



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Amanda George

H.B. 218

132nd General Assembly
(As Introduced)

Rep. Seitz

BILL SUMMARY

- Expands a probate court's powers with regard to a park district to include enforcing an order creating the district, investigating park district matters when requested, and undertaking other specified actions.
 - Establishes notice and hearing procedures that the probate court must follow with regard to proceedings that govern any of the new powers authorized under the bill.
 - Authorizes a probate court to order that a person become a party to a proceeding concerning a park district under specified circumstances.
 - Limits the probate court's authority by doing all the following:
 - Specifying that the bill's provisions do not authorize a probate court to take any action that infringes upon constitutionally protected rights;
 - Prohibiting the court from impeding or interfering with the daily operations and maintenance of the park district; and
 - Limiting the probate court's actions taken under specified provisions of the bill to injunctive relief or a declaratory judgment.
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CONTENT AND OPERATION

Probate court powers and duties regarding park districts

The bill expands a probate court's powers and duties with respect to park districts. The bill does so by authorizing a probate court to do all of the following with regard to a park district created by an order of the court:

- (1) Enforce the court's order that created the park district;
- (2) Issue an order compelling compliance with the laws governing park districts;
- (3) Investigate matters involving the park district either through a court hearing or through a special master commissioner, if a written request is made to the court by a majority of the board of park commissioners; and
- (4) Tax the cost of proceedings, including special master commissioner investigation fees, as court costs to be assessed by the court in its discretion.¹

Any actions taken by the probate court authorized under (1) and (2) above are limited to injunctive relief or a declaratory judgment.²

Notice and hearing procedures regarding new powers

The bill establishes procedures that the probate court must follow with regard to proceedings that govern any of the actions authorized above. Specifically, the probate court, before taking any action, must give prior written notice to any person or party affected by the action. The court must conduct a hearing on the matter if a written request for a hearing is submitted by a person or party or on the court's own motion. If a hearing is scheduled, the court must provide notice of the time and place of the hearing to all affected persons and parties at least 28 days prior to the hearing.³

Other generally applicable procedures

The bill authorizes a probate court to order that a person become a party to a proceeding concerning a park district if the person's presence as a party is necessary to enable the court to make a decision fairly and effectively in the proceeding. The same hearing procedures that apply to the court's new powers as described above apply when the court orders a person to become a party.⁴ The court also is authorized to order that a party to a proceeding is no longer a party if the person's presence is not necessary to enable the court to make a decision fairly and effectively or the court determines that the person should not be a party for any other reason.⁵

¹ R.C. 1545.06(B).

² R.C. 1545.06(H).

³ R.C. 1545.06(C).

⁴ R.C. 1545.06(D).

⁵ R.C. 1545.06(E).



For purposes of the bill, a party is any person who is the subject of a probate court proceeding or investigation, and any other person specifically designated by the court. The entity that submits a petition to the probate court for the creation of the park district is a party, unless otherwise designated by the court.⁶

Limitations on a probate court

The bill specifies that its provisions do not authorize a probate court to take any action that infringes upon any rights of an individual or organization that are protected by the United States Constitution or the Ohio Constitution.⁷ Additionally, the probate court is prohibited from impeding or interfering with the daily operations of a park district or the maintenance of the park district's property unless such maintenance or operations are in violation of the laws governing the park district or the order of the court that created the park district.⁸

Probate court's role regarding park districts under current law

The bill retains a probate court's existing powers and duties regarding park districts, which include, but are not limited to, all of the following:

- (1) Accepting an application to create a park district;
- (2) Entering an order creating the park district;
- (3) Appointing initial park district commissioners and their successors;
- (4) Removing, at the discretion of the probate judge, either upon complaint filed with the judge or upon the judge's own motion, any park commissioner;
- (5) Filling a vacancy of a commissioner's office;
- (6) Approving the terms of any donation or trust given to a board of park commissioners before accepting the donation or trust;
- (7) Approving the sale of lands by a board of park commissioners;
- (8) Entering an order expanding the park district through annexation of territory adjacent and contiguous to the existing park district;

⁶ R.C. 1545.06(I).

⁷ R.C. 1545.06(F).

⁸ R.C. 1545.06(G).

(9) Hearing appeals from a property owner that has been charged an assessment by a board of park commissioners; and

(10) Dissolving the park district.⁹

HISTORY

ACTION	DATE
Introduced	05-16-17

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⁹ See R.C. Chapter 1545.

