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OHIO LEGISLATIVE SERVICE COMMISSION

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Legislative Budget
Office

H.B. 315*
135th General Assembly

Bill Analysis

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Version: As Reported by House Finance

Primary Sponsors: Reps. Hall and Seitz

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SUMMARY

- Modifies a township's authority to regulate massage by:
 - Limiting the regulation to only "massage therapy" (i.e., massage for the treatment of disorders of the human body), as opposed to any massage;
 - Eliminating the authority for township-issued licenses for individuals who perform massage;
 - Making it optional for a township to require massage establishments to obtain permits.
- Specifies which body serves as the organizational board of commissioners of a new community authority if more than one body is eligible.
- Authorizes townships to impose a "protect and serve charge" of up to \$1 on admissions to certain event venues in the township to fund police, fire, and emergency medical services.
- Modifies various township newspaper publication requirements to allow publication via the state public notice website or via the township's website and social media account.
- Eliminates the requirement that the county prosecutor approve specifications of fire equipment.
- Specifies that boards of township trustees' emergency powers include emergencies due to a natural disaster, civil unrest, cyber attack, or the derailment of a train.

* This analysis was prepared before the report of the House Finance Committee appeared in the House Journal. Note that the legislative history may be incomplete.

- Eliminates a requirement that each township provide its fiscal officer with a book for the record of marks and brands.
- Repeals provisions of law requiring townships to obtain the approval of voters before constructing or improving a town hall above a certain cost (currently \$75,000).
- Allows townships to establish township preservation commissions.
- Establishes a civil enforcement process for the resolution of zoning violations and the collection of zoning fines.
- Requires a permanent license plate issued to a township to display the term “township” in bold letters.
- Allows a township to use general funds to pay for machinery, tools, material, and labor used in constructing, reconstructing, maintaining, or repairing roads and culverts.
- Appropriates \$3 million to the Department of Development for grants to political subdivisions seeking to modernize regulations and processes tied to zoning efforts.
- Appropriates \$2 million to the Indigent Burial and Cremation Support Program.

DETAILED ANALYSIS

Massage therapy

The bill makes changes to the authorization of townships to regulate massage, by specifying that townships may regulate “massage therapy,” which is the treatment of disorders of the human body by the manipulation of soft tissue through the systematic external application of various massage techniques that are identified in existing law.¹ The practice of massage therapy is a limited branch of medicine under existing law, and it is otherwise regulated by the State Medical Board.² That regulation is not changed by the bill.

Township regulation of massage therapy

The bill modifies the authority of townships to regulate massage. Under current law, townships have the authority to regulate “massage establishments” and “masseurs” and “masseuses” performing “massages” at those establishments that are within the unincorporated territory of the township. “Massage” is defined as any method of exerting pressure on, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external soft tissue of the body with the hands, or with a mechanical or electrical apparatus.³ In order for the township to do so, it must require the establishment to obtain a permit from the township, and any individual wishing to perform massage to obtain a township-issued license.

¹ R.C. 4731.04(C).

² R.C. 4731.15.

³ R.C. 503.40(A).

The bill makes several key changes. First, it authorizes townships to regulate “massage therapy,” which the bill defines to have the same meaning as in the Medical Board Law (i.e., the treatment of disorders of the human body by the manipulation of soft tissue through the systematic external application of various massage techniques).⁴ Thus, it appears the bill eliminates the authority for townships to regulate other massage, such as nontherapeutic or relaxation massage.

Second, as discussed in greater detail below, the bill makes it optional for a township to require an establishment permit⁵ and eliminates the ability of a township to issue licenses to individuals performing massage.⁶

Massage establishment permits

The bill eliminates a requirement that if a township has adopted a resolution to regulate massage establishments, no person can operate a massage establishment without having obtained a permit. Under the bill, townships may choose to include a permit requirement in massage establishment regulations, but it is not mandatory for townships to require permits.⁷

Also related to permits, the bill eliminates a requirement that a permit applicant provide the applicant’s Social Security number. It requires a permit applicant to provide proof that the applicant complies with the township’s zoning regulations. In addition, the bill modifies the requirement for including the name and address of any stockholder holding more than 2% of the stock of a corporate applicant by limiting the requirement to a corporate applicant having less than 50 employees or any stockholder holding more than 25% of the stock of a corporate applicant having more than 50 employees.⁸

Regulation of individuals performing massage therapy

Instead of township-issued licenses, the bill authorizes boards of township trustees to require the registration of persons performing massage therapy at massage establishments.⁹ The bill defines registration as providing information to the board of township trustees to indicate the location of the establishment, the names of individuals employed there, and evidence of their licensure or student status, discussed in greater detail below.¹⁰

If a board of township trustees adopts a resolution to regulate massage establishments, the bill authorizes the regulations to require that all massage therapy performed in a massage establishment be performed by a person who is licensed by one or more of the following

⁴ R.C. 503.40(A).

⁵ R.C. 503.41 and 503.43.

⁶ R.C. 503.45 and 503.46, repealed.

⁷ R.C. 503.42.

⁸ R.C. 503.43.

⁹ R.C. 503.41(A).

¹⁰ R.C. 503.40(D).

boards, and who provides massage therapy as a portion of, or incidental to, services authorized by the licensing board: (1) the State Cosmetology and Barber Board, regarding barber services or cosmetology services, (2) the Board of Nursing, regarding nursing services, (3) the Medical Board, regarding medical services by physician assistants or physicians, and regarding acupuncture and oriental medicine, (4) the State Chiropractic Board, regarding chiropractic services, (5) the Medical Board, regarding massage therapists, and (6) the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board, regarding services of occupational therapists, physical therapists, and athletic trainers.¹¹ Additionally, the regulations must permit a massage therapy student to perform massage therapy if the student is enrolled and actively participating in a massage therapy education program in good standing as determined by the Medical Board.¹² The regulations cannot exclude any of the persons identified above from performing massage therapy.¹³

If such a requirement is adopted, no person can knowingly act as a massage therapist for a massage establishment located in the unincorporated area of the township without having obtained one of the licenses, or being a student, as described above.¹⁴ An individual who violates this prohibition is guilty of a third degree misdemeanor.¹⁵

The bill eliminates a current law provision allowing a township to require persons performing massage to undergo periodic physical exams to determine if the person has a communicable disease.¹⁶

Other massage therapy regulations

The bill also permits massage establishment regulations to do any of the following:

- Require compliance with zoning resolutions and amendments;
- Prohibit certain hours of operation;
- Impose additional prohibitions, discussed below;
- Specify other regulations considered necessary for the health, safety, and welfare of township residents, except that the regulations cannot impose a township license on massage therapists or regulate the practice of medicine or licensed health professionals.¹⁷

¹¹ R.C. 503.411(A)(1) through (6).

¹² R.C. 503.411(A)(7).

¹³ R.C. 503.411(A).

¹⁴ R.C. 503.411(B).

¹⁵ R.C. 503.50(B).

¹⁶ R.C. 503.47(D).

¹⁷ R.C. 503.411(C) and 503.41(E).

Prohibitions

Current law lists several prohibitions that apply when a board of township trustees has adopted a resolution to regulate massage establishments. In addition to modifying the prohibitions to account for the bill's elimination of township-issued licenses for individuals performing massage therapy, the bill otherwise modifies the prohibitions as follows:

- Specifies that the prohibitions apply only when the township has included a permit requirement to operate a massage establishment;
- Eliminates the criminal offense for employees of massage establishments performing certain sexual activities during a massage in a massage establishment in the unincorporated area of a township.¹⁸

The bill generally maintains provisions prohibiting an owner or operator of a massage establishment from knowingly (1) refusing to allow appropriate local authorities to access the establishment for health and safety inspections, operating during hours designated as prohibited, or (2) employing any person under 18.¹⁹

Jurisdiction for appeals

Current law and the bill give the right to appeal to any person adversely affected by an order of the board of township trustees denying or revoking a permit to operate a massage establishment. The bill narrows the jurisdiction where the appeal may be filed to only the court of common pleas in the county where the township is located. Under current law, an appeal can also be filed in the county where the permit holder's place of business is located or where the person is a resident.²⁰

New community authority

The bill makes a clarification regarding the organizational board of commissioners for a new community district. The organizational board is responsible for overseeing the proceedings to establish a new community district, which is ultimately overseen and operated by a board of trustees. The bill specifies that when multiple bodies are eligible to serve as the organizational board of commissioners of a new community authority, the body appearing on the original petition, unless that body adopts a resolution to appoint another body as the organizational board.²¹

Township admissions charge

The bill authorizes townships to impose a "protect and serve charge" on admissions to certain event venues in the township to fund police, fire, and emergency medical services.

¹⁸ R.C. 503.42.

¹⁹ R.C. 503.42(B).

²⁰ R.C. 503.48.

²¹ R.C. 349.01, 349.03, and 349.14.

The charge may equal up to \$1 per admission to event venues that have a capacity of least 2,000 and are exempt from property taxation. However, the charge cannot apply to admissions to county fairgrounds, events sponsored by the state or a local government, or events with a ticket price of \$10 or less. Before adopting a resolution imposing the charge, the township must hold two public hearings on the proposal, with notice of each meeting published in a local newspaper.

A township that chooses to impose the charge must use the revenue collected to fund police, fire, and emergency medical services. Under the bill, every person receiving an admission payment will collect the charge from the person making the payment, then remit that payment to the township. The township may prescribe all rules necessary to administer the charge.²²

Newspaper notices

The bill modifies various township newspaper publication requirements. Where current law requires a township to provide publication via newspaper, the bill gives the township two alternative options: (1) publish via the state public notice website or (2) publish via the township's website and social media account. In the case of a limited home rule township, when a notification is published by posting on the township website or social media account, the fiscal officer must create and maintain proof.²³ The bill retains existing requirements regarding the timing of a notice (e.g., notice must be published x number of days before the relevant event). The bill does not modify every instance of newspaper publication by a township; if an existing requirement applies to a variety of entities and not only townships (e.g., townships, counties, and municipal corporations), the bill does not modify the requirement.²⁴

Fire equipment specifications

Under continuing law, a township cannot purchase and lease fire-related equipment unless the county prosecutor approves the specifications. The bill eliminates this requirement.²⁵

²² R.C. 503.54

²³ R.C. 504.121.

²⁴ R.C. 501.07, 503.162, 503.41, 504.02, 504.03, 504.12, 504.121, 504.122, 504.123, 504.124, 504.125 (repealed), 504.126 (renumbered), 504.21, 505.07, 505.10, 505.17, 505.264, 505.28, 505.37, 505.373, 505.55, 505.73, 505.75, 505.76, 505.86, 505.87, 505.871, 511.12, 511.21, 515.01, 515.04, 517.07, 517.073, 517.12, 517.22, 519.06, 519.08, 519.09, 519.12, 519.15, 521.03, 971.12, 971.99, 4504.18, 4504.181, 5571.011, 5571.20, 5573.02, 5573.10, 5575.01, 5575.02, and 5579.05. See also R.C. 125.182, not in the bill, and publicnoticesohio.com, which is the website operated by the Ohio News Media Association.

²⁵ R.C. 505.37.

Emergencies

Continuing law allows boards of township trustees to declare an emergency if an emergency that threatens life or property exists or is imminent within the unincorporated territory. The bill specifically includes in this emergencies due to a natural disaster, civil unrest, cyber attack, or the derailment of a train.²⁶

Marks and brands

The bill eliminates a requirement that each township provide its fiscal officer with a book for the record of marks and brands.²⁷

Township town halls

Current law requires that in order for a township town hall to be built, improved, enlarged, or removed at a cost above a certain amount (currently \$75,000), the township is required to obtain the approval of voters. The bill eliminates this requirement.²⁸

Township preservation commission

The bill allows a township to establish a township preservation commission, tasked with preserving historic properties in the unincorporated territory of the township. A board of township trustees may adopt a resolution to establish a commission and appoint seven members. Commission members serve three-year terms, though initial terms are one, two, or three years long to create staggered terms indefinitely. Four members constitute a quorum, with any action requiring a majority of members present. The members are not compensated.

Within 30 days of being appointed, the members must select a chairperson and vice-chairperson. The members must adopt rules of procedure (for meetings, etc . . .); within six months of being appointed, the members must adopt procedures and guidelines for performing their duties (preserving properties, etc . . .). Both sets of rules are subject to the approval of the township trustees. The commission can only take official action during a public meeting open to the public, and must maintain a record of proceedings that is available for inspection.

The commission has the following duties:

- Promote the importance of historic preservation throughout the unincorporated territory of the township.
- Maintain a register of historic properties located within the unincorporated township.
- Make recommendations to the board of township trustees regarding properties that may be designated as registered, historic properties.

²⁶ R.C. 505.82.

²⁷ R.C. 507.05.

²⁸ R.C. 511.01 and 511.02, repealed; conforming changes in R.C. 505.26, 511.03, and 511.04.

- Consider applications and issue certificates for exterior alterations at registered properties.

The commission's primary purpose is to protect the unique historical and architectural character of registered properties and promote the conservation of the registered properties. The commission itself does not designate properties as registered properties; that is the duty of the board of township trustees, upon recommendation of the commission. If a township has established a preservation commission, the exterior of a registered property may only be altered after obtaining a certificate from the commission allowing the alteration.²⁹

Zoning violations

The bill establishes a civil enforcement process for township zoning violations. Current law simply specifies that a person who violates a township zoning law must be fined up to \$500 per offense. The bill modifies this by specifying the fine is civil in nature and must be collected by filing a civil action in the court of common pleas in the county where the property is located. The bill allows a complaint to combine the collection action with a cause of action for injunction, abatement, mandamus, or other appropriate relief. Finally, the bill specifies that each day the violation continues – beginning the day the judgment granting relief is issued – is a separate offense.³⁰

License plates

Continuing law requires the Registrar of Motor Vehicles to issue permanent license plates for motor vehicles acquired by the state or a political subdivision. For a permanent license plate issued for use on a motor vehicle owned or used by a township, the bill requires the term "township" to be displayed in bold letters on the plate.³¹

Roads

Continuing law allows a township to use the township's road fund to pay for machinery, tools, material, and labor used in constructing, reconstructing, maintaining, or repairing roads and culverts. The bill allows a township also to use its general fund.³²

Zoning grants

The bill appropriates \$1.5 million each for FY 2024 and FY 2025 to the Department of Development to be used to offer grants to political subdivisions seeking to modernize regulations and processes tied to zoning efforts.³³

²⁹ R.C. 511.51, 511.52, and 511.53.

³⁰ R.C. 519.99.

³¹ R.C. 4503.16.

³² R.C. 5549.21.

³³ Section 5.

Indigent burial

The bill appropriates \$1 million each for FY 2024 and FY 2025 to the Indigent Burial and Cremation Support Program, which the State Board of Embalmers and Funeral Directors uses to help local government entities offset the costs they incur for cremating or burying indigent people.³⁴

HISTORY

Action	Date
Introduced	11-02-23
Reported, H. State & Local Gov't	5-22-24
Re-referred to H. Finance	06-03-24
Reported, H. Finance	---

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³⁴ Section 6.