



OHIO TOWNSHIP ASSOCIATION

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House State & Local Government Committee

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Proponent Testimony

HB 500 Omnibus Township Bill

Good afternoon Chair Anielski, members of the House State & Local Government Committee. On behalf of the 1,308 townships that are members of the OTA, thank you for the opportunity to testify in support of House Bill 500. As you heard in sponsor testimony two weeks ago, this legislation stems from a mixture of the OTA legislative priorities, suggestions by the Coalition of Large Ohio Urban Townships, individual townships and county prosecutor recommendations.

As you have heard previously in Committee, townships are statutory governments and can only do what the *Ohio Revised Code* permits or inherently implies, thus the need for the changes that you find in House Bill 500. My testimony briefly reviews each of the provisions contained in HB 500 but the OTA wants you to hear from those requesting the changes and so I will just outline a few provisions and then allow township representatives to share their stories with you.

Zoning Issues (R.C. §303.21, 519.04, 519.07, 519.12, 519.13, 519.15, 519.21)

1. Permit zoning resolutions to apply to platted subdivisions regardless of when they were platted or under which section of the Code they were approved. (R.C. §§303.21, 519.21)

This stems from Delaware County case where a township tried to enforce livestock provisions on less than acre in a platted subdivision that was platted prior to enactment of R.C. 711.05, 711.09 or 711.10, as listed out in current law. You will hear shortly from Assistant Delaware County Prosecutor Chris Betts on this issue.

2. Eliminates the mandatory requirement that a township submit proposed zoning resolutions or amendments to the county or regional planning commission for approval, disapproval or suggestions. (R.C. §§519.07, 519.12)

This request comes from Jackson Township in Stark County and was also requested by the Coalition of Large Ohio Urban Townships. You have before you written testimony from Jackson Township and Springfield Township in Hamilton County on this issue.

3. Permits a township to charge a fee for any person appealing to the board of zoning appeals. (R.C. §519.15)

This stems from a request from Liberty Township in Fairfield County. As previously stated, townships only have those powers which are specifically conferred upon them by statute or which are necessarily implied therefrom. As such, no provision of the Ohio Revised Code grants townships the explicit authority to charge residents a fee to file an appeal to the township's board of zoning appeals (BZA). In OAG 1960-1625 and OAG 1963-218, the Attorney General opined that the provisions of R.C. 519.15, which govern BZA appeals, contains no specific grant of authority from which to impose a fee for such appeals may be implied. Given that there is an expense to the township to process such an appeal, the language contained in HB 500 will expressly authorize a township to impose a fee to defray the cost of advertising, mailing and other expenses related to a BZA filing.

4. Permit a board of township trustees to temporarily suspend a member of the zoning commission or board of zoning appeals. (R.C. §§519.04, 519.13)

This stems from an incident that Sugarcreek Township in Greene County had with a board of zoning appeals member charged with misconduct. You have before your written proponent testimony from Cara Tilford, Director of Planning & Zoning for Sugarcreek Township.

New Community Authority (R.C. §349.03)

Eliminates the acreage requirement that is placed on a new community authority if to be located in a township.

This stems from a request from Violet Township in Fairfield County and shared by Prairie Township in Franklin County. The House-passed version of HB 49, the biennial budget, eliminated this acreage requirement for this development tool in townships but the Senate eliminated the language. You have before you written testimony in support of this provision from Violet Township in Fairfield County.

Community Event Fee (R.C. §503.58)

Permits a township to charge a community event fee to amounts paid for admission to certain events held within the township.

This item is included in the OTA's Legislative Priorities. Large events, like Jamboree in the Hills in Belmont County, cause financial hardship on a township without any chance of recouping costs. A community event fee, of up to 5% of the cost of admission, would allow a township to recoup some of the money that is being spent on safety services for these large events. The fee would not be applied to admission fees for county fairgrounds, events sponsored by the state or a political subdivision, such as a school, unless the state or political subdivision agrees to the fee, or events sponsored by non-profit, federally tax-exempt charitable or other 501(c)(3) organizations if all the proceeds from the event are used solely by that organization. You have before you written testimony from the Coalition of Large Ohio Urban Townships regarding this provision.

Election of a Board Chairperson (R.C. §§505.01, 505.482, 513.07, 513.071, 3375.121, 3709.03)

Requires a board of township trustees to elect a chairperson at the first meeting of each calendar year to serve for a period of one year. (R.C. §505.01)

This is a request of the OTA after speaking with township officials and researching the Code. It is a customary practice for a board of trustees to appoint a chair or president of the board but there was no specific language requiring a board to do so, unlike similar provisions in R.C. Ch. 3 for a board of county commissioners.

Inventory of Township (R.C. §505.04)

Eliminates requirement that a township's inventory list shall be filed with the county engineer; rather the list is to be filed with the township fiscal officer.

This request comes from a trustee in Taylor Township in Union County who raised the issue with his county engineer as to why the townships must file the inventory report with that office. The proposed change does not eliminate the requirement that a township do an annual inventory; rather it simply eliminates the filing of that report with the county engineer. For record purposes, the township would have the inventory list on file at the township hall. Additionally, it is worth noting that a township's property/casualty insurance company generally requires an inventory of township materials each year.

Removal Proceedings of Fire Personnel (R.C. §505.38)

Eliminates the ability of the board of township trustees to appoint a private citizen to investigate the conduct and prepare a report for a charge against fire personnel and instead requires the township trustees to appoint legal counsel to investigate.

This request stems from a lawsuit filed against Liberty Township in Delaware County and also put forth by the Coalition of Large Ohio Urban Townships. Using legal counsel to investigate allegations of misconduct by fire personnel ensures that the investigation will be conducted in a professional manner. Moreover, it will allow mere allegations of misconduct to remain confidential until such time, if any, that they become the basis of a disciplinary hearing. This change does not affect the accused's rights to due process, i.e., notice of the charges and the right to an impartial hearing.

Obligations Incurred Threshold (R.C. §507.11)

Increases the threshold that a township employee or official could incur from \$2,500 up to \$10,000 as authorized by the township board of trustees.

This stems from a request from Coalition of Large Ohio Urban Townships and it is included in their legislative priorities for 132nd GA. Pursuant to R.C. §507.11, a board of township trustees may authorize township officers and employees to incur obligations of \$2,500 or less on behalf of the township, or it may authorize the township administrator to so authorize township officers and employees. This amount was increased in 2003 from \$750 to \$2,500. Cost of goods and services have increased over the last 10 years and we request that the amount be increased. You have before you written testimony from the Coalition of Large Ohio Urban Townships regarding this provision.

Appropriation for a Monument (R.C. §517.30)

Increases the amount a township may appropriate for the purpose of erecting a monument to commemorate the members of the armed forces from \$5,000 to \$50,000.

This request was made to Rep. Carfagna by a township in Delaware County. The \$50,000 threshold is consistent with other sections of township competitive bidding law.

Vacation of a Lot Not Within a Municipal Corporation (R.C. §§711.25, 711.26, 711.27)

Would repeal these sections of the Code.

This request was made by Bainbridge Township in Geauga County. A township resident bought two adjoining, small residential properties in a platted subdivision. The resident demolished one of the homes and wished to build a larger house on the two parcels. To do that, the resident had to consolidate the two properties into one parcel. R.C. §711.24 lays out the process to consolidate lots. However, the resident used the provisions set forth in R.C. §§711.25, 711.26, 711.27 to consolidate the two lots into one. In doing so, the two lots that were previously in a platted subdivision and subject to subdivision rules and regulations are not subject to those rules and regulations any longer. The resident's neighbors on both sides are subject to subdivision rules and regulations but the said resident is not.

Insurance for Oil & Gas Wells Owned by Township (R.C. §1509.07)

Permits a township that has an oil or gas well to receive a certificate of coverage from a joint self-insurance pool for coverage required by the Ohio Revised Code.

The law was amended in HB 49 (132nd GA) to allow counties to utilize joint self-insurance pools for coverage and the language in HB 500 extends the courtesy to townships.

Filing of Question or Issue for Ballot (R.C. §3501.021)

Permits a political subdivision, including a township, to file either electronically or in paper form the certification to a board of elections for placement of a question or issue on the ballot.

In the 130th General Assembly, legislation (SB 109) was enacted to prohibit political subdivisions from certifying in electronic form a question or issue to a board of elections for placement on the ballot. This was in response to a situation that arose in Orange Township (Delaware County) whereby the township sent all pertinent information electronically and the Delaware County Board of Elections refused to accept the request because paper copies were not received by the filing deadline. Orange Township challenged that decision before the Supreme Court in a writ of mandamus. The Ohio Supreme Court ruled in favor of Orange Township and the Board of Elections was required to place the levy question on the ballot. The Supreme Court opined that due to the absence of a Board of Elections rule or state statute expressly prohibiting electronic filing, Orange Township had complied with the law. The language in HB 500 would remove the prohibitions against electronic filing.

Approval of a Township Road Name Change (R.C. §5541.04)

Requires the county commissioners to act within 60 days on a request for a change in name of a county or township road. If the county does not act within 60 days on a township road name change, the name shall be changed.

This is included in the Coalition of Large Ohio Urban Township's legislative priorities for the 132nd GA. A township in Fairfield County wished to change a road name in order to aid emergency responders and resolve confusion. Despite the fact that this is a township road, the trustees were required to proceed through the County Board of Commissioners. Pursuant to R.C. §5541.04, a board of county commissioners, upon petition or on their own accord, may change the name of a township road. If a petition is filed for such an action, there is no time frame in the Revised Code whereby a decision of the board must be made. In HB 500, the language would require that if a board of county commissioners fails to vote on a petition to change the name of a road within 60 days after the petition is filed with the board of county commissioners, the name shall be deemed changed. You have before you written testimony from the Coalition of Large Ohio Urban Townships regarding this provision.

Vacation of a Township Road (R.C. §5553.04)

Prohibits the board of county commissioners from vacating a township road without the township's permission.

This stems from a request by Springfield Township in Lucas County. You will hear shortly from Springfield Township Administrator Mike Hampton on this provision.

Levy for Permanent Improvements and General Infrastructure in Townships (R.C. §§5705.19, 5705.121)

Creates a new levy opportunity for townships for the any combination of the following purposes: acquisition, construction, improvement, or maintenance of buildings, equipment, and supplies for police, firefighting or emergency medical services; the construction, reconstruction resurfacing or repair of streets, roads, and bridges; or for general infrastructure projects.

This stems from a request by Boardman Township in Mahoning County. You will hear shortly from Boardman Township Trustee Larry Moliterno on this provision.

Tax Increment Financing (R.C. §§5709.73, 5709.75)

1. Excludes safety service levies from a township incentive district TIF.

In recently enacted HB 69 (132nd GA), reimbursement of township fire and emergency medical service levy revenue foregone because of the creation of a municipal tax increment financing (TIF) incentive district is required. The change in HB 500 would permit a township to exclude a fire, EMS or police levy from a TIF that a township creates.

2. Permits townships that have TIFs that were enacted prior to July 21, 1994 to use revenue from TIFs for the continued maintenance of said projects.

This request comes from Anderson Township in Hamilton County and stems from legislation enacted last year (HB 413-131st GA) that would allow townships that have TIFs after said date to do just that. You have before you written testimony from Anderson Township on this provision.

The Ohio Township Association strongly supports House Bill 500. Madam Chair and members of the Committee, thank you for the opportunity to testify and I would be happy to answer any questions you may have.