal as opposed to the frequent offender whose unaltered dog contributes to the pet over-population problem. For example:

Spayed/Neutered Intact

1st impoundment \$10.00 \$17.00

2nd impoundment \$14.00 \$21.00

3rd impoundment \$18.00 \$25.00

In the case of providing shelter functions the actual unit cost could be calculated as follows:

\$154,000 divided by 13,000 = \$11.85 (cost

(total cost of providing (2600 dogs held an per day per shelter function) average of 5 days) dog held)

Under the fee schedule established by law, a hypothetical county might be charging a fee of \$1.50 per day for feeding and housing a dog and \$2 for destruction or adoption. As suggested previously, it may be desirable to calculate the cost of destroying or adopting dogs separately because such services involve additional functions beyond boarding animals. For example, the cost of destroying a dog would include either the cost of using equipment or drugs plus the actual cost of disposal. On the other hand, adoption services would probably include some combination of a current dog license, examination by a veterinarian, shots, worm medicine and possibly arrangements to get the dog spayed or neutered.

PAYMENT OPTIONS

As previously mentioned, the law permits county commissioners to incorporate the cost of performing a cost analysis study within the revised fee structure. The fees are deposited into the dog and kennel fund. There are several options for preparation and payment for a cost analysis study assuming county commissioners authorize incorporation of the cost of the study into the revised fee structure.

1. If the study is prepared in house by the dog warden's office, then the dog warden's office will be reimbursed directly through higher revised fees for the cost of the study.
2. If the study is prepared in house by a county office other than the dog warden's office that derives its funding from the county general fund (i.e. commissioners' office, auditor's office, finance department, etc.), then the county general fund may be reimbursed for the cost of the study from the dog and kennel fund. The dog and kennel fund is reimbursed or made "whole" for the cost of the study because that additional cost is incorporated into the revised fee structure.
3. If the commissioners contract for the performance of the study, then the contractor/consultant may be paid from either the dog and kennel fund or the county general fund. It should be noted that it is simpler to pay directly from the dog and kennel fund. If the commissioners authorize payment from the county general fund, then the county may seek reimbursement from the dog and kennel fund for the cost of performing the study. Again, the dog and kennel fund is reimbursed for the cost of the study through the revised fee structure.

The law is silent on how to pay for a cost analysis study if the cost of the study is not included within the revised fee structure. It is clear, however, that authority to perform or contract for performance of a study implies authority to pay for the study. If no provision has been made for incorporating the cost of the study in the revised fee structure, the

commissioners have the same options for performing the study and may still pay for the study from the dog and kennel fund or the county general fund. The difference is that by not incorporating the cost of the study in the fee structure there is no mechanism for cost recovery. For example, if the study is performed by the county dog warden or another county office, then the county office that performs the study will assume the cost of the study as part of its departmental budget. If the commissioners contract for the performance of the study and pay for the study from either the dog and kennel fund or the county general fund, there is no mechanism for reimbursing either the dog and kennel fund or county general fund for the cost of the study.

The law permits county commissioners to include indirect costs incurred by other county offices in helping the dog warden perform his duties as costs to be included in a revised fee structure. The law is silent as to whether indirect costs incurred by agencies funded by the county general fund may be charged back against the dog and kennel fund. The clear intent of HB 88 is to strengthen the dog and kennel fund and make the dog warden's office more self sufficient. However, it may be possible because of the indirect cost language to charge county general fund expenses incurred on behalf of the dog warden's office against the dog and kennel fund.

AUTHORIZATION FOR ANIMAL SHELTERS TO ADMINISTER DRUGS TO EUTHANIZE ANIMALS

The new law authorizes the State Board of Pharmacy to issue a limited license to any animal shelter to purchase, possess and administer drugs for the sole purpose of euthanizing animals. Animal shelter is defined under the Uniform Controlled Substances Act (Chapter 3719) and the Ohio Pharmacy Law (ORC Chapter 4729) as a facility operated by a humane society organized under Chapter 1717 (ORC) or a dog pound operated by a county under the dog law. The law prohibits the distribution of these drugs to anyone other than an original wholesale distributor who may sell such drugs to a licensed animal shelter.

The law requires the State Board of Pharmacy to adopt rules within 90 days of the effective date of the law prescribing the requirements for licensure of animal shelters to administer drugs for euthanizing animals. The rules must:

1. Require as a condition of licensure that an agent or employee of an animal shelter, other than a registered veterinary technician, has completed a euthanasia technician certification course as described in the next section of this CAB.
2. Specify the information the animal shelter must provide the state board for issuance or renewal of a license.
3. Establish criteria for the board to use in determining whether to refuse to issue or renew, suspend, or revoke a license.

4. Address any other matters necessary and appropriate for the administration and enforcement of animal shelter licensure.

The law authorizes licensed drug manufacturers and wholesalers to sell combination drugs that contain phenobarbital and at least one non-controlled substance active ingredient to animal shelters. Animal shelters are required to include in an application to the State Board of Pharmacy a notarized list of the dangerous drugs to be administered to animals and the personnel that are authorized to administer drugs to animals. At least one person who is certified to administer euthanizing drugs must be employed by an animal shelter as a condition of licensure.

An animal shelter licensed by the State Board of Pharmacy to administer euthanizing drugs is required to maintain supervision and control over the possession and custody of such euthanizing drugs. Animal shelter personnel may possess and use euthanizing drugs at the shelter or outside the shelter because of a risk to the health and safety of any person, provided the drugs are in the original container, are limited to the amount necessary to perform the task and are returned to the shelter as soon as possible after the risk has passed. An animal shelter must keep a record of all controlled substances received, administered, dispensed or used. Every euthanasia technician authorized to administer drugs must keep records which contain:

1. A description of all drugs received, the name and address of the person from whom received, and the date of receipt. Description means the dose, form, structure, , brand name, if any, and generic name of drug.
2. A description of drugs used, date of use and the name and address of the person for whom the drug was used or the owner or species of the animal for which the drug was used.

Violation of the licensure requirements is a first degree misdemeanor.

CERTIFICATION OF EUTHANASIA TECHNICIANS

The new law requires an agent or employee of an animal shelter who performs euthanasia on animals by means of lethal injection to become certified following completion of an euthanasia technician certification course. Animal shelter personnel who were performing euthanasia prior to the law's effective date have 180 days from the effective date of the law to take the training course and become certified.

The law generally prohibits an animal shelter employee from performing euthanasia by means of lethal injection unless the facility in which he works has a limited license to use euthanizing drugs from the State Board of Pharmacy. The only exception to this general rule is if the employee was performing euthanasia by lethal injection prior to the law's effective date. In this case, the employee may continue to perform euthanasia for an

additional 180 days beyond the law's effective date.

The State Veterinary Medical Licensing Board is required to adopt rules and approve a curriculum for a euthanasia technician certification course within 90 days of the law's effective date. The course must be at least 16 hours in length and include information in all the following areas:

1. The pharmacology, proper administration, and storage of euthanasia solutions.
2. Federal and state laws regulating the storage and accountability of euthanasia solutions.
3. Euthanasia technician stress management.
4. Proper disposal of euthanized animals.

ADMINISTRATION OF DRUGS

Animal shelter personnel who perform euthanasia on animals by means of lethal injection are required to use combination drugs that contain phenobarbital and at least one non-controlled substance active ingredient, or other substance that the State Veterinary Medical Licensing Board and the State Board of Pharmacy have approved by rule. The drug must be in a manufactured dosage form and be intended solely for euthanizing animals. Animal shelter personnel that use a lethal solution to perform euthanasia on an animal must use the solution according to the following methods and in the following order of preference:

1. Intravenous injection by hypodermic needle.
2. Intra peritoneal injection by hypodermic needle.
3. Intracardial injection by hypodermic needle, but only on a sedated or unconscious animal.
4. Solution or powder added to food.

Animal shelter personnel who perform euthanasia by lethal injection are required to do so in a humane and proficient manner in conformity with the methods described above and Ohio law prohibiting cruelty to animals (ORC Chapter 959). Any violation of the law is a first degree misdemeanor.

ACKNOWLEDGMENT

CCAO wishes to thank the following individuals who helped in the preparation of this CAB: Stephanie Smith, Montgomery County Animal Shelter Director; Carol Markovich, Mahoning

County Dog Warden; and Don Brown with David M. Griffith and Associates. Brad Cole, CCAO Legislative Coordinator had primary responsibility for the bill and the preparation of this CAB, and he is available to answer questions from any county.

TABLE 1

DOG CONTROL SERVICE AREAS	DOG CONTROL SERVICE AREAS WITH POSSIBLE DIRECT AND INDIRECT COSTS ASSIGNED	
	EXAMPLES OF DIRECT COSTS	EXAMPLES OF INDIRECT COSTS
FIELD OPERATIONS	CAPTURE DEVICES	BOOKKEEPING (PURCHASE ORDERS, ACCOUNTS PAYABLE)
	CENTRAL GARAGE	
	EQUIPMENT USE CHARGE (DEPRECIATION)	INSURANCE ADMINISTRATION
	FRINGE BENEFITS	LIABILITY INSURANCE
	OFFICER UNIFORMS	PAYROLL
	OPERATING EXPENSES (VEHICLE MAINTENANCE AND REPAIRS, GASOLINE)	PERSONNEL SERVICES INCLUDING RECRUITMENT
	PERSONNEL TRAINING	PROPERTY INSURANCE
SALARIES AND WAGES	PURCHASING	
SHELTER FUNCTIONS	ANIMAL CARE SUPPLIES AND MATERIALS	RECORD KEEPING
	BUILDING MAINTENANCE	BOOKKEEPING (PURCHASE ORDERS, ACCOUNTS PAYABLE)
	BUILDING USE CHARGE	INSURANCE ADMINISTRATION

(DEPRECIATION)

CONTRACT SERVICES (PEST
CONTROL, OFFICE
EQUIPMENT SERVICING)

DOG CARCASS DISPOSAL

EQUIPMENT USE CHARGE
(DEPRECIATION)

FRINGE BENEFITS

JANITORIAL SUPPLIES

MEDICINE (ANIMAL HEALTH,
EUTHANASIA)

OFFICE SUPPLIES AND
MATERIALS

PERSONNEL TRAINING

RECORD KEEPING/FILE
STORAGE

SALARIES AND WAGES

UTILITIES

VETERINARY AND OTHER
PROFESSIONAL SERVICES

LIABILITY INSURANCE

PAYROLL

PERSONNEL SERVICES
INCLUDING RECRUITMENT

PROPERTY INSURANCE

PURCHASING

RECORD KEEPING