

**As Introduced**

**127th General Assembly  
Regular Session  
2007-2008**

**H. B. No. 244**

**Representative Brinkman**

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**A B I L L**

To amend sections 515.04, 515.05, 515.08, 515.11, 1  
515.12, and 515.15 and to enact section 515.16 of 2  
the Revised Code to authorize townships to 3  
relocate underground overhead cables, wires, and 4  
appurtenant equipment upon petition; to pay for a 5  
relocation by assessing abutting and otherwise 6  
specially benefited properties; to collect 7  
interest on unpaid assessments for an underground 8  
relocation project or an artificial lighting 9  
district project; and to exempt townships from 10  
liability for outages or other damage caused by a 11  
relocation project, and to exempt the owners of 12  
the cables, wires, and appurtenant equipment from 13  
liability, unless the outage or other damage was 14  
caused by the owner's negligence. 15

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

**Section 1.** That sections 515.04, 515.05, 515.08, 515.11, 16  
515.12, and 515.15 be amended and section 515.16 of the Revised 17  
Code be enacted to read as follows: 18

**Sec. 515.04.** The township fiscal officer shall fix a day, not 19  
more than thirty days from the date of notice to the board of 20

township trustees, for the hearing of the petition provided for by 21  
section 515.02 or 515.16 of the Revised Code. The township fiscal 22  
officer shall prepare and deliver to any of the petitioners a 23  
notice in writing directed to the lot and land owners and to the 24  
corporations, either public or private, affected by the 25  
improvement. The notice shall set forth the substance, pendency, 26  
and prayer of the petition and the time and place of the hearing 27  
on it. 28

A copy of the notice shall be served upon each lot or land 29  
owner or left at the lot or land owner's usual place of residence, 30  
and upon an officer or agent of each corporation having its place 31  
of business in the district or area, at least fifteen days before 32  
the date set for the hearing. On or before the day of the hearing, 33  
the person serving the notice shall make return on it, under oath, 34  
of the time and manner of service and shall file the return with 35  
the township fiscal officer. 36

The township fiscal officer shall give the notice to each 37  
nonresident lot or land owner, by publication once, in a newspaper 38  
published in and of general circulation in the county in which the 39  
district or area is situated, at least two weeks before the day 40  
set for hearing. The notice shall be verified by affidavit of the 41  
printer or other person knowing the fact and shall be filed with 42  
the township fiscal officer on or before the day of hearing. No 43  
further notice of the petition or the proceedings under it shall 44  
thereafter be required. 45

**Sec. 515.05.** At the time and place specified in the notice 46  
for hearing on a petition ~~for the lighting of streets and public~~ 47  
~~ways, as~~ provided by section 515.04 or 515.06 of the Revised Code, 48  
the board of township trustees shall meet and hear any and all 49  
proof offered by any of the parties affected by such improvement, 50  
and by other persons competent to testify. Such board shall go 51

over and along such streets and public ways, and, by actual view 52  
thereof, and of the premises along and adjacent thereto and to be 53  
lighted or benefited thereby, it shall determine the necessity of 54  
the improvement. The board may find that the improvement will 55  
result in general as well as special benefits. The board may 56  
adjourn from time to time and to such place as necessity requires. 57

**Sec. 515.08.** On accepting a bid for artificial lighting and 58  
bond as provided by section 515.07 of the Revised Code, the board 59  
of township trustees shall enter into a contract with the 60  
successful bidder for the furnishing of such lights according to 61  
specifications. The contract shall not be for a longer term than 62  
ten years. The cost and expenses of furnishing and maintaining 63  
such lights, and of the proceedings in relation thereto, shall be 64  
paid from a fund raised by special assessments against the lots 65  
and lands in the district which are benefited by such lighting, 66  
provided, if the board finds that the lighting will result in 67  
general as well as special benefits there may be paid from the 68  
general fund of the township treasury such portion of the cost and 69  
expenses, except interest on unpaid assessments, as is found to 70  
represent the value of the general benefit. 71

Such assessments shall not be in excess of the special 72  
benefits resulting from such lighting, they shall be paid and 73  
collected in equal semiannual installments, equal in number to 74  
twice the number of years for which the contract is made, and they 75  
shall be paid and collected in the same manner and at the same 76  
times that taxes are paid and collected. Any such assessment in 77  
the amount of five dollars or less, or with an unpaid balance of 78  
five dollars or less, shall be paid in full, and not in 79  
installments, at the time the first or next installment would 80  
otherwise become due and payable. Such assessments may be made and 81  
levied by any one of the following methods: 82

(A) By a percentage of the tax value of the property 83  
assessed; 84

(B) In proportion to the benefits which may result from the 85  
lighting; 86

(C) By the foot frontage of the property bounding and 87  
abutting upon the streets, or public ways so lighted; 88

(D) In an equal amount against each benefited lot, this 89  
amount to be determined by dividing the total cost per semiannual 90  
installment by the number of benefited lots in the district. 91

The board of township trustees, by resolution, may provide 92  
for the payment of interest on unpaid assessments, which shall be 93  
treated as part of the costs and expenses of furnishing and 94  
maintaining the lights. The resolution shall specify the rate of 95  
interest, which shall be based on the fair market rate that would 96  
have been borne by securities issued in anticipation of the 97  
collection of the assessments if such securities had been issued. 98

After the levy of such special assessment the board may, at 99  
any time during any year in which installments thereof become due, 100  
pay out of the general fund of the township the full amount of the 101  
contract price for that year, provided such amount does not exceed 102  
the aggregate amount of the installments due for that year. 103

**Sec. 515.11.** The board of township trustees shall certify to 104  
the county auditor the boundaries of the district in which lights 105  
are to be erected, and, when requested to do so by the board, the 106  
auditor shall apportion the valuation for taxation of any lot or 107  
parcel of land lying partly within and partly without the 108  
district. 109

The board shall, by resolution, assess against the benefited 110  
lots and parcels of land in the district, in accordance with 111  
section 515.08 of the Revised Code, such portion of the costs of 112

furnishing and maintaining the lights, for the period of the 113  
contract and the proceedings in relation thereto, as does not 114  
exceed the special benefits resulting from the lighting, and shall 115  
certify such costs to the auditor. The auditor shall annually 116  
place upon the tax duplicate, for collection in semiannual 117  
installments as provided in that section, the two installments of 118  
the assessment for that year, which installments, together with 119  
any interest on unpaid assessments, shall be paid and collected as 120  
provided in that section. 121

If the number of lights to be furnished and maintained in a 122  
district under any such contract is increased, pursuant to section 123  
515.09 of the Revised Code, the board shall make such additional 124  
assessments as are necessary to pay the cost of furnishing and 125  
maintaining the additional number of lights. If the cost of 126  
providing the lights increases, the board may make such additional 127  
assessments as are necessary to pay the additional cost of the 128  
lights. The additional assessments shall be made, certified, and 129  
collected in the same manner as an original assessment, but shall 130  
be only for the unexpired portion of the term of the contract. 131

The additional assessments and any unpaid interest thereon, 132  
when collected, shall go into the township treasury and shall be 133  
used by the board only for the purpose for which they were levied 134  
and collected. 135

**Sec. 515.12.** (A) All officers shall receive for services 136  
performed under sections 515.01 to ~~515.11~~ 515.16 of the Revised 137  
Code the same fees allowed for other similar services. 138

The township fiscal officer shall receive for the fiscal 139  
officer's services the sum of fifty cents from each lot or land 140  
owner for whom a notice is prepared and the sum of fifty cents for 141  
each annual assessment certified to the county auditor. 142

All payments for the services of township officials shall be 143

included in the cost of the lighting district or relocation and 144  
assessed against the property. The compensation shall be in 145  
addition to all other compensation provided by law. 146

(B) The board of township trustees may, by resolution, employ 147  
additional personnel in place of the township fiscal officer to 148  
prepare and certify notices for each lot or land owner and shall 149  
pay a reasonable sum not to exceed fifty cents for each lot or 150  
land owner for whom a notice is prepared and a reasonable sum not 151  
to exceed fifty cents for each annual assessment certified to the 152  
county auditor. The actual cost of the additional personnel shall 153  
be assessed proportionately against each lot or land owner and 154  
shall be included in the cost of the lighting district or 155  
relocation. 156

**Sec. 515.15.** A board of township trustees may contract only 157  
with ~~any~~ the corporation, company, partnership, association, 158  
municipal corporation, or person that owns overhead cables, wires, 159  
and appurtenant equipment on a street or right-of-way located 160  
within the township for the relocation of the overhead cables, 161  
wires, and appurtenant equipment underground. Nothing in this 162  
section requires the owner of the overhead cables, wires, and 163  
appurtenant equipment to agree to a contract that contains terms 164  
or conditions that are not acceptable to the owner. Unless a 165  
pre-existing arrangement provides otherwise or the parties to the 166  
contract agree otherwise, the township shall pay the cost of the 167  
relocation as provided in the contract. A proceeding for the 168  
relocation may be combined with a proceeding for the furnishing of 169  
new street lighting facilities or other street improvement. 170

~~Any corporation, company, partnership, association, municipal~~ 171  
~~corporation, or person with which the board of township trustees~~ 172  
~~contracts for the relocation of overhead cables, wires, and~~ 173  
~~appurtenant equipment underground shall identify and consult with~~ 174

~~the owner of such cables, wires, and equipment during the planning 175  
of the relocation, and shall notify the owner at least twenty four 176  
hours in advance of beginning the relocation. 177~~

A board of township trustees may, by resolution, adopt and 178  
enforce regulations requiring owners of property abutting a street 179  
in which overhead wires, cables, and appurtenant equipment 180  
supplying a utility service have been relocated underground and 181  
service connections have been provided to the street, 182  
right-of-way, or property line, to install underground wires, 183  
cables, or conduits from the street or right-of-way to the 184  
buildings or other structures on the property to which the utility 185  
service is supplied. The township may pay the cost incurred in 186  
installing underground wires, cables, or conduits from the street 187  
or right-of-way to the buildings or other structures on the 188  
property to which the utility service is supplied. 189

For the purpose of relocating overhead wires, cables, and 190  
appurtenant equipment and installing underground wires, cables, 191  
conduits, and appurtenant equipment, a township may enter upon any 192  
private land to examine or survey lines for the wires, cables, 193  
conduits, and appurtenant equipment and may appropriate as much 194  
land as is necessary for the relocation and installation. 195

The township is not liable for any service outages or other 196  
damage caused by the relocation project. The owner of the overhead 197  
cables, wires, and appurtenant equipment is not liable for any 198  
service outages or other damage caused by the relocation project, 199  
unless the outage or other damage was caused by the owner's 200  
negligence. 201

Sec. 515.16. Any person may file a petition with the township 202  
fiscal officer requesting the board of township trustees to 203  
relocate underground any overhead cables, wires, and appurtenant 204  
equipment on streets or rights-of-way in an unincorporated area of 205

the township. The petition shall specify the metes and bounds of 206  
the area to be included in the relocation project and shall be 207  
signed by at least seventy-five per cent of the landowners in the 208  
specified area whose land either abuts the streets or 209  
rights-of-way or otherwise would be specially benefited by the 210  
project. 211

The township fiscal officer shall give notice of the petition 212  
and a copy of it to the board of township trustees, schedule a 213  
hearing on the petition, and provide notice in the manner set 214  
forth in section 515.04 of the Revised Code. The board shall hear 215  
the petition in the manner set forth in section 515.05 of the 216  
Revised Code. 217

If the board of township trustees decides in favor of the 218  
petition, it shall contract only with the corporation, company, 219  
partnership, association, municipal corporation, or person that 220  
owns the overhead cables, wires, and appurtenant equipment that 221  
are to be relocated. Nothing in this section requires the owner of 222  
the overhead cables, wires, and appurtenant equipment to agree to 223  
a contract that contains terms or conditions that are not 224  
acceptable to the owner. Unless a pre-existing arrangement 225  
provides otherwise or the parties to the contract agree otherwise, 226  
the township shall pay the cost of the relocation project as 227  
provided in the contract. Any part of the costs of the relocation 228  
project to be paid by the township pursuant to the contract shall 229  
be assessed upon abutting or specially benefited property. 230

Except as otherwise provided in this section, the costs and 231  
expenses of the relocation project and related proceedings 232  
ultimately shall be paid by special assessments against the 233  
properties located in the project area that abut the streets or 234  
rights-of-way in question or that otherwise are specially 235  
benefited by the project. The assessments shall be made and levied 236  
in one of the following methods: 237



<u>(A) As a percentage of the tax value of the property.</u>	238
<u>(B) In proportion to the special benefit resulting from the relocation project.</u>	239 240
<u>(C) By the foot frontage of the property abutting the streets or rights-of-way.</u>	241 242
<u>(D) In an equal amount against each property.</u>	243
<u>The board of township trustees, by resolution, shall assess all lands abutting the streets or rights-of-way in the project area and lands otherwise specially benefited by the project. The resolution may allow the assessments to be paid over a number of years, but not more than ten years.</u>	244 245 246 247 248
<u>The board of township trustees, by resolution, may provide for the payment of interest on unpaid assessments, which shall be treated as part of the costs and expenses of the relocation project. The resolution shall specify the rate of interest, which shall be based on the fair market rate that would have been borne by securities issued in anticipation of the collection of the assessments if such securities had been issued.</u>	249 250 251 252 253 254 255
<u>If the board of township trustees finds that the relocation project will result in general as well as special benefits, the board may pay from the township general fund a portion of the costs and expenses of the project, except interest on unpaid assessments, that represents the value of the general benefits. In no case shall assessments exceed the special benefits resulting from the project.</u>	256 257 258 259 260 261 262
<u>The board of township trustees shall certify the assessments and interest on unpaid assessments, when applicable, to the county auditor. The auditor shall place the assessments and interest on unpaid assessments, when applicable, upon the tax duplicate and collect the assessments and interest in the same manner and at the same time that taxes are paid and collected. The collected</u>	263 264 265 266 267 268

assessments and collected interest shall be deposited into the 269  
township general fund. 270

During any year in which installment payments of the 271  
assessments are due, the board of township trustees, by 272  
resolution, may waive the payments for all the assessed lands and 273  
pay the aggregate amount of the assessments for that year out of 274  
the township general fund. 275

The township is not liable for any service outages or other 276  
damage caused by the relocation project. The owner of the overhead 277  
cables, wires, and appurtenant equipment is not liable for any 278  
service outages or other damage caused by the relocation project, 279  
unless the outage or other damage was caused by the owner's 280  
negligence. 281

The provisions of section 515.15 of the Revised Code govern 282  
relocation projects requested by petition under this section. 283

**Section 2.** That existing sections 515.04, 515.05, 515.08, 284  
515.11, 515.12, and 515.15 of the Revised Code are hereby 285  
repealed. 286