



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

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### **H.B. 500**

132nd General Assembly  
(As Introduced)

**Reps.** Carfagna, Arndt, Hambley, Hill, Lang, LaTourette, Patton, Schaffer, Seitz, Stein, Ginter

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## **BILL SUMMARY**

### **Township changes**

- Requires a board of township trustees to select a chairperson annually.
- Eliminates the requirement that a township's annual inventory be filed with the county engineer.
- Increases, from \$2,500 to \$10,000, the obligations a board of township trustees may authorize its officers and employees to incur on behalf of the township.
- Increases, from \$5,000 to \$50,000, the amount of township funds that may be spent to erect a monument to commemorate members of the armed forces who died in service to the United States or Ohio.
- Allows a board of township trustees or board of fire district trustees to designate a legal counsel, rather than a private citizen as under current law, to investigate a member of a fire department of a township or joint fire district for purposes of removal.
- Authorizes a board of township trustees of a township that is an owner of an oil and gas well to comply with liability coverage requirements by participating in a joint self-insurance pool in accordance with the law governing those pools.
- With regard to a petition to change the name of a township road submitted to a board of county commissioners, specifies that the name of the road automatically changes if the board does adopt a resolution regarding the petition within 60 days after receiving it.

- Prohibits a board of county commissioners from adopting a resolution to vacate a public road that is a township road unless the applicable board of township trustees has adopted a resolution approving the vacation.
- Eliminates the limitation on the types of platted subdivisions concerning which a county or township may adopt a zoning resolution to regulate agriculture.
- Requires a hearing for removal of a township zoning commission or township board of zoning appeals member to occur not later than 60 days after the charges are filed against the member, and allows a board of township trustees to suspend a member during that time.
- Specifies that a member of a township zoning commission or township board of zoning appeals who is suspended or removed may appeal the decision under the Local Government Administrative Appeals Law.
- Authorizes a board of township trustees to impose, upon a person who appeals a zoning decision to the board of zoning appeals, a fee to defray the cost of advertising, mailing, and other expenses.
- The bill makes permissive the current law requirement that a township submit a proposed zoning amendment or resolution to a planning commission for approval, disapproval, or suggestions.
- Authorizes a township to levy an admissions tax of up to 5% on amounts charged for admission to locations in the township.
- Allows a township to levy a single property tax for capital expenses related to police, fire, and emergency medical services; roads and bridges; and general infrastructure projects.
- Allows a township to require reimbursement of township police, fire, emergency medical, and ambulance levy revenue foregone because of the creation of a township tax increment financing (TIF) incentive district.
- Authorizes certain townships to use TIF payment-in-lieu-of-tax revenue to pay the expenses of maintaining any infrastructure project that was financed with such revenue.

## **Miscellaneous**

- Repeals provisions of law allowing the vacation of lots outside of a municipal corporation.



- Eliminates the requirement that the total acreage in certain new community districts be not less than 1,000 acres.
- Allows political subdivisions to certify to the board of elections, in electronic form, a question or issue to be placed on the ballot.

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## TABLE OF CONTENTS

Township law changes.....	3
Board of township trustees chairperson .....	3
Inventory of supplies .....	4
Officers' and employees' authority to incur debt .....	4
Deceased veterans monument.....	4
Removal of firefighters .....	4
Liability coverage for oil and gas wells .....	5
Township road name change .....	5
Township approval before vacating a township road .....	5
Zoning provisions.....	6
Agricultural zoning regulations.....	6
Removal of zoning commission or board of zoning appeals members.....	6
Fee to file zoning appeal .....	6
Regional planning commission approval .....	6
Taxation .....	7
Township admissions tax .....	7
Property tax for a combination of capital expenses.....	8
Tax Increment Financing.....	9
Overview of tax increment financing.....	9
Police, fire, and EMS levy reimbursement in township TIF districts .....	9
Use of township TIF revenue from maintenance costs .....	11
Vacation of lots outside a municipal corporation.....	11
New community authorities acreage .....	12
Certification of ballot issues and questions in electronic form.....	12

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## CONTENT AND OPERATION

### Township law changes

#### Board of township trustees chairperson

The bill requires a board of township trustees to select, at its first meeting each calendar year, a chairperson to serve for the year. If the position becomes vacant, the board must select another member to serve as chairperson.<sup>1</sup> Current law references the "chairperson" or "president" of a board of township trustees, but does not specifically

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<sup>1</sup> R.C. 505.01.

require that one be selected. The bill changes the "president" references to "chairperson."<sup>2</sup>

### **Inventory of supplies**

Continuing law requires a board of township trustees to conduct an annual inventory of the township's materials, machinery, tools, and other supplies. The bill eliminates the requirement that the inventory be filed with the county engineer. The inventory is a public record and must be filed with the township fiscal officer under continuing law.<sup>3</sup>

### **Officers' and employees' authority to incur debt**

The bill increases, from \$2,500 to \$10,000, the obligations a board of township trustees may authorize its officers and employees to incur on behalf of the township. Alternatively under continuing law, the board may authorize the township administrator to authorize officers and employees to incur up to that amount. Continuing law requires the board subsequently to adopt a formal resolution to approve any obligations an officer or employee incurs.<sup>4</sup>

### **Deceased veterans monument**

Continuing law allows a board of township trustees to erect a monument to commemorate members of the armed forces who died in service to the United States or Ohio. The bill increases the amount the board may expend for the monument from \$5,000 to \$50,000.<sup>5</sup>

### **Removal of firefighters**

The bill allows a board of township trustees or board of fire district trustees to designate a legal counsel, rather than a private citizen as under current law, to investigate conduct under a removal proceeding for a member of a fire department of a township or joint fire district. The board initiates removal proceedings by designating either the fire chief or a private citizen, under current law, to investigate the conduct of,

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<sup>2</sup> R.C. 505.482, 513.07, 513.071, 3375.121, and 3709.03.

<sup>3</sup> R.C. 505.04.

<sup>4</sup> R.C. 507.11.

<sup>5</sup> R.C. 517.30.



and prepare charges against, a member of a fire department of a township or joint fire district. Instead of a private citizen, the bill allows the board to appoint a legal counsel.<sup>6</sup>

### **Liability coverage for oil and gas wells**

The bill authorizes a board of township trustees of a township that is an owner of an oil and gas well to comply with the existing oil and gas well liability coverage requirements by participating in a joint self-insurance pool in accordance with the law governing those pools. Current law allows a board of county commissioners of a county that is an owner of an oil and gas well to comply with the oil and gas well liability coverage requirements in that manner.<sup>7</sup>

### **Township road name change**

Under current law, if a board of county commissioners receives a petition from a county resident requesting a name change of a township road located within the immediate vicinity of a resident's property, the board may adopt a resolution declaring the name of the road changed. Current law does not require the board to make a decision within any time frame.

Under the bill, if the board does not adopt a resolution within 60 days of receiving the petition, the township road name is automatically changed to the name requested in the petition. The board subsequently must submit notice that the name of the township road has changed to the county engineer, the county recorder, and the county auditor, all of whom must change their records accordingly, but still retain in some manner the old name of the road.<sup>8</sup>

### **Township approval before vacating a township road**

The bill prohibits a board of county commissioners from adopting a resolution to vacate a public road that is a township road unless the applicable board of township trustees has adopted a resolution approving the vacation.<sup>9</sup> Under current law, a board of county commissioners, on its own initiative or by petition of persons located in the county and without township approval, may declare by resolution that a township road, or part of the road, be vacated.<sup>10</sup>

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<sup>6</sup> R.C. 505.38.

<sup>7</sup> R.C. 1509.07(A)(1)(b).

<sup>8</sup> R.C. 5541.04.

<sup>9</sup> R.C. 5553.04(B).

<sup>10</sup> R.C. 5553.04(A).



## **Zoning provisions**

### **Agricultural zoning regulations**

Current law authorizes a county or township, through a zoning resolution, to regulate certain agricultural uses within a platted subdivision. That regulatory authority is limited to land platted in accordance with specified provisions of current law. The bill eliminates the limitation. Thus, it allows a county or township to regulate agricultural activities through zoning with regard to any platted subdivision.<sup>11</sup>

### **Removal of zoning commission or board of zoning appeals members**

Members of a township zoning commission or a township board of zoning appeals may be removed under continuing law after a public hearing at which the member has an opportunity to be heard and to answer any charges against the member; to begin the removal process, written charges must be filed with board of township trustees. The bill requires the hearing to occur not later than 60 days after the charges are filed; current law does not provide a timeframe. The bill also authorizes a board of township trustees, upon approval of a majority of its members, to suspend a member during the period after the charges are filed but before the hearing occurs. The suspension is not considered a vacancy, therefore the member's position is not filled during a suspension. Finally, the bill specifies that a member who is suspended or removed may appeal the suspension or removal under the Local Government Administrative Appeals Law.<sup>12</sup>

### **Fee to file zoning appeal**

The bill authorizes a board of township trustees to impose, upon a person who appeals a zoning decision to the board of zoning appeals, a fee to defray the cost of advertising, mailing, and other expenses.<sup>13</sup>

### **Regional planning commission approval**

The bill makes permissive the current law requirement that a township submit a proposed zoning amendment or resolution to a planning commission. As part of the process for evaluating a proposed zoning resolution or amendment, current law requires a township zoning commission to submit the proposed resolution or amendment to any county or regional planning commission in which the township is

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<sup>11</sup> R.C. 303.21(B) and 519.21(B).

<sup>12</sup> R.C. 519.04 (zoning commission) and 519.13 (board of zoning appeals); R.C. Chapter 2506., not in the bill.

<sup>13</sup> R.C. 519.15.



located. The planning commission approves, disapproves, or suggests changes to the proposed resolution or amendment. The bill allows, rather than requires, the township zoning commission to submit the proposed resolution or amendment to the planning commission. If submitted, the planning commission provides its approval, disapproval, or suggestions as under current law.<sup>14</sup>

## **Taxation**

### **Township admissions tax**

The bill authorizes a township to levy an admissions tax of up to 5% on the following amounts:

- (1) The cost of admission to any place located in the township, including parking lots;
- (2) When tickets to a theater, opera, or other place of amusement located in the township are sold somewhere other than that place's box office, any ticket surcharge;
- (3) Service or cover charges for public performances at entertainment venues located in the township.

The tax cannot be applied to admission fees for county fairgrounds; events sponsored by the state or a political subdivision, unless the state or subdivision agrees to the tax; or events sponsored by nonprofit, federally tax-exempt charitable or other "501(c)(3)" organizations if all the proceeds from the event are used solely by that organization.

The rate of the tax can be any percentage of the admissions fee, up to 5%. The entity that collects the admission fee must also collect the tax and remit the tax to the township. The township may use the tax proceeds for any lawful township expenses, including general operations and capital improvements.

Before levying the tax, the township must hold at least two public hearings. The tax may not go into effect less than 30 days after the board of township trustees approves it, and is subject to a referendum if at least 8% of the township's electors petition for one. Once the tax is levied, the township may adopt regulations to implement the tax, including whether to impose a penalty or interest for late payments.

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<sup>14</sup> R.C. 519.07 (proposed resolutions) and 519.12 (proposed amendments).



Such a penalty cannot exceed 10% of the tax due, and the interest rate cannot exceed the rate charged for the late payment of state taxes.<sup>15</sup>

Currently, over 60 municipalities levy some version of an admissions tax pursuant to their constitutional home rule powers. The scope of each municipality's tax is determined by municipal ordinance; most are levied as a percentage of the cost of admission.<sup>16</sup> Townships have only such taxing powers as are conferred by the General Assembly.

### **Property tax for a combination of capital expenses**

The bill authorizes townships to levy a single property tax for any combination of the following capital expenses: acquiring, constructing, or maintaining buildings and equipment for police, fire, and emergency medical services; constructing or repairing roads and bridges; and general infrastructure improvements.<sup>17</sup> The tax may be levied for a term of up to 10 years.

Generally, under continuing law, a township may levy a tax for each of the purposes described above, but the levy must be limited to one such purpose. A township may levy a separate tax for police capital expenses, for firefighting and emergency medical service capital expenses, or for a combination of both.<sup>18</sup> Similarly, a levy to fund road improvements must generally be levied separately from another tax.<sup>19</sup>

Continuing law also allows a township, like other political subdivisions, to levy a tax to fund specific improvements, but only if the improvements can be included in a single bond issue.<sup>20</sup> A township may also levy a general tax for current expenses, and use the proceeds from that tax to pay for infrastructure improvements. Currently, only school districts may levy a tax specifically for general permanent improvements.

Under the bill, a township that levies the tax authorized by the bill must establish a "general capital and infrastructure fund" to receive all the proceeds of the tax. The

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<sup>15</sup> R.C. 503.58.

<sup>16</sup> R.C. 715.013, not in the bill; Ohio Department of Taxation, "Admissions Tax: Amounts Collected by Municipal Corporations, Calendar Year 2015, available at [https://www.tax.ohio.gov/tax\\_analysis/tax\\_data\\_series/sales\\_and\\_use/publications\\_tds\\_sales/S5CY15.aspx](https://www.tax.ohio.gov/tax_analysis/tax_data_series/sales_and_use/publications_tds_sales/S5CY15.aspx).

<sup>17</sup> R.C. 5705.19(ZZ).

<sup>18</sup> R.C. 5705.19(I), (J), and (JJ).

<sup>19</sup> R.C. 5705.19(G).

<sup>20</sup> R.C. 5705.19(F).





board of township trustees may set up separate accounts within the fund for the separate purposes for which the money will be used and may transfer money among those various accounts. Money in the fund cannot be used to pay the salaries or other compensation of township officers or employees.<sup>21</sup>

## **Tax Increment Financing**

### **Overview of tax increment financing**

Under continuing law, tax increment financing (TIF) is a mechanism available to municipalities, townships, and counties to finance public infrastructure improvements and, in certain circumstances, residential rehabilitation. TIFs operate by authorizing a county, municipal corporation, or township to grant a real property tax exemption with respect to the incremental increase in assessed valuation of designated parcels after the designation. Owners of the property make payments in lieu of taxes to the political subdivision that created the TIF equal to the amount of taxes that would otherwise have been paid with respect to the exempted improvements ("service payments"). TIFs thereby create a flow of revenue back to the political subdivision that granted the tax exemption equal to the amount of property tax that otherwise would have been paid on the increased property value to finance infrastructure or residential rehabilitation projects.

A TIF may be comprised of specific parcels or may be what is called an "incentive district." An incentive district TIF is an aggregation of individual parcels in an area of not more than 300 acres that is enclosed by a continuous boundary and that satisfies certain criteria of economic distress or inadequate infrastructure.<sup>22</sup>

### **Police, fire, and EMS levy reimbursement in township TIF districts**

The revenue from certain special-purpose tax levies may not be diverted by an incentive district TIF. Some portion of the service payments must be paid to the taxing authorities levying the special-purpose taxes to reimburse them for revenue foregone due to the tax exemption. The levies are not actually imposed on the exempted portion of the TIF property – that portion is legally tax-exempt – but the TIF service payments are paid to the taxing authority as if the levy were imposed instead of being diverted to the TIF fund.

The current special-purpose levy reimbursement payments are required only under certain conditions. Generally, the TIF must be an incentive district TIF created on

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<sup>21</sup> R.C. 5705.121.

<sup>22</sup> R.C. 5709.40(A)(5).



or after January 1, 2006, and the reimbursed levy must be approved at an election held on or after that date. If the levy is a renewal or replacement of a levy originally imposed before that date, only an increase in effective millage is reimbursed. Finally, the levy must be for one of the following purposes:

(1) Community mental retardation and developmental disabilities programs and services;

(2) Senior citizens services or facilities;

(3) County hospitals;

(4) Alcohol, drug addiction, and mental health services;

(5) Libraries;

(6) Children services;

(7) Zoological park services and facilities;

(8) Township park districts;

(9) Joint recreation district parks and recreational purposes;

(10) Park district purposes;

(11) Making appropriations for public assistance, human or social services, public relief, public welfare, public health and hospitalization, or support of general hospitals;

(12) General health district programs;

(13) Fire and emergency medical services when a township provides such services in a municipal incentive district TIF created after March 22, 2018.<sup>23</sup>

Under the bill, a township may elect to add township levies for police, fire, emergency medical, and ambulance service to the list of levies that must be reimbursed when a township incentive district TIF is created. Reimbursement payments would be required only if the resolution creating the incentive district is adopted on or after the bill's effective date, and only if the township requires such payments in its resolution.

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<sup>23</sup> R.C. 5709.40(F), 5709.73(F), and 5709.78(E). R.C. 5709.40 and 5709.78 are not amended by the bill, as they concern municipality- and county-created TIFs.

As noted above, similar reimbursement payments are currently required only for township fire, emergency medical, and ambulance levies when the township provides such services in a municipal incentive district TIF. Neither current law nor the bill requires such payments for incentive district TIFs created by counties.<sup>24</sup>

### **Use of township TIF revenue from maintenance costs**

The bill allows certain townships to use TIF payment-in-lieu-of-tax revenue to pay the expenses of maintaining any infrastructure project that was financed with such revenue. Under current law, in addition to funding infrastructure projects, TIF revenue may be used for the continued maintenance of TIF-funded projects – but only if the project is a road or water or sewer line.<sup>25</sup> The bill expands this authority to allow the use TIF revenue for the maintenance of any type of infrastructure, but only for certain township TIFs.<sup>26</sup>

To qualify, a township's TIF must have been created before July 21, 1994, and the township must have a "hold-harmless" or "service" agreement with the affected school district. (Although the bill does not specify the terms that such an agreement must have, elsewhere in the township TIF law a hold-harmless agreement is defined to mean an agreement whereby the township reimburses the school district for all of the property tax revenue the school district would have received if property had not been made tax-exempt by the TIF arrangement.) The significance of the July 1994 date is that a prior bill making major revisions to the TIF law, S.B. 19 of the 122nd G.A., took effect on July 22, 1994.

The provision extends to any infrastructure project funded by revenue from the township's TIF, including infrastructure that had not been identified when the TIF originally was created. (Generally, infrastructure to be financed with a TIF arrangement must be identified when the TIF is created, but a 2001 TIF law change permitted a township to amend a pre-S.B. 19 TIF to use payments in lieu of taxes to pay the cost of infrastructure that had not been identified when the TIF originally was created.<sup>27</sup>)

### **Vacation of lots outside a municipal corporation**

The bill repeals sections regarding the vacation of lots not within a municipal corporation. Current law (repealed by the bill) allows any person who owns land laid

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<sup>24</sup> R.C. 5709.73(F)(13).

<sup>25</sup> R.C. 5709.40(A)(8), not in the bill.

<sup>26</sup> R.C. 5709.75(E).

<sup>27</sup> R.C. 5709.73(K).



out in lots to vacate the lots by publishing notice in the newspaper; the county auditor must update the records accordingly and provide a certificate to the owner stating that the lots have been vacated.<sup>28</sup>

### **New community authorities acreage**

The bill eliminates the requirement that the total acreage in certain new community districts be not less than 1,000 acres. Under current law, new community districts must contain at least 1,000 acres unless the entire district is within a municipal corporation or more than 50% of the district is within a joint economic development district.<sup>29</sup>

### **Certification of ballot issues and questions in electronic form**

Current law requires a political subdivision that certifies a question or issue to a board of elections for placement on the ballot to do so in paper form, and prohibits a board of elections from accepting an electronic certification. The bill removes this prohibition and allows the certification to be made, alternatively, in electronic form.<sup>30</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	02-13-18

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<sup>28</sup> R.C. 711.25, 711.26, and 711.27.

<sup>29</sup> R.C. 349.03.

<sup>30</sup> R.C. 3501.021.

