

Testimony Regarding HB 500
R.C. §§ 303.21 and 519.21
By
Christopher D. Betts
Assistant Prosecuting Attorney
Delaware County, Ohio

Madam Chair, members of the House State & Local Government Committee, thank you for the opportunity to testify before you this afternoon. Just like in your counties, the Delaware County Prosecutor is legal counsel to Delaware County and its 18 townships, all of which are zoned. Through counseling these clients, a loophole in the R.C. §§ 303.21(B) and 519.21(B) exceptions to the agriculture exemption to zoning has become apparent. This loophole results in disparate enforcement of zoning regulations on similar parcels.

R.C. §§ 303.21 and 519.21 are nearly identical statutes. The first applies to counties. The second applies to townships. Both prohibit regulating agriculture with zoning, with exceptions contained in R.C. §§ 303.21(B) and 519.21(B). Under current law, the exceptions permit certain zoning regulation of agriculture on lots of a specified size in areas platted or approved pursuant to specifically enumerated Revised Code sections.

Because many areas were platted or approved prior to enactment of the Revised Code sections enumerated in R.C. §§ 303.21(B) and 519.21(B) or even prior to the existence of the Revised Code, current law contains a loophole. Under current law, where two (2) platted parcels are identical, but for one being platted before the existence of the Revised Code and the other being platted pursuant to the sections enumerated in the exceptions in R.C. §§ 303.21(B) or 519.21(B), agriculture could be regulated on the latter, but not the former. The amendments seek to close this loophole.

For example, Delaware Township in Delaware County sought to enforce zoning on a platted parcel that was less than one (1) acre. The property owner kept more than one hundred (100) chickens and several peacocks on this parcel. The parcel was platted in 1850, long before the Revised Code and the existence of the Revised Code sections enumerated in the exception in R.C. § 519.21(B). As result, the Township was not able enforce its zoning on this parcel and the birds remained. However, had the parcel been platted under any of the Revised Code Sections enumerated in R.C. § 519.21(B), enforcement could have occurred and the birds would be gone. Thus unequal enforcement.

The amendments to the exceptions in R.C. §§ 303.21(B) and 519.21(B) continue to permit certain zoning regulation of agriculture on lots of a specified size, but expand coverage of the exception to all plated areas, regardless of when or how platted. This closes the loophole and allows equal enforcement on all similarly situated lots.

Madam Chair, I would be happy to answer any questions you may have.