

**As Passed by the Senate**

**127th General Assembly**

**Regular Session**

**2007-2008**

**Sub. 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**

**Senators Cates, Schuler, Seitz, Fedor, Harris, Spada**

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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 overhead cables, wires, and appurtenant 4  
equipment underground 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~~ 21  
authorized by section 515.02 or 515.16 of the Revised Code. The 22  
township fiscal officer or the fiscal officer's designee shall 23  
prepare and deliver to any of the petitioners a notice in writing 24  
directed to the lot and land owners and to the corporations, 25  
either public or private, affected by the improvement. The notice 26  
shall set forth the substance, pendency, and prayer of the 27  
petition and the time and place of the hearing 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 or the fiscal officer's designee 37  
shall give the notice to each nonresident lot or land owner, by 38  
publication once, in a newspaper published in and of general 39  
circulation in the county in which the district or area is 40  
situated, at least two weeks before the day set for hearing. The 41  
notice shall be verified by affidavit of the printer or other 42  
person knowing the fact and shall be filed with the township 43  
fiscal officer or the fiscal officer's designee on or before the 44  
day of hearing. No further notice of the petition or the 45  
proceedings under it shall thereafter be required. 46

**Sec. 515.05.** At the time and place specified in the notice 47  
for hearing on a petition ~~for the lighting of streets and public~~ 48  
~~ways, as provided~~ authorized by section 515.04 or 515.16 of the 49  
Revised Code, the board of township trustees shall meet and hear 50  
any and all proof offered by any of the parties affected by ~~such~~ 51  
the improvement, and by other persons competent to testify. ~~Such~~ 52  
The board shall go over and along such streets and public ways, 53  
and, by actual view thereof, and of the premises along and 54  
adjacent thereto and to be lighted or benefited thereby, it shall 55  
determine the necessity of the improvement. The board may find 56  
that the improvement will result in general as well as special 57  
benefits. The board may adjourn from time to time and to such 58  
place as necessity requires. 59

**Sec. 515.08.** On accepting a bid for artificial lighting and 60  
bond as provided by section 515.07 of the Revised Code, the board 61  
of township trustees shall enter into a contract with the 62  
successful bidder for the furnishing of such lights according to 63  
specifications. The contract shall not be for a longer term than 64  
ten years. The cost and expenses of furnishing and maintaining 65  
such lights, and of the proceedings in relation thereto, shall be 66  
paid from a fund raised by special assessments against the lots 67  
and lands in the district which are benefited by such lighting, 68  
provided, if the board finds that the lighting will result in 69  
general as well as special benefits there may be paid from the 70  
general fund of the township treasury such portion of the cost and 71  
expenses, except for any accrued interest on unpaid assessments, 72  
as is found to represent the value of the general benefit. 73

~~Such~~ Special assessments shall not be in excess of the 74  
special benefits resulting from such lighting, they shall be paid 75  
and collected in equal semiannual installments, equal in number to 76  
twice the number of years for which the contract is made, and they 77

shall be paid and collected in the same manner and at the same 78  
times that taxes are paid and collected. Any such assessment in 79  
the amount of five dollars or less, or with an unpaid balance of 80  
five dollars or less, shall be paid in full, and not in 81  
installments, at the time the first or next installment would 82  
otherwise become due and payable. Such assessments may be made and 83  
levied by any one of the following methods: 84

(A) By a percentage of the tax value of the property 85  
assessed; 86

(B) In proportion to the benefits which may result from the 87  
lighting; 88

(C) By the foot frontage of the property bounding and 89  
abutting upon the streets, or public ways so lighted; 90

(D) In an equal amount against each benefited lot, this 91  
amount to be determined by dividing the total cost per semiannual 92  
installment by the number of benefited lots in the district. 93

The board of township trustees, by resolution, may provide 94  
for the payment of interest on unpaid assessments, which shall be 95  
treated as part of the costs and expenses of furnishing and 96  
maintaining the lights. The resolution shall specify the rate of 97  
interest, which shall be based on the current prime rate. 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 accrued interest on unpaid assessments, shall be paid and 120  
collected as 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, 153  
together with other reasonable expenses incurred by the board, 154  
shall be assessed proportionately against each lot or land owner 155  
and shall be included in the cost of the lighting district or 156  
relocation. 157

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

relocation may be combined with a proceeding for the furnishing of 170  
new street lighting facilities or other street improvement. 171

~~Any corporation, company, partnership, association, municipal 172  
corporation, or person with which the board of township trustees 173  
contracts for the relocation of overhead cables, wires, and 174  
appurtenant equipment underground shall identify and consult with 175  
the owner of such cables, wires, and equipment during the planning 176  
of the relocation, and shall notify the owner at least twenty four 177  
hours in advance of beginning the relocation. 178~~

A board of township trustees may, by resolution, adopt and 179  
enforce regulations requiring owners of property abutting a street 180  
in which overhead wires, cables, and appurtenant equipment 181  
supplying a utility service have been relocated underground and 182  
service connections have been provided to the street, 183  
right-of-way, or property line, to install underground wires, 184  
cables, or conduits from the street or right-of-way to the 185  
buildings or other structures on the property to which the utility 186  
service is supplied. The township may pay the cost incurred in 187  
installing underground wires, cables, or conduits from the street 188  
or right-of-way to the buildings or other structures on the 189  
property to which the utility service is supplied. 190

For the purpose of relocating overhead wires, cables, and 191  
appurtenant equipment and installing underground wires, cables, 192  
conduits, and appurtenant equipment, a township may enter upon any 193  
private land to examine or survey lines for the wires, cables, 194  
conduits, and appurtenant equipment and may appropriate as much 195  
land as is necessary for the relocation and installation. 196

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

was caused by the owner's negligence. Nothing in this section 202  
otherwise alters township liability under Chapter 2744. of the 203  
Revised Code. 204

Sec. 515.16. Any person may file a petition with the township 205  
fiscal officer requesting the board of township trustees to 206  
relocate underground any overhead cables, wires, and appurtenant 207  
equipment on streets or rights-of-way and designated private 208  
streets in an unincorporated area of the township. The petition 209  
shall specify the metes and bounds of the area to be included in 210  
the underground relocation project and any designated properties 211  
served by private streets as designated in the petition and shall 212  
be signed by at least seventy-five per cent of the landowners in 213  
the specified area whose land either abuts the streets or 214  
rights-of-way, including any designated properties served by 215  
private streets, or otherwise would be specially benefited by the 216  
project. 217

The township fiscal officer shall give notice of the petition 218  
and a copy of it to the board of township trustees, schedule a 219  
hearing on the petition, and provide notice in the manner set 220  
forth in section 515.04 of the Revised Code. The board shall hear 221  
the petition in the manner set forth in section 515.05 of the 222  
Revised Code. 223

If the board of township trustees decides in favor of the 224  
petition, it shall contract only with the corporation, company, 225  
partnership, association, municipal corporation, or person that 226  
owns the overhead cables, wires, and appurtenant equipment that 227  
are to be relocated. Nothing in this section requires the owner of 228  
the overhead cables, wires, and appurtenant equipment to agree to 229  
a contract that contains terms or conditions that are not 230  
acceptable to the owner. Unless a pre-existing arrangement 231  
provides otherwise or the parties to the contract agree otherwise, 232



the township shall pay the cost of the relocation project as 233  
provided in the contract. Any part of the costs of the relocation 234  
project to be paid by the township pursuant to the contract shall 235  
be assessed upon abutting or specially benefited property. 236

Except as otherwise provided in this section, the costs and 237  
expenses of the underground relocation project and related 238  
proceedings ultimately shall be paid by special assessments 239  
against the properties located in the project area that abut the 240  
streets or rights-of-way in question, including any designated 241  
properties served by private streets, or that otherwise are 242  
specially benefited by the project. The assessments shall be made 243  
and levied in one of the following methods: 244

(A) As a percentage of the tax value of the property. 245

(B) In proportion to the special benefit resulting from the 246  
relocation project. 247

(C) By the foot frontage of the property abutting the streets 248  
or rights-of-way. 249

(D) In an equal amount against each property. 250

The board of township trustees, by resolution, shall assess 251  
all lands abutting the streets or rights-of-way in the project 252  
area, including any designated properties served by private 253  
streets, and lands otherwise specially benefited by the project. 254  
The resolution may allow the assessments to be paid over a number 255  
of years, but not more than ten years. 256

The board of township trustees, by resolution, may provide 257  
for the payment of interest on unpaid assessments, which shall be 258  
treated as part of the costs and expenses of the underground 259  
relocation project. The resolution shall specify the rate of 260  
interest, which shall be based on the current prime rate. 261

If the board of township trustees finds that the underground 262

relocation project will result in general as well as special 263  
benefits, the board may pay from the township general fund a 264  
portion of the costs and expenses of the project, except for any 265  
accrued interest on unpaid assessments, that represents the value 266  
of the general benefits. In no case shall the total assessments 267  
exceed the special benefits to the entire project area resulting 268  
from the project. 269

The board of township trustees shall certify the assessments 270  
and interest on unpaid assessments, when applicable, to the county 271  
auditor. The auditor shall place the assessments and interest on 272  
unpaid assessments, when applicable, upon the tax duplicate and 273  
collect the assessments and interest in the same manner and at the 274  
same time that taxes are paid and collected. The collected 275  
assessments and collected interest shall be deposited into the 276  
township general fund. 277

During any year in which installment payments of the 278  
assessments are due, the board of township trustees, by 279  
resolution, may waive the payments for all the assessed lands and 280  
pay the aggregate amount of the assessments for that year minus 281  
any accrued interest on unpaid assessments out of the township 282  
general fund. 283

The township is not liable for any service outages or other 284  
damage caused by the underground relocation project. The owner of 285  
the overhead cables, wires, and appurtenant equipment is not 286  
liable for any service outages or other damage caused by the 287  
underground relocation project, unless the outage or other damage 288  
was caused by the owner's negligence. Nothing in this section 289  
otherwise alters township liability under Chapter 2744. of the 290  
Revised Code. 291

The provisions of section 515.15 of the Revised Code govern 292  
relocation projects requested by petition under this section. 293

Section 2. That existing sections 515.04, 515.05, 515.08,	294
515.11, 515.12, and 515.15 of the Revised Code are hereby	295
repealed.	296