

As Passed by the House

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Am. H. B. No. 244

Representative Brinkman

**Cosponsors: Representatives Flowers, Mallory, Uecker, Chandler, Wagner,
Bacon, Batchelder, Blessing, Combs, Daniels, Dolan, Domenick, Dyer,
Fessler, Gardner, Hagan, R., Hite, Hughes, Koziura, McGregor, J.,
Mecklenborg, Patton, Schindel, Schneider, Sears, Setzer, Williams, B., Yuko,
Zehringer**

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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 Code be enacted to read as follows:

Sec. 515.04. The township fiscal officer shall fix a day, not more than thirty days from the date of notice to the board of township trustees, for the hearing of the petition provided for by section 515.02 or 515.16 of the Revised Code. The township fiscal officer shall prepare and deliver to any of the petitioners a notice in writing directed to the lot and land owners and to the corporations, either public or private, affected by the improvement. The notice shall set forth the substance, pendency, and prayer of the petition and the time and place of the hearing on it.

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

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

Sec. 515.05. At the time and place specified in the notice

for hearing on a petition ~~for the lighting of streets and public~~ 47
~~ways,~~ as provided by section 515.04 or 515.16 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
corporation, or person with which the board of township trustees
contracts for the relocation of overhead cables, wires, and
appurtenant equipment underground shall identify and consult with
the owner of such cables, wires, and equipment during the planning
of the relocation, and shall notify the owner at least twenty four
hours in advance of beginning the relocation.~~

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

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

The township is not liable for any service outages or other
damage caused by the relocation project. The owner of the overhead
cables, wires, and appurtenant equipment is not liable for any
service outages or other damage caused by the relocation project,
unless the outage or other damage was caused by the owner's
negligence. Nothing in this section otherwise alters township
liability under Chapter 2744. of the Revised Code.

Sec. 515.16. Any person may file a petition with the township fiscal officer requesting the board of township trustees to relocate underground any overhead cables, wires, and appurtenant equipment on streets or rights-of-way in an unincorporated area of the township. The petition shall specify the metes and bounds of the area to be included in the relocation project and shall be signed by at least seventy-five per cent of the landowners in the specified area whose land either abuts the streets or rights-of-way or otherwise would be specially benefited by the project.

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

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

Except as otherwise provided in this section, the costs and expenses of the relocation project and related proceedings

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

(A) As a percentage of the tax value of the property. 238

(B) In proportion to the special benefit resulting from the 239
relocation project. 240

(C) By the foot frontage of the property abutting the streets 241
or rights-of-way. 242

(D) In an equal amount against each property. 243

The board of township trustees, by resolution, shall assess 244
all lands abutting the streets or rights-of-way in the project 245
area and lands otherwise specially benefited by the project. The 246
resolution may allow the assessments to be paid over a number of 247
years, but not more than ten years. 248

The board of township trustees, by resolution, may provide 249
for the payment of interest on unpaid assessments, which shall be 250
treated as part of the costs and expenses of the relocation 251
project. The resolution shall specify the rate of interest, which 252
shall be based on the fair market rate that would have been borne 253
by securities issued in anticipation of the collection of the 254
assessments if such securities had been issued. 255

If the board of township trustees finds that the relocation 256
project will result in general as well as special benefits, the 257
board may pay from the township general fund a portion of the 258
costs and expenses of the project, except interest on unpaid 259
assessments, that represents the value of the general benefits. In 260
no case shall assessments exceed the special benefits resulting 261
from the project. 262

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 assessments and collected interest shall be deposited into the township general fund. 263
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During any year in which installment payments of the assessments are due, the board of township trustees, by resolution, may waive the payments for all the assessed lands and pay the aggregate amount of the assessments for that year out of the township general fund. 271
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The township is not liable for any service outages or other damage caused by the relocation project. The owner of the overhead cables, wires, and appurtenant equipment is not liable for any service outages or other damage caused by the relocation project, unless the outage or other damage was caused by the owner's negligence. Nothing in this section otherwise alters township liability under Chapter 2744. of the Revised Code. 276
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The provisions of section 515.15 of the Revised Code govern relocation projects requested by petition under this section. 282
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Section 2. That existing sections 515.04, 515.05, 515.08, 515.11, 515.12, and 515.15 of the Revised Code are hereby repealed. 284
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