

As Passed by the Senate

125th General Assembly

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2003-2004

Am. Sub. H. B. No. 148

**Representatives Grendell, Wagner, Wolpert, Daniels, Collier, Walcher,
Schlichter, Sferra, McGregor, C. Evans, Flowers, Allen, Aslanides, Buehrer,
Calvert, Carano, Carmichael, Cates, Cirelli, Clancy, DeBose, Domenick,
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Key, Latta, Martin, Miller, Niehaus, Olman, Otterman, T. Patton, Perry, Raga,
Reidelbach, Schaffer, Schmidt, Seaver, Setzer, D. Stewart, Strahorn, Taylor,
Trakas, Yates, Young
Senators Schuler, Dann, Roberts, Robert Gardner**

A B I L L

To amend sections 303.02, 505.48, 505.50, 507.021,	1
507.03, 507.04, and 519.02 and to enact sections	2
303.161, 505.07, 505.482, 505.721, and 519.171 of	3
the Revised Code to require that the township	4
clerk personally attend certain meetings of the	5
board of township trustees, to set minimum amounts	6
for township clerk bonds, to permit certain boards	7
of township trustees to request copies of township	8
records, to authorize a township clerk to hire one	9
or more assistants, to provide for the expansion	10
by ballot measure of certain township police	11
districts into township-wide police districts with	12
authority to levy a tax for the newly created	13
police districts, to authorize joint ambulance	14
districts to establish reasonable user charges for	15
their services that may vary among resident and	16
nonresident users, to expand the purposes for	17

which boards of county commissioners and township trustees may adopt zoning resolutions to include the purposes of the public's convenience, comfort, prosperity, and general welfare, to expand county and township zoning power to include landscaping standards and certain architectural standards in residential zones, to authorize counties and townships to create architectural review boards to enforce those landscaping and architectural standards, and to authorize the settlement of township court actions by consent decrees or settlement agreements that may include specified agreements or approvals and that may be required to be the subject of specific public notice and opportunity for public objection. 18
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 303.02, 505.48, 505.50, 507.021, 507.03, 507.04, and 519.02 be amended and sections 303.161, 505.07, 505.482, 505.721, and 519.171 of the Revised Code be enacted to read as follows: 33
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Sec. 303.02. For Except as otherwise provided in this section, in the purpose interest of promoting the public health, safety, and morals 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 which 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, 37
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including tents, cabins, and trailer coaches, and the uses of land 47
for trade, industry, residence, recreation, or other purposes in 48
the unincorporated territory of such the county, and establish 49
reasonable residential landscaping standards and residential 50
architectural standards, excluding exterior building materials, 51
for the unincorporated territory of the county and, for such all 52
these purposes, the board may divide all or any part of the 53
unincorporated territory of the county into districts or zones of 54
such number, shape, and area as the board determines. All such 55
regulations shall be uniform, for each class or kind of building 56
or other structure or use, throughout any district or zone, but 57
the regulations in one district or zone may differ from those in 58
other districts or zones. 59

For any activities permitted and regulated under Chapter 60
1509., 1513., or 1514. of the Revised Code and any related 61
processing activities, the board of county commissioners may 62
regulate under the authority conferred by this section only in the 63
interest of public health or safety. 64

Sec. 303.161. The board of county commissioners may create an 65
architectural review board to enforce compliance with any zoning 66
standards it may adopt pertaining to landscaping or architectural 67
elements in areas zoned for residential use. The board of county 68
commissioners shall adopt the standards and procedures for the 69
architectural review board to use in reviewing zoning permit 70
applications for compliance with those landscaping or 71
architectural standards. If the board of county commissioners does 72
not create an architectural review board, it may delegate this 73
enforcement authority to the zoning inspector or the zoning 74
commission. 75

An architectural review board shall consist of no more than 76
five residents of the county. At least one member shall be a 77

licensed architect or engineer.

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Sec. 505.07. Notwithstanding any contrary provision in 79
another section of the Revised Code, section 519.12 of the Revised 80
Code, or any vote of the electors on a petition for zoning 81
referendum, a township may settle any court action by a consent 82
decree or court approved settlement agreement which may include an 83
agreement to rezone any property involved in the action as 84
provided in the decree or court approved settlement agreement 85
without following the procedures in section 519.12 of the Revised 86
Code and also may include township approval of a development plan 87
for any property involved in the action as provided in the decree 88
or court approved settlement agreement, provided that the court 89
makes specific findings of fact that notice has been properly made 90
pursuant to this section, the plaintiff in the action has 91
presented credible prima facie evidence in the form of an expert 92
report from a planner, property economist, or real estate 93
appraiser supporting the plaintiff's claim that the current zoning 94
is invalid or unconstitutional, and the consent decree or court 95
approved settlement agreement is fair and reasonable. 96

If the subject of the consent decree or court approved 97
settlement agreement involves a zoning issue subject to referendum 98
under section 519.12 of the Revised Code, the board of township 99
trustees shall publish notice of their intent to meet and consider 100
and take action on the decree or court approved settlement 101
agreement and the date and time of the meeting in a newspaper of 102
general circulation in the township at least fifteen days before 103
the meeting. The board shall permit members of the public to 104
express their objections to the consent decree or court approved 105
settlement agreement at the meeting. Copies of the proposed 106
consent decree or court approved settlement agreement shall be 107
available to the public at the township clerk's office during 108

<u>normal business hours.</u>	109
<u>At least ten days prior to the submission of a proposed consent decree to the court for its review and consideration, the plaintiff in the action involving the consent decree shall publish a notice which shall include the case, case number, and court in which the decree will be filed, intention of the parties therein to file a consent decree in that case, and 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.</u>	110 111 112 113 114 115 116 117 118
<u>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.</u>	119 120 121 122 123 124 125 126 127 128 129 130
Sec. 505.48. (A) The board of township trustees of any township may, by resolution adopted by two-thirds of the members of the board, create a township police district comprised of all or a portion of the unincorporated territory of the township as the resolution may specify. If the township police district does not include all of the unincorporated territory of the township, the resolution creating the township police district shall contain a complete and accurate description of the territory of the district <u>and a separate and distinct name for the district. The</u>	131 132 133 134 135 136 137 138 139

<u>At any time not less than one hundred twenty days after a township police district is created and operative, the territorial limits of the district may be altered in the manner provided in division (B) of this section or, if applicable, as provided in section 505.482 of the Revised Code.</u>	140
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<u>(B) Except as otherwise provided in section 505.482 of the Revised Code, the territorial limits of the a township police district may be altered by a resolution adopted by a two-thirds vote of the board of township trustees at any time one hundred twenty days or more after the district has been created and is operative. If the township police district imposes a tax, any territory proposed for addition to the district shall become part of the district only after all of the following have occurred:</u>	145
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(1) Adoption by two-thirds vote of the board of township trustees of a resolution approving the expansion of the territorial limits of the district;	153
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(2) Adoption by a two-thirds vote of the board of township trustees of a resolution recommending the extension of the tax to the additional territory;	156
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(3) Approval of the tax by the electors of the territory proposed for addition to the district.	159
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Each resolution of the board adopted under division <u>(A)(B)(2)</u> of this section shall state the name of the <u>township</u> police district, a description of the territory to be added, and the rate and termination date of the tax, which shall be the rate and termination date of the tax currently in effect in the <u>police</u> district.	161
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<u>(B) The board of trustees shall certify each resolution adopted under division <u>(A)(B)(2)</u> of this section to the board of elections in accordance with section 5705.19 of the Revised Code. The election required under division <u>(A)(B)(3)</u> of this section</u>	167
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shall be held, canvassed, and certified in the manner provided for 171
the submission of tax levies under section 5705.25 of the Revised 172
Code, except that the question appearing on the ballot shall read: 173

"Shall the territory within 174
(description of the proposed territory to be added) be added to 175
..... (name) township police district, and a property 176
tax at a rate of taxation not exceeding (here insert 177
tax rate) be in effect for (here insert the number of 178
years the tax is to be in effect or "a continuing period of time," 179
as applicable)?"
If 180

If the question is approved by at least a majority of the 181
electors voting on it, the joinder shall be effective as of the 182
first day of January of the year following approval, and, on that 183
date, the township police district tax shall be extended to the 184
taxable property within the territory that has been added. 185

~~A township police district comprising only a part of the 186
unincorporated territory of the township shall be given a separate 187
and distinct name in the resolution authorizing its creation.~~ 188

Sec. 505.482. (A) If a township police district does not 189
include all the unincorporated territory of the township, the 190
remaining unincorporated territory of the township may be added to 191
the district by a resolution adopted by a unanimous vote of the 192
board of township trustees to place the issue of expansion of the 193
district on the ballot for the electors of the entire 194
unincorporated territory of the township. The resolution shall 195
state whether the proposed township police district initially will 196
hire personnel as provided in section 505.49 of the Revised Code 197
or contract for the provision of police protection services or 198
additional police protection services as provided in section 199
505.43 or 505.50 of the Revised Code. 200

The ballot measure shall provide for the addition into a new 201

district of all the unincorporated territory of the township not 202
already included in the township police district and for the levy 203
of any tax then imposed by the district throughout the 204
unincorporated territory of the township. The measure shall state 205
the rate of the tax, if any, to be imposed in the district 206
resulting from approval of the measure, which need not be the same 207
rate of any tax imposed by the existing district, and the last 208
year in which the tax will be levied or that it will be levied for 209
a continuous period of time. 210

(B) The election on the measure shall be held, canvassed, and 211
certified in the manner provided for the submission of tax levies 212
under section 5705.25 of the Revised Code, except that the 213
question appearing on the ballot shall read substantially as 214
follows: 215

"Shall the unincorporated territory within (name 216
of the township) not already included within the (name 217
of township police district) be added to the township police 218
district to create the (name of new township police 219
district) township police district?" 220

The name of the proposed township police district shall be 221
separate and distinct from the name of the existing township 222
police district. 223

If a tax is imposed in the existing township police district, 224
the question shall be modified by adding, at the end of the 225
question, the following: ", and shall a property tax be levied in 226
the new township police district, replacing the tax in the 227
existing township police district, at a rate not exceeding 228
..... mills per dollar of taxable valuation, which amounts to 229
..... (rate expressed in dollars and cents per one thousand 230
dollars in taxable valuation), for (number of years the 231
tax will be levied, or "a continuing period of time")." 232

<u>If the measure is not approved by a majority of the electors voting on it, the township police district shall continue to occupy its existing territory until altered as provided in this section or section 505.48 of the Revised Code, and any existing tax imposed under section 505.51 of the Revised Code shall remain in effect in the existing district at the existing rate and for as long as provided in the resolution under the authority of which the tax is levied.</u>	233 234 235 236 237 238 239 240
Sec. 505.50. The board of township trustees <u>of a township or a township police district</u> may purchase, lease, lease with an option to purchase, or otherwise acquire any police apparatus, equipment, including a public communications system, or materials that the <u>township or</u> township police district requires and may build, purchase, lease, or lease with an option to purchase any building or buildings and site of the building or buildings that are necessary for the <u>police</u> operations of the <u>township or</u> district.	241 242 243 244 245 246 247 248 249
The boards of trustees of any two or more contiguous townships, may, by joint agreement, unite in the joint purchase, lease, lease with an option to purchase, maintenance, use, and operation of police equipment for any other police purpose designated in sections 505.48 to 505.55 of the Revised Code, and to prorate the expense of that joint action on terms mutually agreed upon by the trustees in each affected township.	250 251 252 253 254 255 256
The board of trustees of <u>any a township or a township police district</u> may enter into a contract with one or more townships, a municipal corporation, a park district created pursuant to section 511.18 or 1545.01 of the Revised Code, or the county sheriff upon any terms that are mutually agreed upon for the provision of police protection services or additional police protection services either on a regular basis or for additional protection in	257 258 259 260 261 262 263

times of emergency. The contract shall be agreed to in each 264
instance by the respective board or boards of township trustees, 265
the board of county commissioners, the board of park 266
commissioners, or the legislative authority of the municipal 267
corporation involved. The contract may provide for a fixed annual 268
charge to be paid at the time agreed upon in the contract. 269

Chapter 2744. of the Revised Code, insofar as it is 270
applicable to the operation of police departments, applies to the 271
contracting political subdivisions and police department members 272
when the members are serving outside their own political 273
subdivision pursuant to such a contract. Police department members 274
acting outside the political subdivision in which they are 275
employed may participate in any pension or indemnity fund 276
established by their employer and are entitled to all the rights 277
and benefits of Chapter 4123. of the Revised Code, to the same 278
extent as while performing services within the political 279
subdivision. 280

Sec. 505.721. As used in this section, "authorized medicare 281
reimbursement rate" means such rate established for the locality 282
under Title XVIII of the "Social Security Act," 49 Stat. 620 283
(1935), 42 U.S.C.A. 301, as amended. 284

A board of trustees of a joint ambulance district may 285
establish reasonable charges for the use of ambulance or emergency 286
medical services. The board may establish different charges for 287
district residents and nonresidents, and, in its discretion, may 288
waive all or part of the charge for any district resident. The 289
charge for nonresidents shall be an amount not less than the 290
authorized medicare reimbursement rate, except that, if prior to 291
the effective date of this section, the board had different 292
charges for residents and nonresidents and the charge for 293
nonresidents was less than the authorized medicare reimbursement 294

<u>rate, the board may charge nonresidents less than the authorized medicare reimbursement rate.</u>	295
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<u>Charges collected under this section shall be kept in a separate fund designated as the ambulance and emergency medical services fund, and shall be appropriated and administered by the board. The moneys in the fund shall be used for the payment of the costs of the management, maintenance, and operation of ambulance and emergency medical services in the district. If ambulance and emergency medical services are discontinued in the district, any balance remaining in the fund shall be allocated in amounts proportionate to the percentage of the district's total population served and paid accordingly into the general funds of the participating political subdivisions.</u>	297
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<u>Sec. 507.021. (A) The board of township trustees may employ such number of persons as it finds necessary to provide stenographic and clerical assistance to the township clerk or deputy clerk may hire and appoint one or more persons as the clerk finds necessary to provide assistance to the township clerk or deputy clerk. The township clerk may set the compensation of those persons subject to the prior approval of the board of township trustees. Those persons shall serve at the pleasure of the township clerk or, in the absence of the clerk, the deputy clerk. The township clerk may delegate to an assistant any of the duties the clerk is otherwise required to perform. The appointment of assistants under this section does not relieve the township clerk of responsibility to discharge the duties of the office but shall serve to provide assistance to the clerk in performing those duties.</u>	308
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<u>(B) The compensation of an assistant appointed under this section shall be included in the estimate of contemplated expenditures for the township clerk's office that is submitted to</u>	323
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<u>the board of township trustees for approval as provided in section 5705.28 of the Revised Code.</u>	326 327
<u>(C) Before serving, an assistant to the township clerk shall give bond for the faithful discharge of the duties of the office as may be delegated by the clerk. The bond shall be payable to the board of township trustees and shall be for the same sum as required under section 507.03 of the Revised Code for the township clerk, with sureties approved by the board, and conditioned for the faithful performance of duties delegated by the clerk. The bond shall be recorded by the township clerk, filed with the county treasurer, and carefully preserved.</u>	328 329 330 331 332 333 334 335 336
<p>Sec. 507.03. The township clerk, before entering upon the discharge of <u>his official</u> duties, shall give a bond, payable to the board of township trustees, with sureties approved by <u>such the</u> board <u>and,</u> in <u>such the</u> sum as it determines <u>determined by the</u> board but not less than the sum provided in this section, <u>and</u> conditioned for the faithful performance of <u>his the</u> duties <u>as of</u> <u>the office of township</u> clerk. <u>Such This</u> bond shall be recorded by the clerk, filed with the county treasurer, and carefully preserved.</p>	337 338 339 340 341 342 343 344 345
<u>The minimum sum of the township clerk's bond shall be as follows:</u>	346 347
<u>(A) In a township with a budget of fifty thousand dollars or less, ten thousand dollars;</u>	348 349
<u>(B) In a township with a budget of more than fifty thousand dollars but not more than one hundred thousand dollars, thirty-five thousand dollars;</u>	350 351 352
<u>(C) In a township with a budget of more than one hundred thousand dollars but not more than two hundred fifty thousand dollars, sixty thousand dollars;</u>	353 354 355

(D) In a township with a budget of more than two hundred fifty thousand dollars but not more than five hundred thousand dollars, eighty-five thousand dollars;	356
(E) In a township with a budget of more than five hundred thousand dollars but not more than seven hundred fifty thousand dollars, one hundred ten thousand dollars;	357
(F) In a township with a budget of more than seven hundred fifty thousand dollars but not more than one million five hundred thousand dollars, one hundred thirty-five thousand dollars;	358
(G) In a township with a budget of more than one million five hundred thousand dollars but not more than three million five hundred thousand dollars, one hundred sixty thousand dollars;	359
(H) In a township with a budget of more than three million five hundred thousand dollars but not more than six million dollars, one hundred ninety-five thousand dollars;	360
(I) In a township with a budget of more than six million dollars but not more than ten million dollars, two hundred twenty thousand dollars;	361
(J) In a township with a budget of more than ten million dollars, two hundred fifty thousand dollars.	362
Sec. 507.04. (A) The township clerk shall keep an accurate record of the proceedings of the board of township trustees at all of its meetings, and of all its accounts and transactions, including the acceptance of the bonds of township officers. <u>The clerk shall personally attend at least one meeting of the board during each quarter of every year, unless prevented by the occurrence of an emergency from attending.</u>	363
(B) In any township where the clerk does not keep the township's records in a public facility, the board of township trustees, once each quarter of each year, may request the clerk to	364

<u>provide the board with copies of township records for its review.</u>	386
<u>If the board makes such a request, it shall tell the clerk which</u>	387
<u>records it wants copies of by indicating the dates or types of the</u>	388
<u>records it is requesting. A request made under this section does</u>	389
<u>not diminish any trustee's right to inspect township records under</u>	390
<u>division (B) of section 149.43 of the Revised Code.</u>	391
<u>Sec. 519.02. For Except as otherwise provided in this</u>	392
<u>section, in the purpose interest of promoting the public health,</u>	393
<u>safety, and morals convenience, comfort, prosperity, or general</u>	394
<u>welfare, the board of township trustees may, in accordance with a</u>	395
<u>comprehensive plan, regulate by resolution the location, height,</u>	396
<u>bulk, number of stories, and size of buildings and other</u>	397
<u>structures, including tents, cabins, and trailer coaches,</u>	398
<u>percentages of lot areas which that may be occupied, set back</u>	399
<u>building lines, sizes of yards, courts, and other open spaces, the</u>	400
<u>density of population, the uses of buildings and other structures,</u>	401
<u>including tents, cabins, and trailer coaches, and the uses of land</u>	402
<u>for trade, industry, residence, recreation, or other purposes in</u>	403
<u>the unincorporated territory of such the township, and establish</u>	404
<u>reasonable residential landscaping standards and residential</u>	405
<u>architectural standards, excluding exterior building materials,</u>	406
<u>for the unincorporated territory of the township; and, for such</u>	407
<u>all these purposes, the board may divide all or any part of the</u>	408
<u>unincorporated territory of the township into districts or zones</u>	409
<u>of such number, shape, and area as the board determines. All such</u>	410
<u>regulations shall be uniform for each class or kind of building or</u>	411
<u>other structure or use throughout any district or zone, but the</u>	412
<u>regulations in one district or zone may differ from those in other</u>	413
<u>districts or zones.</u>	414
<u>For any activities permitted and regulated under Chapter</u>	415
<u>1509., 1513., or 1514. of the Revised Code and any related</u>	416

<u>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.</u>	417
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 <u>Sec. 519.171. The board of township trustees may create an architectural review board to enforce compliance with any zoning standards it may adopt pertaining to landscaping or architectural elements in areas zoned for residential use. The board of township trustees shall adopt the standards and procedures for the architectural review board to use in reviewing zoning permit applications for compliance with those landscaping or architectural standards. If the board of township trustees does not create an architectural review board, it may delegate this enforcement authority to the zoning inspector or the zoning commission.</u>	420
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 <u>An architectural review board shall consist of no more than five residents of the unincorporated territory of the township. At least one member shall be a licensed architect or engineer; if a licensed architect or engineer does not reside in the unincorporated territory of the township, that member of the architectural review board may be a resident of the county.</u>	431
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 <u>Section 2. That existing sections 303.02, 505.48, 505.50, 507.021, 507.03, 507.04, and 519.02 of the Revised Code are hereby repealed.</u>	437
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 <u>Section 3. It is not the intent of the General Assembly in amending sections 303.02 and 519.02 of the Revised Code in this act to confer any authority on a county or township to preempt state law, including any statute requiring a person to obtain a permit, by including the "general welfare" of the public as a purpose for which a board of county commissioners or board of township trustees may adopt zoning regulations.</u>	440
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Section 4. Nothing in this act allows or shall be construed to allow any county or township authority to establish a minimum price for a house or lot.	447
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