

AN ACT

To amend sections 163.02, 163.09, 163.12, 303.02, 307.08, 307.79, 504.04, 504.19, 505.07, 505.375, 519.02, 3709.41, 6117.012, 6117.39, 6117.51, and 6119.11 and to enact sections 307.561, 504.21, 6101.181, and 6115.221 of the Revised Code to allow a county, township with a limited home rule government, conservancy district, sanitary district, county sewer district, or regional water and sewer district to appropriate, without a prior jury assessment of compensation for the taking, land for the construction of sewers when the Director of Environmental Protection or a local board of health finds that unsanitary conditions compel the immediate construction of the sewers for the protection of the public health and welfare; to revise the rulemaking authority of a board of county commissioners that adopts rules governing erosion control, sediment control, and water management; to permit townships with a limited home rule government to adopt certain erosion control, sediment control, and water management rules; to establish a potential civil fine for violation of those rules; to authorize a board of county commissioners that has established a county sewer district to adopt rules governing the prevention of sewer back-ups; to exempt certain farm dwellings from certain sewer connections; to authorize the settlement of county-related court actions by consent decrees or court-approved settlement agreements that may include specified rezoning or development agreements; to make changes to the

procedures relating to township consent decrees or court-approved settlement agreements; to permit fire and ambulance districts to enter into lease contracts with an option to purchase; to remove a reference to the Oil and Gas Law from the county and township zoning laws; and to require health district licensing councils to meet at least annually rather than quarterly.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 163.02, 163.09, 163.12, 303.02, 307.08, 307.79, 504.04, 504.19, 505.07, 505.375, 519.02, 3709.41, 6117.012, 6117.39, 6117.51, and 6119.11 be amended and sections 307.561, 504.21, 6101.181, and 6115.221 of the Revised Code be enacted to read as follows:

Sec. 163.02. (A) Except as provided in divisions (B), (C), ~~and (D)~~, and (F) of this section, all appropriations of real property shall be made pursuant to sections 163.01 to 163.22 of the Revised Code.

(B) Subject to division (E) of this section, the director of transportation may appropriate real property pursuant to sections 163.01 to 163.22 of the Revised Code or as otherwise provided by law.

(C) Subject to division (E) of this section, a conservancy district may appropriate real property by procedures prescribed in Chapter 6101. of the Revised Code.

(D) Subject to division (E) of this section, a sanitary district may appropriate real property by procedures prescribed in Chapter 6115. of the Revised Code.

(E) When the director of transportation, a conservancy district, or a sanitary district proceeds to appropriate real property other than under sections 163.01 to 163.22 of the Revised Code, the proceedings are subject to division (B) of section 163.21 of the Revised Code.

(F) A county, township that has adopted a limited home rule government, conservancy district, sanitary district, county sewer district, or a regional water and sewer district also may appropriate real property in the manner prescribed in division (B) of section 307.08, 6101.181, 6115.221, 6117.39, or 6119.11 or division (D) of section 504.19 of the Revised Code, as applicable.

(G) Any instrument by which the state or an agency of the state acquires real property pursuant to this section shall identify the agency of the state

that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 163.09. (A) If no answer is filed pursuant to section 163.08 of the Revised Code, ~~nor~~ and no approval ordered by the court to a settlement of the rights of all necessary parties, the court, on motion of a public agency, shall declare the value of the property taken and the damages, if any, to the residue to be as set forth in any document properly filed with the clerk of ~~courts~~ the court of common pleas by the public agency. In all other cases, the court shall fix a time, within twenty days from the last date that ~~such the~~ answer could have been filed, for the assessment of compensation by a jury.

(B) When an answer is filed pursuant to section 163.08 of the Revised Code and any of the matters relating to the right to make the appropriation, the inability of the parties to agree, or the necessity for the appropriation are specifically denied in the manner provided in ~~such that~~ section, the court shall set a day, not less than five or more than fifteen days from the date the answer was filed, to hear ~~such questions~~ those matters. Upon ~~such questions~~ those matters, the burden of proof is upon the owner. A resolution or ordinance of the governing or controlling body, council, or board of the agency declaring the necessity for the appropriation shall be prima-facie evidence of ~~such that~~ necessity in the absence of proof showing an abuse of discretion by the agency in determining ~~such that~~ necessity. If, as to any or all of the property or other interests sought to be appropriated, the court determines the ~~questions~~ matters in favor of the agency, the court shall set a time for the assessment of compensation by the jury within twenty days from the date of the journalization of ~~such that~~ determination. An order of the court in favor of the agency on any of ~~such questions~~ the matters or on qualification under section 163.06 of the Revised Code, shall not be a final order for purposes of appeal. An order of the court against the agency on any of ~~such questions~~, the matters or on the question of qualification under section 163.06 of the Revised Code, shall be a final order for purposes of appeal. If a public agency has taken possession prior to such an order and such an order, after any appeal, is against the agency on any of ~~such questions~~ the matters, the agency shall restore the property to the owner in its original condition or respond in damages, which may include the items set forth in division (A)(2) of section 163.21 of the Revised Code, recoverable by civil action, to which the state consents.

(C) When an answer is filed pursuant to section 163.08 of the Revised Code, and none of the matters set forth in division (B) of this section is specifically denied, the court shall fix a time within twenty days from the date the answer was filed for the assessment of compensation by a jury.

(D) If answers are filed pursuant to divisions (B) and (C) of this section, or an answer is filed on behalf of fewer than all the named owners, the court shall set the hearing or hearings at such times as are reasonable under all the circumstances, but in no event later than twenty days after the issues are joined as to all necessary parties or twenty days after rule therefor, whichever is earlier.

(E) The court, with the consent of the parties, may order two or more cases to be consolidated and tried together, but the rights of each owner to compensation, damages, or both shall be separately determined by the jury in its verdict.

(F) If an answer is filed under section 163.08 of the Revised Code with respect to the value of property appropriated under section 307.08, 504.19, 6101.181, 6115.221, 6117.39, or 6119.11 of the Revised Code as the result of a public exigency, the burden of proof with respect to that value is on the party or parties to the appropriation other than the property owners.

Sec. 163.12. (A) A view of the premises to be appropriated or of premises appropriated shall be ordered by the court when demanded by a party to the proceedings. ~~The~~

(B) The property owners shall open and close the case except that, if the premises are appropriated under section 307.08, 504.19, 6101.181, 6115.221, 6117.39, or 6119.11 of the Revised Code as the result of a public exigency, the party or parties other than the owners shall open and close the case.

(C) The court may amend any defect or informality in proceedings under sections 163.01 to 163.22, ~~inclusive~~, of the Revised Code. The court may cause new parties to be added; and direct ~~such~~ further notice to be given to a party in interest as the court ~~deems~~ considers proper.

(D) No part of the pleadings, other than the petition, shall be read or exhibited to the jury.

Sec. 303.02. Except as otherwise provided in this section, in the interest of the public health, safety, convenience, comfort, prosperity, or general welfare, the board of county commissioners may, in accordance with a comprehensive plan, regulate by resolution the location, height, bulk, number of stories, and size of buildings and other structures, including tents, cabins, and trailer coaches, percentages of lot areas that may be occupied, set back building lines, sizes of yards, courts, and other open spaces, the density of population, the uses of buildings and other structures, including tents, cabins, and trailer coaches, and the uses of land for trade, industry, residence, recreation, or other purposes in the unincorporated territory of the county, and establish reasonable residential landscaping standards and

residential architectural standards, excluding exterior building materials, for the unincorporated territory of the county and, for all these purposes, the board may divide all or any part of the unincorporated territory of the county into districts or zones of such number, shape, and area as the board determines. All such regulations shall be uniform for each class or kind of building or other structure or use throughout any district or zone, but the regulations in one district or zone may differ from those in other districts or zones.

For any activities permitted and regulated under Chapter ~~1509~~, 1513, or 1514. of the Revised Code and any related processing activities, the board of county commissioners may regulate under the authority conferred by this section only in the interest of public health or safety.

Sec. 307.08. ~~When~~ (A) Except as provided in division (B) of this section, ~~when~~, in the opinion of the board of county commissioners, it is necessary to procure real estate, a right-of-way, or an easement for a courthouse, a jail, or public offices, ~~or~~ for a bridge and the approaches ~~thereto to it, or other for another structure, or public market place, or market house,~~ proceedings shall be had in accordance with sections 163.01 to 163.22, ~~inclusive~~, of the Revised Code.

(B)(1) For the purposes of division (B) of this section, either of the following constitutes a public exigency:

(a) A finding by the director of environmental protection that a public health nuisance caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions compels the immediate construction of sewers for the protection of the public health and welfare;

(b) The issuance of an order by the board of health of a health district to mitigate or abate a public health nuisance that is caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions and compels the immediate construction of sewers for the protection of the public health and welfare.

(2) If the board of county commissioners is unable to purchase property for the purpose of the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health, the board of county commissioners may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board of county commissioners considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of county commissioners shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for the purposes of this division shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code for an appropriation in time of public exigency. The board's resolution and a written copy of the independent appraisal shall accompany the petition filed under section 163.05 of the Revised Code.

Sec. 307.561. Notwithstanding any contrary provision in another section of the Revised Code, section 303.12 of the Revised Code, or any vote of the electors on a petition for zoning referendum, a county may settle any court action by a consent decree or court-approved settlement agreement which may include an agreement to rezone any property involved in the action as provided in the decree or court-approved settlement agreement without following the procedures in section 303.12 of the Revised Code and also may include county approval of a development plan for any property involved in the action as provided in the decree or court-approved settlement agreement, provided that the court makes specific findings of fact that notice has been properly made pursuant to this section and the consent decree or court-approved settlement agreement is fair and reasonable.

If the subject of the consent decree or court-approved settlement agreement involves a zoning issue subject to referendum under section 303.12 of the Revised Code, the board of county commissioners shall publish notice of their intent to meet and consider and take action on the decree or court-approved settlement agreement and the date and time of the meeting in a newspaper of general circulation in the county at least fifteen days before the meeting. The board shall permit members of the public to express their objections to the consent decree or court-approved settlement agreement at the meeting. Copies of the proposed consent decree or court-approved settlement agreement shall be available to the public at the board's office during normal business hours.

At least ten days prior to the submission of a proposed consent decree or settlement agreement to the court for its review and consideration, the plaintiff in the action involving the consent decree or settlement agreement shall publish a notice that shall include the caption of the case, the case

number, and the court in which the consent decree or settlement agreement will be filed, the intention of the parties in the action to file a consent decree or settlement agreement, and, when applicable, a description of the real property involved and the proposed change in zoning or permitted use, in a newspaper of general circulation in the county.

Sec. 307.79. (A) The board of county commissioners may adopt, amend, and rescind rules establishing technically feasible and economically reasonable standards to achieve a level of management and conservation practices ~~which that~~ will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of ~~such those~~ management and conservation practices. The rules shall be designed to implement the applicable areawide waste treatment management plan prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. Part 122. The rules to implement phase II of the storm water program of the national pollutant discharge elimination system shall not be inconsistent with, more stringent than, or broader in scope than the rules or regulations adopted by the environmental protection agency under 40 C.F.R. Part 122. ~~Such~~ The rules adopted under this section shall not apply inside the limits of municipal corporations or the limits of townships with a limited home rule government that have adopted rules under section 504.21 of the Revised Code, to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, or to land being used in a surface mine operation as defined in section 1514.01 of the Revised Code.

The rules adopted under this section may require persons to file plans governing erosion control, sediment control, and water management plans incident thereto, before clearing, grading, excavating, filling, or otherwise wholly or partially disturbing ~~five~~ one or more contiguous acres of land owned by one person or operated as one development unit for the construction of nonfarm buildings, structures, utilities, recreational areas, or other similar nonfarm uses. ~~Areas~~ If the rules require plans to be filed, the rules shall do all of the following:

- (1) Designate the board itself, its employees, or another agency or official to review and approve or disapprove the plans;
- (2) Establish procedures and criteria for the review and approval or

disapproval of the plans:

(3) Require the designated entity to issue a permit to a person for the clearing, grading, excavating, filling, or other project for which plans are approved and to deny a permit to a person whose plans have been disapproved:

(4) Establish procedures for the issuance of the permits:

(5) Establish procedures under which a person may appeal the denial of a permit.

Areas of less than five one contiguous acres acre shall not be exempt from compliance with other provisions of this section or rules adopted pursuant to under this section. The rules adopted under this section may impose reasonable filing fees for plan review, permit processing, and field inspections.

No permit or plan shall be required for a public highway, transportation, or drainage improvement or maintenance ~~thereof~~ project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water ~~districts~~ conservation in the department of natural resources.

The rules shall not apply inside the limits of municipal corporations.

(B) Rules or amendments may be adopted under this section only after public hearing hearings at not fewer than two regular sessions of the board. The board of county commissioners shall cause to be published, in a newspaper of general circulation in the county, notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings. The proposed rules or amendments shall be made available by the board to the public at the board office or other location indicated in the notice. The rules or amendments shall take effect on the thirty-first day following the date of their adoption.

(C) The board of county commissioners may employ personnel; to assist in the administration of this section and the rules adopted under it. The board also, if the action does not conflict with the rules, may delegate duties to review sediment control and water management plans to its employees, and may enter into agreements with one or more political subdivisions, other county officials, or other government agencies, in any combination, in order to obtain reviews and comments on such plans governing erosion control, sediment control, and water management or to obtain other services for the administration of the rules adopted under this section.

(D) The board of county commissioners or any duly authorized representative of the board may, upon identification to the owner or person

in charge, enter any land upon obtaining agreement with the owner, tenant, or manager ~~thereof~~ of the land in order to determine whether there is compliance with the rules adopted under this section. If the board or its duly authorized representative is unable to obtain such an agreement, the board or representative may apply for, and a judge of the court of common pleas for the county where the land is located may issue, an appropriate inspection warrant as necessary to achieve the purposes of this chapter.

(E)(1) If the board of county commissioners or its duly authorized representative determines that a violation of the rules adopted under this section exists and requests, the board or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity. In addition, if the board or representative determines such a rule violation exists, regardless of whether or not the violator has obtained the proper permits, the board or representative may authorize the issuance of a notice of violation. If, after a period of not less than thirty days has elapsed following the issuance of the notice of violation, the violation continues, the board or its duly authorized representative shall issue a second notice of violation. Except as provided in division (E)(3) of this section, if, after a period of not less than fifteen days has elapsed following the issuance of the second notice of violation, the violation continues, the board or its duly authorized representative may issue a stop work order after first obtaining the written approval of the prosecuting attorney of the county if, in the opinion of the prosecuting attorney, the violation is egregious.

Once a stop work order is issued, the board or its duly authorize representative shall request, in writing, the prosecuting attorney of the county in writing, the prosecuting attorney shall to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules adopted under this section. If the prosecuting attorney seeks an injunction or other appropriate relief, then, in granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule or stop work order issued under this section shall be considered a separate violation subject to a civil fine.

(2) The person to whom a stop work order is issued under this section may appeal the order to the court of common pleas of the county in which it was issued, seeking any equitable or other appropriate relief from that order.

(3) No stop work order shall be issued under this section against any public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water conservation in the department of natural resources.

(F) No person shall violate any rule adopted or order issued under this section. Notwithstanding division (E) of this section, if the board of county commissioners determines that a violation of any rule adopted or administrative order issued under this section exists, the board may request, in writing, the prosecuting attorney of the county to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules or order. In granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule adopted or administrative order issued under this section shall be considered a separate violation subject to a civil fine.

Sec. 504.04. (A) A township that adopts a limited home rule government may do all of the following by resolution, provided that any of these resolutions, other than a resolution to supply water or sewer services in accordance with sections 504.18 to 504.20 of the Revised Code, may be enforced only by the imposition of civil fines as authorized in this chapter:

(1) Exercise all powers of local self-government within the unincorporated area of the township, other than powers that are in conflict with general laws, except that the township shall comply with the requirements and prohibitions of this chapter, and shall enact no taxes other than those authorized by general law, and except that no resolution adopted pursuant to this chapter shall encroach upon the powers, duties, and privileges of elected township officers or change, alter, combine, eliminate, or otherwise modify the form or structure of the township government unless the change is required or permitted by this chapter;

(2) Adopt and enforce within the unincorporated area of the township local police, sanitary, and other similar regulations that are not in conflict with general laws or otherwise prohibited by division (B) of this section;

(3) Supply water and sewer services to users within the unincorporated area of the township in accordance with sections 504.18 to 504.20 of the Revised Code.

(B) No resolution adopted pursuant to this chapter shall do any of the

following:

(1) Create a criminal offense or impose criminal penalties, except as authorized by division (A) of this section;

(2) Impose civil fines other than as authorized by this chapter;

(3) Establish or revise subdivision regulations, road construction standards, urban sediment rules, or storm water and drainage regulations, except as provided in section 504.21 of the Revised Code;

(4) Establish or revise building standards, building codes, and other standard codes except as provided in section 504.13 of the Revised Code;

(5) Increase, decrease, or otherwise alter the powers or duties of a township under any other chapter of the Revised Code pertaining to agriculture or the conservation or development of natural resources;

(6) Establish regulations affecting hunting, trapping, fishing, or the possession, use, or sale of firearms;

(7) Establish or revise water or sewer regulations, except in accordance with ~~sections~~ section 504.18 and, 504.19, or 504.21 of the Revised Code.

Nothing in this chapter shall be construed as affecting the powers of counties with regard to the subjects listed in divisions (B)(3) to (5) of this section.

(C) Under a limited home rule government, all officers shall have the qualifications, and be nominated, elected, or appointed, as provided in Chapter 505. of the Revised Code, except that the board of township trustees shall appoint a full-time or part-time law director pursuant to section 504.15 of the Revised Code, and except that a five-member board of township trustees approved for the township before ~~the effective date of this amendment~~ September 26, 2003, shall continue to serve as the legislative authority with successive members serving for four-year terms of office until a termination of a limited home rule government under section 504.03 of the Revised Code.

(D) In case of conflict between resolutions enacted by a board of township trustees and municipal ordinances or resolutions, the ordinance or resolution enacted by the municipal corporation prevails. In case of conflict between resolutions enacted by a board of township trustees and any county resolution, the resolution enacted by the board of township trustees prevails.

Sec. 504.19. (A) The board of township trustees may prepare and adopt a general plan of water supply or sewer services. After the general plan has been approved by the board, the board immediately shall notify the board of county commissioners if territory served by a county water supply facility or a county sewer district includes territory to be covered by the plan, the legislative authority of a municipal corporation that operates a water supply

or sewer system in any of the territory to be covered by the plan, and the board of trustees of any existing regional water and sewer district that includes any territory to be covered by the plan, of the township's intention to provide water supply or sewer services and shall describe the area where the township proposes to provide water supply or sewer services. The notified board of county commissioners, legislative authority of a municipal corporation, and board of trustees of the regional water and sewer district then have thirty days from the date of ~~notification~~ notification to comment and object in writing to the township's provision of water supply or sewer services. An objection may be based on one or more of the following:

(1) The county, municipal corporation, or special district already provides the proposed water supply or sewer services to the area to be served.

(2) The county, municipal corporation, or special district has in its service plan provisions to provide the proposed water supply or sewer services in the future to the proposed area within a reasonable period of time.

Within fifteen days after receiving objections, the board of township trustees may request in writing submitted to the objecting party that the issue of the township's provision of the proposed water supply or sewer services be mediated. The mediation shall be performed either by the Ohio commission on dispute resolution and conflict management or by having each party select a mediator and having those two mediators select a third mediator who, together with the other two mediators, shall conduct the mediation.

Within forty-five days after the request for mediation is submitted, any mediation shall be completed, and any agreements reached between the parties shall be filed in writing with the parties. Thereafter, the respective governing boards may adopt the agreements, making those agreements binding on the parties, or, if one or more of the agreed-upon points is rejected, that rejection shall be considered a final decision of a governing board for purposes of Chapter 2506. of the Revised Code, and the board of township trustees may file an appeal under that chapter regarding its provision of the proposed water supply or sewer services. In addition to any findings of the court provided in section 2506.04 of the Revised Code, the court may determine that the county, municipal corporation, or special district has not met the criteria specified in divisions (A)(1) and (2) of this section and, therefore, the township may provide its proposed water supply or sewer services or, in the alternative, may determine that the township could provide the proposed water supply or sewer services more expediently

than the county, municipal corporation, or special district with no substantial increase in cost to the users of the water supply or sewer services and, therefore, order that the township may provide its proposed water supply or sewer services.

(B) Once the board has approved a general plan of water supply or sewer services under division (A) of this section, the board shall hire an engineer to prepare detailed plans, specifications, and estimates of the cost of the improvements, together with a tentative assessment of the cost based on the estimates. The tentative assessment shall be for the information of property owners and shall not be certified to the county auditor for collection. The detailed plans, specifications, estimates of cost, and tentative assessment, as prepared by the engineer and approved by the board, shall be preserved in the office of the board and shall be open to inspection of all persons interested in the improvements.

(C) Once it has been determined under division (A) of this section that a township may provide its proposed water supply or sewer services, the board may ~~condemn~~ appropriate for the use of the township any public or private land, easement, rights, rights-of-way, franchises, or other property within or outside the township required by it for the accomplishment of its purposes. Except as provided in division (D) of this section, the appropriation shall be according to the procedure set forth in sections 163.01 to 163.22 of the Revised Code. The engineer hired by the board may enter upon any public or private property for the purpose of making surveys and examinations necessary for the design or examination of water supply or sewer facilities. No person shall forbid or interfere with the engineer or the engineer's authorized assistants entering upon property for these purposes. If actual damage is done to property by the making of a survey and examination, the board shall pay the reasonable value of the damage to the owner of the property damaged, and the cost shall be included in the assessment upon the property benefited by the improvement.

(D)(1) For purposes of this division, either of the following constitutes a public exigency:

(a) A finding by the director of environmental protection that a public health nuisance caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions compels the immediate construction of sewers for the protection of the public health and welfare;

(b) The issuance of an order by the board of health of a health district to mitigate or abate a public health nuisance that is caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions and compels the immediate construction of sewers for the protection of the

public health and welfare.

(2) If a board of township trustees of a township that has adopted a limited home rule government is unable to purchase property for the purpose of the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health, the board of township trustees may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of township trustees shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for the purposes of this division shall be exercised in the manner provided in sections 163.01 and 163.22 of the Revised Code for an appropriation in time of public exigency. The board's resolution and a written copy of the independent appraisal shall accompany the petition filed under section 163.05 of the Revised Code.

(E) As soon as all questions of compensation and damages have been determined for any water supply facilities or sewer services improvement project, the board shall cause to be made an estimated assessment, upon the lots and lands to be assessed, of such part of the compensation, damages, and costs of the improvement as is to be specially assessed according to the method specified by resolution of the board. The schedule of the assessments shall be filed with the township clerk for the inspection of interested persons. Before adopting the estimated assessment, the board shall cause written notice to be sent to the owners of all lots and lands to be assessed that the assessment has been made and is on file with the township clerk, and the date when objections to the assessment will be heard. Objections shall be filed in writing with the board before the date of the hearing. If any objections are filed, the board shall hear them and act as an equalizing board, and may change the assessments if, in its opinion, any change is necessary to make the assessments just and equitable. The board shall adopt a resolution approving and confirming the assessments as

reported to or modified by the board.

~~(E)~~(F) The resolution levying the assessments shall apportion the cost among the benefited lots and lands in the manner provided by the board by resolution. The board shall certify the amounts to be levied upon each lot or parcel of land to the county auditor, who shall enter the amounts on the tax duplicate, to be collected as other taxes. The principal shall be payable in not more than forty semiannual installments, as determined by the board. Any assessment in the amount of twenty-five dollars or less, or of which the unpaid balance is twenty-five dollars or less, shall be paid in full and not in installments, at the time the first or next installment otherwise would become due and payable. Assessments are a lien upon the respective lots or parcels of land assessed from the date of adoption of the resolution under division ~~(D)~~(E) of this section. If bonds are issued to pay the compensation, damages, and the costs of an improvement, the principal amount of the assessment shall be payable in such number of semiannual installments and in such amounts as the board determines to be necessary to provide a fund for the payment of the principal of and interest on the bonds and shall bear interest from the date of the issuance of the bonds and at the same rate as the bonds.

~~(F)~~(G) Any owner of property to be assessed for any water supply facilities or sewer services improvement project, or other person aggrieved by the action of the board in regard to any water supply facilities or sewer services improvement project, may appeal to the court of common pleas, in the manner prescribed by Chapter 2506. of the Revised Code.

~~(G)~~(H) When collected, the assessments shall be paid by the county auditor by warrant of the county treasurer into a special fund in the township treasury created for the purpose of constructing, improving, maintaining, and operating water supply facilities or sewer improvements. The board may expend moneys from the fund only for the purposes for which the assessments were levied.

Sec. 504.21. (A) The board of township trustees of a township that has adopted a limited home rule government may, for the unincorporated territory in the township, adopt, amend, and rescind rules establishing technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed in the township for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of

those management and conservation practices. The rules shall be designed to implement the applicable areawide waste treatment management plan prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. Part 122. The rules to implement phase II of the storm water program of the national pollutant discharge elimination system shall not be inconsistent with, more stringent than, or broader in scope than the rules or regulations adopted by the environmental protection agency under 40 C.F.R. Part 122. The rules adopted under this section shall not apply inside the limits of municipal corporations, to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, or to land being used in a surface mine operation as defined in section 1514.01 of the Revised Code.

The rules adopted under this section may require persons to file plans governing erosion control, sediment control, and water management before clearing, grading, excavating, filling, or otherwise wholly or partially disturbing one or more contiguous acres of land owned by one person or operated as one development unit for the construction of nonfarm buildings, structures, utilities, recreational areas, or other similar nonfarm uses. If the rules require plans to be filed, the rules shall do all of the following:

(1) Designate the board itself, its employees, or another agency or official to review and approve or disapprove the plans;

(2) Establish procedures and criteria for the review and approval or disapproval of the plans;

(3) Require the designated entity to issue a permit to a person for the clearing, grading, excavating, filling, or other project for which plans are approved and to deny a permit to a person whose plans have been disapproved;

(4) Establish procedures for the issuance of the permits;

(5) Establish procedures under which a person may appeal the denial of a permit.

Areas of less than one contiguous acre shall not be exempt from compliance with other provisions of this section or rules adopted under this section. The rules adopted under this section may impose reasonable filing fees for plan review, permit processing, and field inspections.

No permit or plan shall be required for a public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the

chief of the division of soil and water conservation in the department of natural resources.

(B) Rules or amendments may be adopted under this section only after public hearings at not fewer than two regular sessions of the board of township trustees. The board shall cause to be published, in a newspaper of general circulation in the township, notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings. The proposed rules or amendments shall be made available by the board to the public at the board office or other location indicated in the notice. The rules or amendments shall take effect on the thirty-first day following the date of their adoption.

(C) The board of township trustees may employ personnel to assist in the administration of this section and the rules adopted under it. The board also, if the action does not conflict with the rules, may delegate duties to review sediment control and water management plans to its employees, and may enter into agreements with one or more political subdivisions, other township officials, or other government agencies, in any combination, in order to obtain reviews and comments on plans governing erosion control, sediment control, and water management or to obtain other services for the administration of the rules adopted under this section.

(D) The board of township trustees or any duly authorized representative of the board may, upon identification to the owner or person in charge, enter any land upon obtaining agreement with the owner, tenant, or manager of the land in order to determine whether there is compliance with the rules adopted under this section. If the board or its duly authorized representative is unable to obtain such an agreement, the board or representative may apply for, and a judge of the court of common pleas for the county where the land is located may issue, an appropriate inspection warrant as necessary to achieve the purposes of this section.

(E)(1) If the board of township trustees or its duly authorized representative determines that a violation of the rules adopted under this section exists, the board or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity. In addition, if the board or representative determines such a rule violation exists, regardless of whether or not the violator has obtained the proper permits, the board or representative may authorize the issuance of a notice of violation. If, after a period of not less than thirty days has elapsed following the issuance of the notice of violation, the violation continues, the board or its duly authorized representative shall issue a second notice of

violation. Except as provided in division (E)(3) of this section, if, after a period of not less than fifteen days has elapsed following the issuance of the second notice of violation, the violation continues, the board or its duly authorized representative may issue a stop work order after first obtaining the written approval of the prosecuting attorney of the county in which the township is located if, in the opinion of the prosecuting attorney, the violation is egregious.

Once a stop work order is issued, the board or its duly authorized representative shall request, in writing, the prosecuting attorney to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules adopted under this section. If the prosecuting attorney seeks an injunction or other appropriate relief, then, in granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule or stop work order issued under this section shall be considered a separate violation subject to a civil fine.

(2) The person to whom a stop work order is issued under this section may appeal the order to the court of common pleas of the county in which it was issued, seeking any equitable or other appropriate relief from that order.

(3) No stop work order shall be issued under this section against any public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water conservation in the department of natural resources.

(F) No person shall violate any rule adopted or order issued under this section. Notwithstanding division (E) of this section, if the board of township trustees determines that a violation of any rule adopted or administrative order issued under this section exists, the board may request, in writing, the prosecuting attorney of the county in which the township is located, to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules or order. In granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule adopted or administrative order issued under this section shall be considered a separate violation subject to a civil fine.

Sec. 505.07. Notwithstanding any contrary provision in another section of the Revised Code, section 519.12 of the Revised Code, or any vote of the electors on a petition for zoning referendum, a township may settle any court action by a consent decree or court-approved settlement agreement which may include an agreement to rezone any property involved in the action as provided in the decree or court-approved settlement agreement without following the procedures in section 519.12 of the Revised Code and also may include township approval of a development plan for any property involved in the action as provided in the decree or court-approved settlement agreement, provided that the court makes specific findings of fact that notice has been properly made pursuant to this section, ~~the plaintiff in the action has presented credible prima facie evidence in the form of an expert report from a planner, property economist, or real estate appraiser supporting the plaintiff's claim that the current zoning is invalid or unconstitutional,~~ and the consent decree or court-approved settlement agreement is fair and reasonable.

If the subject of the consent decree or court-approved settlement agreement involves a zoning issue subject to referendum under section 519.12 of the Revised Code, the board of township trustees shall publish notice of their intent to meet and consider and take action on the decree or court-approved settlement agreement and the date and time of the meeting in a newspaper of general circulation in the township at least fifteen days before the meeting. The board shall permit members of the public to express their objections to the consent decree or court-approved settlement agreement at the meeting. Copies of the proposed consent decree or court-approved settlement agreement shall be available to the public at the township clerk's office during normal business hours.

At least ten days prior to the submission of a proposed consent decree or settlement agreement to the court for its review and consideration, the plaintiff in the action involving the consent decree or settlement agreement shall publish a notice ~~which that~~ shall include the caption of the case, the case number, and the court in which the consent decree or settlement agreement will be filed, the intention of the parties therein in the action to file a consent decree in that case or settlement agreement, and, when applicable, a description of the real property involved and the proposed change in zoning or permitted use, in a newspaper of general circulation in the township where that real property is located.

~~An elector in the township involving the property in litigation who circulated the petition for zoning referendum relating to the current zoning of the property has the right to intervene in a case in which the decree or~~

~~court approved settlement agreement is pending solely for the purpose of challenging the sufficiency of the evidence submitted pursuant to this section and the adequacy of the notice given pursuant to this section. Any other members of the electorate may intervene only if permitted by the court pursuant to division (B) of Civil Rule 24 and solely for the purpose of challenging the sufficiency of the evidence submitted pursuant to this section and the adequacy of the notice given pursuant to this section.~~

Sec. 505.375. (A) The board of a joint ambulance district created under section 505.71 of the Revised Code and the board of a joint fire district created under section 505.371 of the Revised Code may negotiate in accordance with this section to combine their two joint districts into a single district, called a fire and ambulance district, for the delivery of both fire and ambulance services, if the geographic area covered by the combining joint districts is exactly the same. Both boards shall adopt a joint resolution ratifying the agreement and setting a date on which the fire and ambulance district shall come into being. On that date, the joint fire district and the joint ambulance district shall cease to exist, and the power of each to levy a tax upon taxable property shall terminate, except that any levy of a tax for the payment of indebtedness within the territory of the joint fire or joint ambulance district as it was composed at the time the indebtedness was incurred shall continue to be collected by the successor fire and ambulance district if the indebtedness remains unpaid.

All funds and other property of the joint districts that combined into the fire and ambulance district shall become the property of the fire and ambulance district, unless otherwise provided in the negotiated agreement. The agreement shall provide for the settlement of all debts and obligations of the joint districts.

(B) The governing body of the fire and ambulance district shall be a board of trustees of at least three but no more than nine members, appointed as provided in the agreement creating the district. Members of the board of trustees may be compensated at a rate not to exceed thirty dollars per meeting for not more than fifteen meetings per year, and may be reimbursed for all necessary expenses incurred, as provided in the agreement creating the district.

The board shall employ a clerk and other employees as it considers best, including a fire chief or fire prevention officers, and shall fix their compensation. Neither this section nor any other section of the Revised Code requires, or shall be construed to require, that the fire chief of a fire and ambulance district be a resident of the district.

Before entering upon the duties of office, the clerk shall execute a bond,

in the amount and with surety to be approved by the board, payable to the state, conditioned for the faithful performance of all of the clerk's official duties. The clerk shall deposit the bond with the presiding officer of the board, who shall file a copy of it, certified by the presiding officer, with the county auditor of the county containing the most territory in the district.

The board shall also provide for the appointment of a fiscal officer for the district. The board may also enter into agreements with volunteer fire companies for the use and operation of fire-fighting equipment. Volunteer firefighters acting under such an agreement are subject to the requirements for volunteer firefighters set forth in division (A) of section 505.38 of the Revised Code.

Employees of the district shall not be removed from office except as provided by sections 733.35 to 733.39 of the Revised Code, except that, to initiate removal proceedings, the board shall designate a private citizen or, if the employee is employed as a firefighter, the board may designate the fire chief, to investigate, conduct the proceedings, and prepare the necessary charges in conformity with sections 733.35 to 733.39 of the Revised Code, and except that the board shall perform the functions and duties specified for the municipal legislative authority under those sections. The board may pay reasonable compensation to any private citizen hired for services rendered in the matter.

No person shall be appointed as a permanent full-time paid member of the district whose duties include fire fighting, or be appointed as a volunteer firefighter, unless that person has received a certificate issued under former section 3303.07 or section 4765.55 of the Revised Code evidencing satisfactory completion of a firefighter training program. The board may send its officers and firefighters to schools of instruction designed to promote the efficiency of firefighters and, if authorized in advance, may pay their necessary expenses from the funds used for the maintenance and operation of the district.

The board may choose, by adoption of an appropriate resolution, to have the Ohio medical transportation board license any emergency medical service organization it operates. If the board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the organization. All rules adopted under the applicable sections of that chapter also apply to the organization. The board may likewise, by resolution, remove its emergency medical service organization from the jurisdiction of the Ohio medical transportation board.

(C) The board may exercise the following powers:

(1) Purchase or otherwise provide any fire apparatus, mechanical

resuscitators, or other fire or ambulance equipment, appliances, or materials; fire hydrants; and water supply for fire-fighting purposes that seems advisable to the board;

(2) Provide for the care and maintenance of equipment and, for that purpose, purchase, lease, lease with an option to purchase, or construct and maintain necessary buildings;

(3) Establish and maintain lines of fire-alarm communications within the limits of the district;

(4) Appropriate land for a fire station or medical emergency unit needed in order to respond in reasonable time to a fire or medical emergency, in accordance with Chapter 163. of the Revised Code;

(5) Purchase, appropriate, or accept a deed or gift of land to enlarge or improve a fire station or medical emergency unit;

(6) Purchase, lease, lease with an option to purchase, maintain, and use all materials, equipment, vehicles, buildings, and land necessary to perform its duties;

(7) Contract for a period not to exceed three years with one or more townships, municipal corporations, counties, joint fire districts, governmental agencies, nonprofit corporations, or private ambulance owners located either within or outside the state, to furnish or receive ambulance services or emergency medical services within the several territories of the contracting parties, if the contract is first authorized by all boards of trustees and legislative authorities concerned;

(8) Establish reasonable charges for the use of ambulance or emergency medical services under the same conditions under which a board of fire district trustees may establish those charges under section 505.371 of the Revised Code;

(9) Establish all necessary rules to guard against the occurrence of fires and to protect property and lives against damage and accidents;

(10) Adopt a standard code pertaining to fire, fire hazards, and fire prevention prepared and promulgated by the state or by a public or private organization that publishes a model or standard code;

(11) Provide for charges for false alarms at commercial establishments in the same manner as joint fire districts are authorized to do under section 505.391 of the Revised Code;

(12) Issue bonds and other evidences of indebtedness, subject to Chapter 133. of the Revised Code, but only after approval by a vote of the electors of the district as provided by section 133.18 of the Revised Code;

(13) To provide the services and equipment it considers necessary, levy a sufficient tax, subject to Chapter 5705. of the Revised Code, on all the

taxable property in the district.

(D) Any municipal corporation or township may join an existing fire and ambulance district by its legislative authority's adoption of a resolution requesting the membership and upon approval of the board of the district. Any municipal corporation or township may withdraw from a district by its legislative authority's adoption of a resolution ordering withdrawal. Upon its withdrawal, the municipal corporation or township ceases to be a part of the district, and the district's power to levy a tax on taxable property in the withdrawing township or municipal corporation terminates, except that the district shall continue to levy and collect taxes for the payment of indebtedness within the territory of the district as it was composed at the time the indebtedness was incurred.

Upon the withdrawal of any township or municipal corporation from a district, the county auditor of the county containing the most territory in the district shall ascertain, apportion, and order a division of the funds on hand, including funds in the ambulance and emergency medical services fund, moneys and taxes in the process of collection, except for taxes levied for the payment of indebtedness, credits, and real and personal property on the basis of the valuation of the respective tax duplicates of the withdrawing municipal corporation or township and the remaining territory of the district.

(E) As used in this section:

(1) "Governmental agency" includes all departments, boards, offices, commissions, agencies, colleges, universities, institutions, and other instrumentalities of this or another state.

(2) "Emergency medical service organization" has the same meaning as in section 4766.01 of the Revised Code.

Sec. 519.02. Except as otherwise provided in this section, in the interest of the public health, safety, convenience, comfort, prosperity, or general welfare, the board of township trustees may, in accordance with a comprehensive plan, regulate by resolution the location, height, bulk, number of stories, and size of buildings and other structures, including tents, cabins, and trailer coaches, percentages of lot areas that may be occupied, set back building lines, sizes of yards, courts, and other open spaces, the density of population, the uses of buildings and other structures, including tents, cabins, and trailer coaches, and the uses of land for trade, industry, residence, recreation, or other purposes in the unincorporated territory of the township, and establish reasonable residential landscaping standards and residential architectural standards, excluding exterior building materials, for the unincorporated territory of the township; and, for all these purposes, the board may divide all or any part of the unincorporated territory of the

township into districts or zones of such number, shape, and area as the board determines. All such regulations shall be uniform for each class or kind of building or other structure or use throughout any district or zone, but the regulations in one district or zone may differ from those in other districts or zones.

For any activities permitted and regulated under Chapter ~~1509~~, 1513, or 1514. of the Revised Code and any related processing activities, the board of township trustees may regulate under the authority conferred by this section only in the interest of public health or safety.

Sec. 3709.41. (A) There is hereby created in each city and in each general health district a health district licensing council, to be appointed by the entity that has responsibility for appointing the board of health in the health district. The members of the ~~health district licensing~~ council shall consist of one representative of each business activity for which the board of health operates a licensing program. To be appointed and remain a member, an individual ~~must~~ shall be a resident of the health district for which the council was created.

The appointing authority shall make initial appointments to the council not later than thirty days after ~~the effective date of this section~~ November 21, 2001. Of the initial appointments to the council, one-third of the members, rounded to the nearest whole number, shall serve for a term ending three years after ~~the effective date of this section~~ November 21, 2001; one-third, rounded to the nearest whole number, shall serve for a term ending four years after ~~the effective date of this section~~ November 21, 2001; and the remaining members shall serve for a term ending five years after ~~the effective date of this section~~ November 21, 2001. Thereafter, terms of office shall be five years, with each term ending on the same day of the same month as did the term that it succeeds.

Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed.

Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

Members ~~of a health district licensing council~~ shall serve without compensation, except to the extent that serving on the council is part of their

regular duties of employment.

(B) Each health district licensing council shall organize by selecting from among its members a chairperson, a secretary, and any other officers it considers necessary. Each council shall adopt bylaws for the regulation of its affairs and the conduct of its business.

Each council shall meet at least ~~quarterly~~ annually or at more frequent intervals if specified in its bylaws. In addition to the mandatory meetings, a council shall meet at the call of the chairperson or the request of a majority of the council members.

(C) Pursuant to sections 3709.03, 3709.05, and 3709.07 of the Revised Code, the health district licensing council shall appoint one of its members to serve as a member of the board of health. The council shall appoint one of its members to serve as an alternate board of health member if for any reason the original member is required to abstain from voting on a particular issue being considered by the board of health. While serving on behalf of the original member, the alternate member has the same powers and duties as the original member.

Sec. 6101.181. (A) For the purposes of this section, either of the following constitutes a public exigency:

(1) A finding by the director of environmental protection that a public health nuisance caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions compels the immediate construction of sewers for the protection of the public health and welfare;

(2) The issuance of an order by the board of health of a health district to mitigate or abate a public health nuisance that is caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions and compels the immediate construction of sewers for the protection of the public health and welfare.

(B) If the board of directors of a conservancy district is unable to purchase property for the purpose of the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health, the board of directors may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board of directors considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of directors shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's

determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for the purposes of this division shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code for an appropriation in the time of public exigency. The board's resolution and a written copy of the independent appraisal shall accompany the petition filed under section 163.05 of the Revised Code.

Sec. 6115.221. (A) For the purposes of this section, either of the following constitutes a public exigency:

(1) A finding by the director of environmental protection that a public health nuisance caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions compels the immediate construction of sewers for the protection of the public health and welfare;

(2) The issuance of an order by the board of health of a health district to mitigate or abate a public health nuisance that is caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions and compels the immediate construction of sewers for the protection of the public health and welfare.

(B) If the board of directors of a sanitary district is unable to purchase property for the purpose of the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health, the board of directors may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board of directors considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of directors shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate

property for the purposes of this division shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code for an appropriation in time of public exigency. The board's resolution and a written copy of the independent appraisal shall accompany the petition filed under section 163.05 of the Revised Code.

Sec. 6117.012. (A) A board of county commissioners may adopt rules requiring owners of property within the district whose property is served by a connection to sewers maintained and operated by the board or to sewers that are connected to interceptor sewers maintained and operated by the board to do any of the following:

(1) Disconnect stormwater inflows to sanitary sewers maintained and operated by the board and not operated as a combined sewer, or to connections with ~~such~~ those sewers;

(2) Disconnect non-stormwater inflows to stormwater sewers maintained and operated by the board and not operated as a combined sewer, or to connections with ~~such~~ those sewers;

(3) Reconnect or relocate any such disconnected inflows in compliance with board rules and applicable building codes, health codes, or other relevant codes;

(4) Prevent sewer back-ups into properties that have experienced one or more overflows of sanitary or combined sewers maintained and operated by the board.

(B) Any inflow required to be disconnected or any sewer back-up required to be prevented under a rule adopted pursuant to division (A) of this section constitutes a nuisance subject to injunctive relief and abatement pursuant to Chapter 3767. of the Revised Code or as otherwise permitted by law.

(C) A board of county commissioners may use sewer district funds; county general fund moneys; and, to the extent permitted by their terms, loans, grants, or other moneys from appropriate state or federal funds, for either of the following:

(1) The cost of disconnections, reconnections, ~~or~~ relocations, or sewer back-up prevention required by rules adopted pursuant to division (A) of this section, performed by the county or under contract with the county;

(2) Payments to the property owner or a contractor hired by the property owner pursuant to a competitive process established by district rules, for the cost of disconnections, reconnections, ~~or~~ relocations, or sewer back-up prevention required by rules adopted pursuant to division (A) of this section after the board, pursuant to its rules, has approved the work to be performed and after the county has received from the property owner a statement

releasing the county from all liability in connection with the disconnections, reconnections, ~~or~~ relocations, or sewer back-up prevention.

(D) Except as provided in division (E) of this section, the board of county commissioners shall require in its rules regarding disconnections, reconnections, or relocations of sewers or sewer back-up prevention the reimbursement of moneys expended pursuant to division (C) of this section by either of the following methods:

(1) A charge to the property owner in the amount of the payment made pursuant to division (C) of this section for immediate payment or payment in installments with interest as determined by the board not to exceed ten per cent, which payments may be billed as a separate item with the rents charged to that owner for use of the sewers. The board may approve installment payments for a period of not more than fifteen years. If charges are to be paid in installments, the board shall certify to the county auditor information sufficient to identify each subject parcel of property, the total of the charges to be paid in installments, and the total number of installments to be paid. The auditor shall record the information in the sewer improvement record until these charges are paid in full. Charges not paid when due shall be certified to the county auditor, who shall place the charges upon the real property tax list and duplicate against that property. ~~Such Those~~ charges shall be a lien on the property from the date they are placed on the tax list and duplicate and shall be collected in the same manner as other taxes.

(2) A special assessment levied against the property, payable in ~~such the~~ number of years as the board determines, not to exceed fifteen years, with interest as determined by the board not to exceed ten per cent. The board ~~of county commissioners~~ shall certify the assessments to the county auditor, stating the amount and time of payment. The auditor shall record the information in the county sewer improvement record, showing separately the assessments to be collected, and shall place the assessments upon the real property tax list and duplicate for collection. ~~Such assessment~~ The assessments shall be a lien on the property from the date ~~it is~~ they are placed on the tax list and duplicate and shall be collected in the same manner as other taxes.

(E) The county may adopt a resolution specifying a maximum amount of the cost of any disconnection, reconnection, ~~or~~ relocation, or sewer back-up prevention required pursuant to division (A) of this section that may be paid by the county for each affected parcel of property without requiring reimbursement. ~~Such That~~ amount may be allowed only if there is a building code, health code, or other relevant code, or a federally imposed or

state-imposed consent decree that is filed or otherwise recorded in a court of competent jurisdiction, applicable to the affected parcel that prohibits in the future any inflows or sewer back-ups not allowed under rules adopted pursuant to division (A)(1) or (4) of this section. The board, by rule, shall establish criteria for determining how much of the maximum amount for each qualifying parcel need not be reimbursed.

(F) Disconnections, reconnections, ~~or~~ relocations, or sewer back-up prevention required under this section ~~that are~~ and performed by a contractor under contract with the property owner shall not be considered a "public improvement", and those performed by the county shall be considered a "public improvement" as defined in section 4115.03 of the Revised Code.

Disconnections, reconnections, ~~or~~ relocations, or sewer back-up prevention required under this section performed by a contractor under contract with the property owner shall not be subject to competitive bidding or public bond laws.

(G) Property owners shall be responsible for maintaining any improvements made on private property to reconnect or relocate disconnected inflows or for sewer back-up prevention pursuant to this section unless a public easement exists for the county to maintain that improvement.

Sec. 6117.39. ~~Whenever~~ Except as provided in division (B) of this section, whenever, in the opinion of the board of county commissioners, it is necessary to acquire real estate or any interest in real estate for the acquisition, construction, maintenance, or operation of any sewer, drainage, or other improvement authorized by this chapter, or to acquire the right to construct, maintain, and operate the sewer, drainage, or other improvement in and upon any property within or outside of a county sewer district, it may purchase the real estate, interest in real estate, or right by negotiation. If the board and the owner of the real estate, interest in real estate, or right are unable to agree upon its purchase and sale, or the amount of damages to be awarded for it, the board may appropriate the real estate, interest, or right in accordance with sections 163.01 to 163.22 of the Revised Code, except that the board, in the exercise of the powers granted by this section or any other section of this chapter, may not appropriate real estate or personal property owned by a municipal corporation.

(B)(1) For the purposes of division (B) of this section, either of the following constitutes a public exigency:

(a) A finding by the director of environmental protection that a public health nuisance caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions compels the immediate

construction of sewers for the protection of the public health and welfare;

(b) The issuance of an order by the board of health of a health district to mitigate or abate a public health nuisance that is caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions and compels the immediate construction of sewers for the protection of the public health and welfare.

(2) If the board of county commissioners is unable to purchase property for the purpose of the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health, the board of county commissioners may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board of county commissioners considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of county commissioners shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for the purposes of this division shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code for an appropriation in the time of public exigency. The board's resolution and a written copy of the independent appraisal shall accompany the petition filed under section 163.05 of the Revised Code.

Sec. 6117.51. If the board of health of the health district within which a new public sewer construction project is proposed or located passes a resolution stating that the reason for the project is to reduce or eliminate an existing health problem or a hazard of water pollution, the board of county commissioners of the county, by resolution, may order the owner of any premises located in a sewer district in the county, the owner's agent, lessee, or tenant, or any other occupant of the premises to connect the premises to the sewer for the purpose of discharging sewage or other waste that the board determines is originating on the premises, to make use of the connection, and to cease the discharge of the sewage or other waste into a cesspool, ditch, private sewer, privy, septic tank, semipublic disposal system

as defined in division (B)(1)(a) of section 3709.085 of the Revised Code, or other outlet if the board finds that the sewer is available for use and is accessible to the premises following a determination and certification to the board by a registered professional engineer designated by it as to the availability and accessibility of the sewer. This section does not apply to any of the following:

(A) Any discharge authorized by a permit issued under division (J) of section 6111.03 of the Revised Code other than a discharge to or from a semipublic disposal system as defined in division (B)(1)(a) of section 3709.085 of the Revised Code;

(B) Wastes resulting from the keeping of animals;

(C) Any premises that are not served by a common sewage collection system when the foundation wall of the structure from which sewage or other waste originates is more than two hundred feet from the nearest boundary of the right-of-way within which the sewer is located;

(D) Any premises that are served by a common sewage collection system when both the foundation wall of the structure from which the sewage or other waste originates and the common sewage collection system are more than two hundred feet from the nearest boundary of the right-of-way within which the public sewer is located;

(E) Any dwelling house located on property that is listed on the county's agricultural land tax list as being valued for tax purposes as land devoted exclusively to agricultural use under section 5713.31 of the Revised Code, when the foundation wall of the dwelling house is two hundred feet or less from the nearest boundary of the right-of-way within which the sewer is located, if both of the following also apply:

(1) The sewer right-of-way for the property on which the dwelling house is located was obtained by appropriation due to a public exigency pursuant to division (B) of section 307.08, 6101.181, 6115.211, 6117.39, or 6119.11 of the Revised Code.

(2) The local health department has certified that the household sewage disposal system is functioning properly.

The board shall not direct an order under this section to a resident tenant unless it determines that the terms of the tenancy are such that the owner lacks sufficient rights of access to permit the owner to comply with the terms of the order.

An owner, agent, lessee, tenant, or occupant shall comply with the order of the board within ninety days after the completion of service of the order upon that person as provided in this section. The board, upon written application filed prior to the expiration of the ninety-day period, may waive

compliance with any order either temporarily or permanently and conditionally or unconditionally.

In its resolution, the board shall direct its clerk, or the clerk's designee, to serve its order upon the owner, agent, lessee, tenant, or occupant. Service of the order shall be made personally, by leaving the order at the usual place of residence with a person of suitable age and discretion then residing therein, or by certified mail addressed to the owner, agent, lessee, tenant, or occupant at that person's last known address or to the address to which tax bills are sent. If it appears by the return of service or the return of the order forwarded by certified mail that the owner, agent, lessee, tenant, or occupant cannot be found, that person shall be served by publication of the order once in a newspaper of general circulation within the county, or if that person refuses service, that person shall be served by ordinary mail addressed to that person's last known address or to the address to which tax bills are sent. The return of the person serving the order or a certified copy of the return, or a returned receipt for the order forwarded by certified mail accepted by the addressee or anyone purporting to act for the addressee, is prima-facie evidence of the service of the order under this section. The return of the person attempting to serve the order, or the return to the sender of the order forwarded by certified mail with an indication on the return of the refusal of the addressee to accept delivery, is prima-facie evidence of the refusal of service.

No owner, agent, lessee, tenant, or occupant shall violate an order issued under this section. Upon request of the board, the prosecuting attorney shall prosecute in a court of competent jurisdiction any owner, agent, lessee, tenant, or occupant who violates an order issued under this section. Each day that a violation continues after conviction for the violation of an order issued under this section and the final determination thereof is a separate offense. The court, for good cause shown, may grant a reasonable additional period of time for compliance after conviction.

Any owner, agent, lessee, tenant, or occupant violating an order issued under this section also may be enjoined from continuing in violation. Upon request of the board, the prosecuting attorney shall bring an action in a court of competent jurisdiction for an injunction against the owner, agent, lessee, tenant, or occupant violating an order.

The Ohio water development authority created under section 6121.02 of the Revised Code, in addition to its other powers, has the same power and shall be governed by the same procedures in a waste water facilities service area, or in any area adjacent to a public sewer operated by the authority, as a board of county commissioners in a county sewer district under this section,

except that the authority shall act by order, and the attorney general, upon request of the authority, shall prosecute any person who violates an order of the authority issued under this section.

Sec. 6119.11. The (A) Except as provided in division (B) of this section, the board of trustees of a regional water and sewer district may condemn for the use of the district any public or private land, easement, rights, rights-of-way, franchises, or other property within or without the district required by it for the accomplishment of its purposes according to the procedure set forth in sections 163.01 to 163.22, inclusive, of the Revised Code.

(B)(1) For the purposes of division (B) of this section, either of the following constitutes a public exigency:

(a) A finding by the director of environmental protection that a public health nuisance caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions compels the immediate construction of sewers for the protection of the public health and welfare;

(b) The issuance of an order by the board of health of a health district to mitigate or abate a public health nuisance that is caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions and compels the immediate construction of sewers for the protection of the public health and welfare.

(2) If the board of trustees of a regional water and sewer district is unable to purchase property for the purpose of the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health, the board of trustees may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board of trustees considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of trustees shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for the purposes of this division shall be exercised in the manner

provided in sections 163.01 to 163.22 of the Revised Code for an appropriation in the time of public exigency. The board's resolution and a written copy of the independent appraisal shall accompany the petition filed under section 163.05 of the Revised Code.

SECTION 2. That existing sections 163.02, 163.09, 163.12, 303.02, 307.08, 307.79, 504.04, 504.19, 505.07, 505.375, 519.02, 3709.41, 6117.012, 6117.39, 6117.51, and 6119.11 of the Revised Code are hereby repealed.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____