

As Passed by the House

**125th General Assembly
Regular Session
2003-2004**

Sub. H. B. No. 299

**Representatives Gibbs, Calvert, Seitz, Gilb, Raussen, Fessler, D. Evans,
Faber, Collier, Kearns, Schmidt, Hartnett, Barrett, Wolpert, Wagner, Daniels,
McGregor, Domenick, C. Evans, Price, Sferra, Martin, Aslanides, Book,
Carano, Carmichael, Cates, Chandler, Clancy, DeBose, Distel, Flowers,
Grendell, Hagan, Hollister, Hughes, Niehaus, T. Patton, Peterson, Reinhard,
Schneider, Setzer, J. Stewart, Taylor, Walcher, Webster, Willamowski**

A B I L L

To amend sections 5543.01, 5555.02, 5571.02, 5571.08, 1
and 5571.12 and to enact sections 5541.05, 2
5553.045, and 5571.20 of the Revised Code to 3
provide for the vacation upon petition of a 4
township of certain township roads that are not 5
used by and maintained for the public and to 6
permit a board of county commissioners and a board 7
of township trustees to place a graveled or 8
unimproved county or township road on 9
nonmaintained status. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5543.01, 5555.02, 5571.02, 5571.08, 11
and 5571.12 be amended and sections 5541.05, 5553.045, and 5571.20 12
of the Revised Code be enacted to read as follows: 13

Sec. 5541.05. A board of county commissioners by resolution 14
may place a graveled or unimproved county road under its 15

jurisdiction or any portion of such a road on nonmaintained
status. Upon adoption of such a resolution, the board is not
required to cause the road to be dragged at any time, or to cut,
destroy, or remove any brush, weeds, briers, bushes, or thistles
upon or along the road, or to remove snow from the road, or to
maintain or repair the road in any manner. The board, in its
discretion, may cause any of these actions to be performed on or
to a road that it has placed on nonmaintained status.

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A board may adopt a resolution under this section only if the
board finds that placing the road on nonmaintained status will not
unduly adversely affect the flow of motor vehicle traffic on that
road or on any other road located in the immediate vicinity of
that road as evidenced by the overall use of the road during the
preceding twenty-one years.

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A board may terminate the nonmaintained status of a county
road by adopting a resolution to that effect. If the owner of land
adjoining a road that has been placed on nonmaintained status
requests the board to terminate the nonmaintained status of the
road, the board, in its resolution that terminates that
nonmaintained status, may require the owner to pay the costs of
upgrading the road to locally adopted county standards.

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Sec. 5543.01. (A) Except as provided in division (B) of this
section, the county engineer shall have general charge of the
following:

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(1) Construction, reconstruction, improvement, maintenance,
and repair of all bridges and highways within the engineer's
county, under the jurisdiction of the board of county
commissioners, except for those county roads the board places on
nonmaintained status pursuant to section 5541.05 of the Revised
Code;

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(2) Construction, reconstruction, resurfacing, or improvement of roads by boards of township trustees under sections 5571.01, 5571.06, 5571.07, 5571.15, 5573.01 to 5573.15, and 5575.02 to 5575.09 of the Revised Code;

(3) Construction, reconstruction, resurfacing, or improvement of the roads of a road district under section 5573.21 of the Revised Code.

(B) For any particular project, after notifying the county engineer, the board of township trustees of a township that has adopted a limited home rule government under Chapter 504. of the Revised Code may hire an independent professional engineer to be in charge of those activities listed in division (A)(2) of this section. The county engineer shall review all of the independent professional engineer's plans for improvements and provide the board of township trustees with comments on those plans within ten working days after receiving them. The county engineer shall monitor all plans for improvements in order to maintain compliance with existing construction standards and thoroughfare plans, and coordinate construction timelines within the county.

(C) The county engineer may not perform any duties in connection with the repair, maintenance, or dragging of roads by boards of township trustees, except that, upon the request of any board of township trustees, the county engineer shall inspect any road designated by it and advise as to the best methods of repairing, maintaining, or dragging that road.

Sec. 5553.045. (A) As used in this section, "road" means a road, or portion of a road, which is not used to calculate distributions of the auto registration distribution fund under division (E) of section 4501.04 of the Revised Code and, thus, is not a road or portion of a road certified by the board of township trustees to the director of transportation in accordance with that

division as mileage in the township used by and maintained for the
public.

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(B) A board of township trustees may petition the board of
county commissioners to vacate a township road or a portion of a
township road by passing a resolution that requests the vacation
of the road or portion and includes a description of the general
route and termini of the road or portion. The township clerk shall
file a copy of the resolution with the board of county
commissioners and certify another copy to the county engineer.
Within thirty days of the receipt of that copy of the resolution,
the engineer shall issue to the board of county commissioners a
written report similar in content to reports required under
section 5553.06 of the Revised Code. The failure of the engineer
to provide this report does not affect the actions required under
this section and does not invalidate the vacation of a road or
portion of a road under this section.

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(C) Upon receipt of the copy of the township's resolution,
the board of county commissioners shall set a date for a public
hearing on the vacation of the road or portion of the road that is
not more than forty-five days after the date that the resolution
is filed with the board. The clerk of the board shall notify by
regular mail the landowners abutting the road or portion of the
road proposed to be vacated. That notice shall be sent at least
twenty days before the board's public hearing, shall state that
the board of township trustees has filed a resolution requesting
the vacation of the specified road or portion of the road under
this section, and shall inform the landowners of the time and
place of the public hearing on this issue. The notice shall be
mailed to the addresses of the abutting landowners as they appear
on the county auditor's current tax list or the county treasurer's
mailing list. Failure of the delivery of this notice to any

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abutting landowner does not invalidate the vacation of a road or a portion of a road under this section.

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(D) After the public hearing, if the board of county commissioners determines that the vacation of the road or portion of the road would be for the public convenience or welfare, it shall adopt a resolution by a majority vote declaring the road or portion to be vacated and file a certified copy of the resolution with the petitioner board of township trustees, the county recorder, and the county engineer.

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If the board of county commissioners fails to vote on the issue of vacating the road or portion of the board within sixty days after the township's resolution is filed with it, the road or portion of the road specified in the resolution shall be deemed to be vacated, and the petitioner board of township trustees shall adopt another resolution describing the road or portion of the road that has been vacated and explaining this vacation is by action of this section. The board of township trustees shall file a certified copy of that resolution with the board of county commissioners, the county recorder, and the county engineer.

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Sec. 5555.02. The board of county commissioners may construct a public road by laying out and building a new road, or by improving, reconstructing, or repairing any existing public road or part thereof of an existing public road by grading, paving, widening, altering, straightening, vacating, changing the direction, draining, dragging, graveling, macadamizing, resurfacing, applying dust preventives, or ~~by~~ otherwise improving the same, and, where an established road has been relocated, the board may construct and maintain ~~such~~ connecting roads between the old and new locations as will provide reasonable access thereto. The board also may place a county road on nonmaintained status pursuant to section 5541.05 of the Revised Code. The board may

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purchase or lease, erect, and maintain automatic traffic signals 139
at ~~such~~ intersections of public highways outside municipal 140
corporations as ~~are~~ necessary for the protection of the public 141
traveling upon ~~such~~ those highways. Automatic traffic signals 142
shall not be placed at intersections of public highways on the 143
state highway system unless the board first obtains the approval 144
of the director of transportation. 145

This section does not apply to roads or highways on the state 146
highway system, except such portions as the board constructs under 147
plans and specifications approved by the director and under ~~his~~ 148
the director's supervision and inspection. 149

Sec. 5571.02. The board of township trustees shall have 150
control of the township roads of its township and, except for 151
those township roads the board places on nonmaintained status 152
pursuant to section 5571.20 of the Revised Code, shall keep them 153
in good repair. The board of township trustees ~~may~~, with the 154
approval of the board of county commissioners or the director of 155
transportation, may maintain or repair a county road, or 156
intercounty highway, or state highway within the limits of its 157
township. 158

In the maintenance and repair of roads, the board of township 159
trustees may proceed in any of the following methods: 160

(A) It may designate one of its number to have charge of the 161
maintenance and repair of roads within the township. 162

(B) It may divide the township into three road districts, in 163
which event each trustee shall have charge of the maintenance and 164
repair of roads within one of ~~such~~ those districts. 165

(C) It may appoint some competent person, not a member of the 166
board of township trustees, to have charge of maintenance and 167
repair of roads within the township, who shall be known as 168

"township highway superintendent" and shall serve at the pleasure 169
of the board ~~of township trustees~~. 170

The method to be followed in each township shall be 171
determined by the board of township trustees by resolution entered 172
on its records. 173

Sec. 5571.08. ~~The~~ Except as provided in section 5571.20 of 174
the Revised Code, the board of township trustees shall cause all 175
the township roads within the township to be kept free from 176
obstruction by snow. The cost and expense thereof shall be paid 177
from the road funds of the township or from the funds allocated to 178
the township by section 5735.27 of the Revised Code. 179

Sec. 5571.12. ~~The~~ Except as provided in section 5571.20 of 180
the Revised Code, the board of township trustees shall cause the 181
graveled and unimproved public roads of the township to be 182
dragged. At the beginning of each fiscal half year, ~~the~~ board, 183
before making any other appropriations from the township road 184
fund, shall appropriate and set aside a sum sufficient to meet the 185
expense of dragging the graveled and unimproved public roads of 186
the township during the ensuing six months. ~~Such~~ That sum shall 187
not be used for any purpose other than that for which it was 188
appropriated. 189

The board ~~shall~~ from time to time shall designate the roads 190
to be dragged and furnish suitable road drags, hones, scrapers, or 191
other tools, which shall be paid for out of the road fund. The 192
work of dragging the graveled and unimproved public roads of the 193
township, or of any road district ~~thereof~~ of the township, shall 194
be done under the supervision of one of the township trustees or 195
the township highway superintendent designated to have charge of 196
the maintenance and repair of roads as provided in section 5571.02 197
of the Revised Code. ~~Such~~ That trustee or superintendent shall 198

employ the necessary labor and teams at a price to be fixed by the 199
board. Bills for dragging shall be paid from the dragging fund 200
upon the order of the board. 201

Sec. 5571.20. A board of township trustees by resolution may 202
place a graveled or unimproved township road under its 203
jurisdiction or any portion of such a road on nonmaintained 204
status. Upon adoption of such a resolution, the board is not 205
required to cause the road to be dragged at any time, or to cut, 206
destroy, or remove any brush, weeds, briers, bushes, or thistles 207
upon or along the road, or to remove snow from the road, or to 208
maintain or repair the road in any manner. The board, in its 209
discretion, may cause any of these actions to be performed on or 210
to a road that it has placed on nonmaintained status. 211

A board may adopt a resolution under this section only if the 212
board finds that placing the road on nonmaintained status will not 213
unduly adversely affect the flow of motor vehicle traffic on that 214
road or on any other road located in the immediate vicinity of 215
that road as evidenced by the overall use of the road during the 216
preceding twenty-one years. 217

A board may terminate the nonmaintained status of a township 218
road by adopting a resolution to that effect. If the owner of land 219
adjoining a road that has been placed on nonmaintained status 220
requests the board to terminate the nonmaintained status of the 221
road, the board, in its resolution that terminates that 222
nonmaintained status, may require the owner to pay the costs of 223
upgrading the road to locally adopted township standards. 224

Section 2. That existing sections 5543.01, 5555.02, 5571.02, 225
5571.08, and 5571.12 of the Revised Code are hereby repealed. 226