

**As Introduced**

**126th General Assembly  
Regular Session  
2005-2006**

**H. B. No. 385**

**Representatives Brinkman, Seitz, Law, Schaffer, Webster**

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**A B I L L**

To amend sections 7.12, 148.04, 148.06, 504.11, 1  
505.391, 505.94, 515.01, 515.07, and 5705.10 and 2  
to enact sections 504.23 and 517.16 of the Revised 3  
Code to eliminate the requirement for a second 4  
class mailing privilege for newspapers of general 5  
circulation used for legal publications, to make 6  
changes to the law authorizing a charge for 7  
certain multiple false fire alarms in townships, 8  
to increase the maximum registration fee for 9  
transient vendors in townships, to allow emergency 10  
resolutions to take immediate effect in limited 11  
home rule townships, to eliminate the ten-year 12  
duration limit and the competitive bidding 13  
requirements for township lighting contracts, to 14  
authorize boards of township trustees to sell 15  
cemetery-related items to raise revenue for the 16  
care and maintenance of township cemeteries, to 17  
authorize urban townships to adopt a general 18  
parking authorization plan for subdivision 19  
entrances and certain township cul de sac streets, 20  
to remove the limitation on the number of 21  
additional deferred compensation programs 22  
townships may offer to township officers or 23  
employees, and to authorize a township to pay the 24  
proceeds from the sale of a permanent improvement 25

into the township's general fund under certain 26  
circumstances. 27

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

**Section 1.** That sections 7.12, 148.04, 148.06, 504.11, 28  
505.391, 505.94, 515.01, 515.07, and 5705.10 be amended and 29  
sections 504.23 and 517.16 of the Revised Code be enacted to read 30  
as follows: 31

**Sec. 7.12.** Whenever any legal publication is required by law 32  
to be made in a newspaper published in a municipal corporation, 33  
county, or other political subdivision, the newspaper shall also 34  
be a newspaper of general circulation in the municipal 35  
corporation, county, or other political subdivision, without 36  
further restriction or limitation upon a selection of the 37  
newspaper to be used. If no newspaper is published in such a 38  
municipal corporation, county, or other political subdivision, 39  
~~such~~ the legal publication shall be made in any newspaper of 40  
general circulation ~~therein~~ in the municipal corporation, county, 41  
or other political subdivision. If there are less than two 42  
newspapers published in any municipal corporation, county, or 43  
other political subdivision in the manner defined by this section, 44  
~~then~~ any legal publication required by law to be made in a 45  
newspaper published in a municipal corporation, county, or other 46  
political subdivision may be made in any newspaper regularly 47  
issued at stated intervals from a known office of publication 48  
located within the municipal corporation, county, or other 49  
political subdivision. As used in this section, a "known office of 50  
publication" is a public office where the business of the 51  
newspaper is transacted during the usual business hours, and ~~such~~ 52  
that office shall be shown by the publication itself. 53

In addition to all other requirements, a newspaper or 54  
newspaper of general circulation, except those publications 55  
performing the functions described in section 2701.09 of the 56  
Revised Code for a period of one year immediately preceding any 57  
such publication required to be made, shall be a publication 58  
bearing a title or name, regularly issued as frequently as once a 59  
week for a definite price or consideration paid for by not less 60  
than fifty per cent of those to whom distribution is made, ~~having~~ 61  
~~a second class mailing privilege,~~ being not less than four pages, 62  
published continuously during the immediately preceding one-year 63  
period, and circulated generally in the political subdivision in 64  
which it is published. ~~Such~~ The publication must be of a type to 65  
which the general public resorts for passing events of a 66  
political, religious, commercial, and social nature, current 67  
happenings, announcements, miscellaneous reading matter, 68  
advertisements, and other notices. 69

**Sec. 148.04.** (A) The Ohio public employees deferred 70  
compensation board shall initiate, plan, expedite, and, subject to 71  
an appropriate assurance of the approval of the internal revenue 72  
service, promulgate and offer to all eligible employees, and 73  
thereafter administer on behalf of all participating employees and 74  
continuing members, and alter as required, a program for deferral 75  
of compensation, including a reasonable number of options to the 76  
employee for the investment of deferred funds, including life 77  
insurance, annuities, variable annuities, pooled investment funds 78  
managed by the board, or other forms of investment approved by the 79  
board, always in such form as will assure the desired tax 80  
treatment of such funds. The members of the ~~Ohio public employees~~ 81  
~~deferred compensation~~ board are the trustees of any deferred funds 82  
and shall discharge their duties with respect to the funds solely 83  
in the interest of and for the exclusive benefit of participating 84  
employees, continuing members, and their beneficiaries. With 85

respect to such deferred funds, section 148.09 of the Revised Code 86  
shall apply to claims against participating employees or 87  
continuing members and their employers. 88

(B) Every employer of an eligible employee shall contract 89  
with ~~such~~ the employee upon the employee's application for 90  
participation in a deferred compensation program offered by the 91  
board. Every retirement system serving an eligible employee shall 92  
serve as collection agent for compensation deferred by any of its 93  
members and account for and deliver such sums to the board. 94

(C) The board shall, subject to any applicable contract 95  
provisions, undertake to obtain as favorable conditions of tax 96  
treatment as possible, both in the initial programs and any 97  
permitted alterations ~~thereof~~ of them or additions ~~thereto~~ to 98  
them, as to such matters as terms of distribution, designation of 99  
beneficiaries, withdrawal upon disability, financial hardship, or 100  
termination of public employment, and other optional provisions. 101

(D) In no event shall the total of the amount of deferred 102  
compensation to be set aside under a deferred compensation program 103  
and the employee's nondeferred income for any year exceed the 104  
total annual salary or compensation under the existing salary 105  
schedule or classification plan applicable to ~~such~~ the employee in 106  
~~such~~ that year. 107

Such a deferred compensation program shall be in addition to 108  
any retirement or any other benefit program provided by law for 109  
employees of this state. The board shall adopt rules pursuant to 110  
Chapter 119. of the Revised Code to provide any necessary 111  
standards or conditions for the administration of its programs, 112  
including any limits on the portion of a participating employee's 113  
compensation that may be deferred in order to avoid adverse 114  
treatment of the program by the internal revenue service or the 115  
occurrence of deferral, withholding, or other deductions in excess 116  
of the compensation available for any pay period. 117

Any income deferred under such a plan shall continue to be 118  
included as regular compensation for the purpose of computing the 119  
contributions to and benefits from the retirement system of such 120  
employee. Any sum so deferred shall not be included in the 121  
computation of any federal and state income taxes withheld on 122  
behalf of any such employee. 123

(E) This section does not limit the authority of any 124  
municipal corporation, county, township, park district, 125  
conservancy district, sanitary district, health district, public 126  
library, county law library, public institution of higher 127  
education, or school district to provide separate authorized plans 128  
or programs for deferring compensation of their officers and 129  
employees in addition to the program for the deferral of 130  
compensation offered by the board. Any municipal corporation, 131  
township, public institution of higher education, or school 132  
district that offers such plans or programs shall include a 133  
reasonable number of options to its officers or employees for the 134  
investment of the deferred funds, including annuities, variable 135  
annuities, regulated investment trusts, or other forms of 136  
investment approved by the municipal corporation, township, public 137  
institution of higher education, or school district, that will 138  
assure the desired tax treatment of the funds. 139

**Sec. 148.06.** As used in this section: 140

(A) "Government unit" means a county, ~~township~~, park district 141  
of any kind, conservancy district, sanitary district, health 142  
district, public library district, or county law library. 143

(B) "Governing board" means, in the case of the county, the 144  
board of county commissioners; ~~in the case of a township, the~~ 145  
~~board of township trustees;~~ in the case of a park district, the 146  
board of park commissioners; in the case of a conservancy 147  
district, the district's board of directors; in the case of a 148

sanitary district, the district's board of directors; in the case 149  
of a health district, the board of health; in the case of a public 150  
library district, the board of library trustees; and in the case 151  
of a county law library, the board of trustees of the law library 152  
association. 153

In addition to the program of deferred compensation that may 154  
be offered under this chapter, a governing board may offer to all 155  
of the officers and employees of the government unit not to exceed 156  
two additional programs for deferral of compensation designed for 157  
favorable tax treatment of the compensation so deferred. Any such 158  
program shall include a reasonable number of options to the 159  
officer or employee for the investment of the deferred funds, 160  
including annuities, variable annuities, regulated investment 161  
trusts, or other forms of investment approved by the governing 162  
board, that will assure the desired tax treatment of the funds. 163

Any income deferred under such a plan shall continue to be 164  
included as regular compensation for the purpose of computing the 165  
contributions to and benefits from the officer's or employee's 166  
retirement system but shall not be included in the computation of 167  
any federal and state income taxes withheld on behalf of any such 168  
employee. 169

**Sec. 504.11.** (A) The vote on the question of passage of a 170  
resolution provided for in section 504.10 of the Revised Code or a 171  
motion related to that resolution shall be taken by yeas and nays 172  
and entered on the journal, and the resolution or motion shall not 173  
be passed without concurrence of a majority of all members of the 174  
board of township trustees, except that each emergency resolution 175  
under that section shall require the affirmative vote of all of 176  
the members of the board for its enactment. If an emergency 177  
resolution fails to receive the required vote for passage as an 178  
emergency measure but receives the necessary majority for passage 179

as a nonemergency resolution, it shall be considered passed as a 180  
nonemergency resolution. Except as otherwise provided in division 181  
(B) of this section, a resolution shall become effective thirty 182  
days after it is filed with the township fiscal officer. Each 183  
emergency resolution shall determine that the resolution is 184  
necessary for the immediate preservation of the public peace, 185  
health, safety, or welfare and shall contain a statement of the 186  
necessity for the emergency. Each resolution shall be 187  
authenticated by the signature of the township fiscal officer, but 188  
the failure or refusal of the fiscal officer to sign a resolution 189  
shall not invalidate an otherwise properly enacted resolution. 190

(B) Each resolution appropriating money, submitting a 191  
question to the electorate, determining to proceed with an 192  
election, or providing for the approval of a revision, 193  
codification, recodification, or rearrangement of resolutions, or 194  
publication of resolutions in book form, ~~and any emergency~~ 195  
~~resolution~~, shall take effect, unless a later time is specified in 196  
the resolution, ten days after it is filed with the township 197  
fiscal officer. Emergency resolutions shall take effect 198  
immediately. 199

(C) Each resolution shall be recorded in a book, or other 200  
record prescribed by the board, established and maintained for 201  
that purpose. The township fiscal officer or a duly authorized 202  
deputy to the fiscal officer shall, upon the request of any person 203  
and upon the payment of a fee established by the board, certify 204  
true copies of any resolution, and these certified copies shall be 205  
admissible as evidence in any court. 206

(D) The procedures provided in this section apply only to 207  
resolutions adopted pursuant to a township's limited home rule 208  
powers as authorized by this chapter. 209

Sec. 504.23. (A) The board of township trustees of an urban 210

township that adopts a limited home rule government may adopt a 211  
general parking authorization plan for subdivision entrances and 212  
township cul de sac streets that do not exceed one thousand five 213  
hundred feet in length. All regulations and orders arising from 214  
such a parking authorization plan shall be posted by the township 215  
fiscal officer in at least five conspicuous public places in the 216  
township for thirty days before becoming effective, and shall be 217  
published in a newspaper of general circulation in the township 218  
for three consecutive weeks. In addition to these requirements, no 219  
regulations and orders arising from such a parking authorization 220  
plan shall become effective until permanent signs giving notice of 221  
the applicable parking limitations or prohibitions are properly 222  
posted, in accordance with any applicable standards adopted by the 223  
department of transportation, at subdivision entrances or at the 224  
beginning of any township cul de sac street that does not exceed 225  
one thousand five hundred feet in length. 226

(B) As used in this section, "urban township" has the same 227  
meaning as in section 504.01 of the Revised Code. 228

**Sec. 505.391.** (A) If, after the fire department of a 229  
township, township fire district, or joint fire district, or a 230  
private fire company with which the fire department of a township, 231  
township fire district, or joint fire district contracts for fire 232  
protection, responds to a false alarm from an automatic fire alarm 233  
system at a commercial establishment or residential building, the 234  
board of township trustees gives written notice by certified mail 235  
that it may assess a charge of up to three hundred dollars for 236  
each subsequent false alarm ~~within a period of thirty days~~ 237  
occurring after any three false alarm alarms by that system within 238  
the same calendar year, the board of township trustees may assess 239  
that charge. This notice shall be mailed to the owner and the 240  
lessee, if any, of the building in which the system is installed. 241



After the board gives this notice, the board need not give any 242  
additional written notices before assessing a charge for a false 243  
alarm as provided by this section. ~~If not paid within sixty days~~ 244  
~~after the owner or lessee receives a written notice by certified~~ 245  
~~mail that a charge has been assessed, the charge shall be entered~~ 246  
~~upon the real property tax list and tax duplicate, shall be a lien~~ 247  
~~upon the property served, and shall be collected as other taxes.~~ 248  
~~Charges collected under this section shall be returned to the~~ 249  
~~township general fund.~~ 250

As (B) If payment of the bill assessing a charge for a false 251  
alarm is not received within thirty days, the township fiscal 252  
officer shall send a notice by certified mail to the manager and 253  
to the owner, if different, of the real estate of which the 254  
commercial establishment is a part, or to the occupant, lessee, 255  
agent, or tenant and to the owner, if different, of the real 256  
estate of which the residential building is a part, indicating 257  
that failure to pay the bill within thirty days, or to show just 258  
cause why the bill should not be paid within thirty days, will 259  
result in the assessment of a lien upon the real estate in the 260  
amount of the bill. If payment is not received or just cause for 261  
nonpayment is not shown within those thirty days, the amount of 262  
the bill shall be entered upon the tax duplicate, shall be a lien 263  
upon the real estate from the date of the entry, and shall be 264  
collected as other taxes and returned to the township treasury to 265  
be earmarked for use for fire services. 266

(C) As used in this section, "commercial establishment" means 267  
a building or buildings in an area used primarily for 268  
nonresidential, commercial purposes. 269

**Sec. 505.94.** (A) A board of township trustees may, by 270  
resolution, require the registration of all transient vendors 271  
within the unincorporated territory of the township and may 272

regulate the time, place, and manner in which these vendors may 273  
sell, offer for sale, or solicit orders for future delivery of 274  
goods, or the board may, by resolution, prohibit these activities 275  
within that territory. If the board requires the registration of 276  
all transient vendors, it may establish a reasonable registration 277  
fee, not to exceed ~~seventy-five~~ one hundred fifty dollars for a 278  
registration period, and this registration shall be valid for a 279  
period of at least ninety days after the date of registration. Any 280  
board of township trustees that provides for the registration and 281  
regulation, or prohibition, of transient vendors under this 282  
section shall notify the prosecuting attorney of the county in 283  
which the township is located of its registration and regulatory 284  
requirements or prohibition. No transient vendor shall fail to 285  
register or to comply with regulations or prohibitions established 286  
by a board of township trustees under this division. 287

This division does not authorize a board of township trustees 288  
to apply a resolution it adopts under this division to any person 289  
invited by an owner or tenant to visit the owner's or tenant's 290  
premises to sell, offer for sale, or solicit orders for future 291  
delivery of goods. 292

(B) As used in this section: 293

(1) "Goods" means goods, wares, services, merchandise, 294  
periodicals, and other articles or publications. 295

(2) "Transient vendor" means any person who opens a temporary 296  
place of business for the sale of goods or who, on the streets or 297  
while traveling about the township, either sells or offers for 298  
sale goods, or solicits orders for future delivery of goods where 299  
payment is required prior to the delivery of the goods. "Transient 300  
vendor" does not include any person who represents any entity 301  
exempted from taxation under section 5709.04 of the Revised Code, 302  
that notifies the board of township trustees that its 303  
representatives are present in the township for the purpose of 304

either selling or offering for sale goods, or soliciting orders 305  
for future delivery of goods, and does not include a person 306  
licensed under Chapter 4707. of the Revised Code. 307

**Sec. 515.01.** The board of township trustees may provide 308  
artificial lights for any road, highway, public place, or building 309  
under its supervision or control, or for any territory within the 310  
township and outside the boundaries of any municipal corporation, 311  
when the board determines that the public safety or welfare 312  
requires that the road, highway, public place, building, or 313  
territory shall be lighted. The lighting may be procured either by 314  
the township installing a lighting system or by contracting with 315  
any person or corporation to furnish lights. 316

If lights are furnished under contract, the contract may 317  
provide that the equipment employed may be owned by the township 318  
or by the person or corporation supplying ~~it~~ the lights. 319

~~If the board determines to procure lighting by contract and 320  
the total estimated cost of the contract exceeds twenty five 321  
thousand dollars, the board shall prepare plans and specifications 322  
for the lighting equipment and shall, for two weeks, advertise for 323  
bids for furnishing the lighting equipment, either by posting the 324  
advertisement in three conspicuous places in the township or by 325  
publication of the advertisement once a week, for two consecutive 326  
weeks, in a newspaper of general circulation in the township. Any 327  
such contract for lighting shall be made with the lowest and best 328  
bidder. 329~~

~~No lighting contract awarded by the board shall be made to 330  
cover a period of more than ten years. The cost of installing and 331  
operating any lighting system or any light furnished under 332  
contract shall be paid from the general fund of the township 333  
treasury. 334~~

~~Sec. 515.07. If the total estimated cost of any~~ Any contract 335  
for a lighting improvement provided for in section 515.06 of the 336  
Revised Code ~~is twenty five thousand dollars or less, the contract~~ 337  
may be let without competitive bidding. ~~When~~ If competitive 338  
bidding is ~~required~~ used, however, the board of township trustees 339  
shall post, in three of the most conspicuous public places in the 340  
lighting district, a notice specifying the number, candle power, 341  
and location of lights and the kind of supports for the lights as 342  
provided by section 515.06 of the Revised Code, as well as the 343  
time, which shall not be less than thirty days from the posting of 344  
the notices, and the place the board will receive bids to furnish 345  
the lights. The board, when using competitive bidding, shall 346  
accept the lowest and best bid, if the successful bidder meets the 347  
requirements of section 153.54 of the Revised Code. ~~The, but the~~ 348  
board may reject all bids. 349

Sec. 517.16. A board of township trustees may sell 350  
cemetery-related items. All revenue received from their sale shall 351  
be used to provide for the care and maintenance of any township 352  
cemetery in that township, in the manner approved by the board. 353

As used in this section, "cemetery-related items" include, 354  
but are not limited to, monuments, vaults, outer burial 355  
containers, markers, and urns, but exclude burial lots. 356

**Sec. 5705.10. (A)** All revenue derived from the general levy 357  
for current expense within the ten-mill limitation, from any 358  
general levy for current expense authorized by vote in excess of 359  
the ten-mill limitation, and from sources other than the general 360  
property tax, unless its use for a particular purpose is 361  
prescribed by law, shall be paid into the general fund. 362

**(B)** All revenue derived from general or special levies for 363  
debt charges, whether within or in excess of the ten-mill 364

limitation, which is levied for the debt charges on serial bonds, 365  
notes, or certificates of indebtedness having a life less than 366  
five years, shall be paid into the bond retirement fund; and all 367  
such revenue which is levied for the debt charges on all other 368  
bonds, notes, or certificates of indebtedness shall be paid into 369  
the sinking fund. 370

(C) All revenue derived from a special levy shall be credited 371  
to a special fund for the purpose for which the levy was made. 372

(D) Except as otherwise provided by resolution adopted 373  
pursuant to section 3315.01 of the Revised Code, all revenue 374  
derived from a source other than the general property tax and 375  
which the law prescribes shall be used for a particular purpose, 376  
shall be paid into a special fund for such purpose. Except as 377  
otherwise provided by resolution adopted pursuant to section 378  
3315.01 of the Revised Code or as otherwise provided by section 379  
3315.40 of the Revised Code, all revenue derived from a source 380  
other than the general property tax, for which the law does not 381  
prescribe use for a particular purpose, including interest earned 382  
on the principal of any special fund, regardless of the source or 383  
purpose of the principal, shall be paid into the general fund. 384

(E) All proceeds from the sale of public obligations or 385  
fractionalized interests in public obligations as defined in 386  
section 133.01 of the Revised Code, except premium and accrued 387  
interest, shall be paid into a special fund for the purpose of 388  
such issue, and any interest and other income earned on money in 389  
such special fund may be used for the purposes for which the 390  
indebtedness was authorized or may be credited to the general fund 391  
or other fund or account as the taxing authority authorizes and 392  
used for the purposes of that fund or account. The premium and 393  
accrued interest received from such sale shall be paid into the 394  
sinking fund or the bond retirement fund of the subdivision. 395

~~If~~ (F) Except as provided in division (G) of this section, if 396

a permanent improvement of the subdivision is sold, the amount 397  
received from the sale shall be paid into the sinking fund, the 398  
bond retirement fund, or ~~into~~ a special fund for the construction 399  
or acquisition of permanent improvements; provided that the 400  
proceeds from the sale of a public utility shall be paid into the 401  
sinking fund or bond retirement fund to the extent necessary to 402  
provide for the retirement of the outstanding indebtedness 403  
incurred in the construction or acquisition of such utility. 404  
Proceeds from the sale of property other than a permanent 405  
improvement shall be paid into the fund from which such property 406  
was acquired or is maintained, or, if there is no such fund, into 407  
the general fund. 408

(G)(1) A township that has a population greater than twenty 409  
thousand according to the most recent federal decennial census and 410  
that has declared one or more improvements in the township to be a 411  
public purpose under section 5709.73 of the Revised Code may pay 412  
proceeds from the sale of a permanent improvement of the township 413  
into its general fund if both of the following conditions are 414  
satisfied: 415

(a) The township fiscal officer determines that all 416  
foreseeable public infrastructure improvements, as defined in 417  
section 5709.40 of the Revised Code, to be made in the township in 418  
the ten years immediately following the date the permanent 419  
improvement is sold will have been financed through resolutions 420  
adopted under section 5709.73 of the Revised Code on or before the 421  
date of the sale. 422

(b) The permanent improvement being sold was financed 423  
entirely from moneys in the township's general fund. 424

(2) The determination of the township fiscal officer under 425  
division (G)(1)(a) of this section shall be made in writing and 426  
shall be certified to the tax commissioner before any of the 427  
proceeds from the sale of a permanent improvement are paid into 428

the general fund.

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(H) Money paid into any fund shall be used only for the purposes for which such fund is established.

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**Section 2.** That existing sections 7.12, 148.04, 148.06, 504.11, 505.391, 505.94, 515.01, 515.07, and 5705.10 of the Revised Code are hereby repealed.

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