

As Introduced

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

H. B. No. 318

Representative Gibbs

—

A BILL

To amend sections 5541.05, 5571.20, and 5735.27 of 1
the Revised Code to make changes relative to the 2
provisions that govern the placing of county and 3
township roads on nonmaintained status. 4

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

Section 1. That sections 5541.05, 5571.20, and 5735.27 of the 5
Revised Code be amended to read as follows: 6

Sec. 5541.05. (A) Except as otherwise provided in division 7
(D) of this section, a board of county commissioners by resolution 8
may place a graveled or unimproved county road under its 9
jurisdiction or any portion of such a road on nonmaintained 10
status. Prior to adopting a resolution that places a road on 11
nonmaintained status, the board shall hold at least two public 12
hearings to allow for public comment on the proposed resolution. 13
The board shall publicize the time and place of each hearing by 14
causing a notice to be published in a newspaper of general 15
circulation in the county in which the road is located at least 16
seven days prior to the date of each meeting. Upon adoption of 17
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, briars, 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.

(B) Prior to adopting a resolution under division (A) of this section, the board shall request the county engineer to issue an advisory opinion regarding the consequences of placing the road on nonmaintained status. A board may adopt a resolution under division (A) of this section only if the board county engineer, in the county engineer's advisory opinion, 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 adjacent road located in the immediate vicinity of that road as determined by the overall use of the road during the preceding twenty one years~~ and will not impose undue hardship on any owner or occupier of land adjoining the road that is subject to the declaration of nonmaintenance.

(C) A board may terminate the nonmaintained status of a county road by adopting a resolution to that effect. ~~If~~ Upon such an occurrence, one of the following shall apply:

(1) Except as provided in division (C)(3) of this section, if the owner of land adjoining a road that has been placed on nonmaintained status for less than ten consecutive years 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 shall pay the costs of upgrading the road to locally adopted county standards.

(2) Except as provided in division (C)(3) of this section, if the owner of land adjoining a road that has been on nonmaintained status for ten or more consecutive years requests the board to terminate the nonmaintained status of the road, the board may

choose to pay the costs of upgrading the road to locally adopted 45
county standards or the board, in its resolution that terminates 46
that nonmaintained status, may require the owner to pay the costs 47
of upgrading the road to locally adopted county standards. 48

(3) If the owner of land adjoining a road that has been on 49
nonmaintained status for any period of time requests the board to 50
terminate the nonmaintained status of the road because the owner 51
will erect two or more single-family or one or more 52
multiple-family dwellings on the land or will otherwise develop 53
the land through the construction of commercial or industrial 54
facilities, the board may choose to pay the costs of upgrading the 55
road to locally adopted county standards or the board, in its 56
resolution that terminates that nonmaintained status, may require 57
the owner to pay the costs of upgrading the road to locally
adopted county standards.

If the owner of land adjoining a road that has been on 58
nonmaintained status for any period of time requests the board to
terminate the nonmaintained status of the road because the owner
will erect on the land and then occupy one single-family dwelling,
the board shall pay the costs of upgrading the road to locally
adopted county standards.

(D) A graveled road may not be placed on nonmaintained status 59
if any person resides in a residence adjacent to the road, the 60
road is the exclusive means for obtaining access to the residence, 61
and the residence is the person's primary place of residence. 62

Sec. 5571.20. (A) Except as otherwise provided in division 63
(D) of this section, a board of township trustees by resolution 64
may place a graveled or unimproved township road under its 65
jurisdiction or any portion of such a road on nonmaintained 66
status. Prior to adopting a resolution that places a road on 67
nonmaintained status, the board shall hold at least two public 68

hearings to allow for public comment on the proposed resolution. 69
The board shall publicize the time and place of each hearing by 70
causing a notice to be published in a newspaper of general 71
circulation in the county in which the road is located at least 72
seven days prior to the date of each meeting. Upon adoption of 73
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, briars, 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.

(B) Prior to adopting a resolution under division (A) of this 74
section, the board shall request the county engineer to issue an 75
advisory opinion regarding the consequences of placing the road on 76
nonmaintained status. A board may adopt a resolution under 77
division (A) of this section only if the ~~board~~ county engineer, in 78
the county engineer's advisory opinion, finds that placing the 79
road on nonmaintained status will not unduly adversely affect the 80
flow of motor vehicle traffic on that road or on any ~~other~~ 81
adjacent road located in the immediate vicinity of that road as 82
determined by the overall use of the road during the preceding 83
twenty one years and will not impose undue hardship on any owner 84
or occupier of land adjoining the road that is subject to the 85
declaration of nonmaintenance. 86

(C) A board may terminate the nonmaintained status of a 87
township road by adopting a resolution to that effect. If Upon 88
such an occurrence, one of the following shall apply: 89

(1) Except as provided in division (C)(3) of this section, if 90
the owner of land adjoining a road that has been placed on 91
nonmaintained status for less than ten consecutive years requests 92

the board to terminate the nonmaintained status of the road, the 93
board, ~~in its resolution that terminates that nonmaintained~~ 94
~~status, may require the owner to shall~~ pay the costs of upgrading 95
the road to locally adopted township standards. 96

(2) Except as provided in division (C)(3) of this section, if 97
the owner of land adjoining a road that has been on nonmaintained 98
status for ten or more consecutive years requests the board to 99
terminate the nonmaintained status of the road, the board may 100
choose to pay the costs of upgrading the road to locally adopted 101
township standards or the board, in its resolution that terminates 102
that nonmaintained status, may require the owner to pay the costs 103
of upgrading the road to locally adopted township standards. 104

(3) If the owner of land adjoining a road that has been on 105
nonmaintained status for any period of time requests the board to 106
terminate the nonmaintained status of the road because the owner 107
will erect two or more single-family or one or more 108
multiple-family dwellings on the land or will otherwise develop 109
the land through the construction of commercial or industrial 110
facilities, the board may choose to pay the costs of upgrading the 111
road to locally adopted township standards or the board, in its 112
resolution that terminates that nonmaintained status, may require 113
the owner to pay the costs of upgrading the road to locally
adopted township standards.

If the owner of land adjoining a road that has been on
nonmaintained status for any period of time requests the board to
terminate the nonmaintained status of the road because the owner
will erect on the land and then occupy one single-family dwelling,
the board shall pay the costs of upgrading the road to locally
adopted county standards.

(D) A graveled road may not be placed on nonmaintained status 115
if any person resides in a residence adjacent to the road, the 116
road is the exclusive means for obtaining access to the residence, 117

and the residence is the person's primary place of residence. 118

Sec. 5735.27. (A) There is hereby created in the state 119
treasury the gasoline excise tax fund, which shall be distributed 120
in the following manner: 121

(1) The amount credited pursuant to divisions (B)(2)(a) and 122
(C)(2)(a) of section 5735.23 of the Revised Code shall be 123
distributed among municipal corporations. The amount paid to each 124
municipal corporation shall be that proportion of the amount to be 125
so distributed that the number of motor vehicles registered within 126
the municipal corporation bears to the total number of motor 127
vehicles registered within all the municipal corporations of this 128
state during the preceding motor vehicle registration year. When a 129
new village is incorporated, the registrar of motor vehicles shall 130
determine from the applications on file in the bureau of motor 131
vehicles the number of motor vehicles located within the territory 132
comprising the village during the entire registration year in 133
which the municipal corporation was incorporated. The registrar 134
shall forthwith certify the number of motor vehicles so determined 135
to the tax commissioner for use in distributing motor vehicle fuel 136
tax funds to the village until the village is qualified to 137
participate in the distribution of the funds pursuant to this 138
division. The number of motor vehicle registrations shall be 139
determined by the official records of the bureau of motor 140
vehicles. The amount received by each municipal corporation shall 141
be used to plan, construct, reconstruct, repave, widen, maintain, 142
repair, clear, and clean public highways, roads, and streets; to 143
maintain and repair bridges and viaducts; to purchase, erect, and 144
maintain street and traffic signs and markers; to pay the costs 145
apportioned to the municipal corporation under section 4907.47 of 146
the Revised Code; to purchase, erect, and maintain traffic lights 147
and signals; to pay the principal, interest, and charges on bonds 148
and other obligations issued pursuant to Chapter 133. of the 149

Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the municipal corporation may issue bonds; and to supplement revenue already available for these purposes.

(2) The amount credited pursuant to division (B) of section 5735.26 of the Revised Code shall be distributed among the municipal corporations within the state, in the proportion which the number of motor vehicles registered within each municipal corporation bears to the total number of motor vehicles registered within all the municipal corporations of the state during the preceding calendar year, as shown by the official records of the bureau of motor vehicles, and shall be expended by each municipal corporation to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads and streets; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay costs apportioned to the municipal corporation under section 4907.47 of the Revised Code; to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the municipal corporation may issue bonds; and to supplement revenue already available for these purposes.

(3) The amount credited pursuant to divisions (B)(2)(b) and (C)(2)(c) of section 5735.23 of the Revised Code shall be paid in equal proportions to the county treasurer of each county within the state and shall be used only for the purposes of planning,

maintaining, and repairing the county system of public roads and 182
highways within the county; the planning, construction, and repair 183
of walks or paths along county roads in congested areas; the 184
planning, construction, purchase, lease, and maintenance of 185
suitable buildings for the housing and repair of county road 186
machinery, housing of supplies, and housing of personnel 187
associated with the machinery and supplies; the payment of costs 188
apportioned to the county under section 4907.47 of the Revised 189
Code; the payment of principal, interest, and charges on bonds and 190
other obligations issued pursuant to Chapter 133. of the Revised 191
Code or incurred pursuant to section 5531.09 of the Revised Code 192
for the purpose of acquiring or constructing roads, highways, 193
bridges, or viaducts or acquiring or making other highway 194
improvements for which the board of county commissioners may issue 195
bonds under that chapter; and the purchase, installation, and 196
maintenance of traffic signal lights. 197

(4) The amount credited pursuant to division (C) of section 198
5735.26 of the Revised Code shall be paid in equal proportions to 199
the county treasurer of each county for the purposes of planning, 200
maintaining, constructing, widening, and reconstructing the county 201
system of public roads and highways; paying principal, interest, 202
and charges on bonds and other obligations issued pursuant to 203
Chapter 133. of the Revised Code or incurred pursuant to section 204
5531.09 of the Revised Code for the purpose of acquiring or 205
constructing roads, highways, bridges, or viaducts or acquiring or 206
making other highway improvements for which the board of county 207
commissioners may issue bonds under that chapter; and paying costs 208
apportioned to the county under section 4907.47 of the Revised 209
Code. 210

(5)(a) The amount credited pursuant to division (D) of 211
section 5735.26 and division (C)(2)(b) of section 5735.23 of the 212
Revised Code shall be divided in equal proportions among the 213

townships within the state. 214

(b) As used in division (A)(5)(b) of this section, the 215
"formula amount" for any township is the amount that would be 216
allocated to that township if fifty per cent of the amount 217
credited to townships pursuant to section 5735.291 of the Revised 218
Code were allocated among townships in the state proportionate to 219
the number of lane miles within the boundaries of the respective 220
townships, as determined annually by the department of 221
transportation, and the other fifty per cent of the amount 222
credited pursuant to section 5735.291 of the Revised Code were 223
allocated among townships in the state proportionate to the number 224
of motor vehicles registered within the respective townships, as 225
determined annually by the records of the bureau of motor 226
vehicles. The number of lane miles within the boundaries of a 227
township shall not include any lane miles of township roads that 228
have been placed on nonmaintained status by a board of township 229
trustees pursuant to section 5571.20 of the Revised Code. 230

Beginning on August 15, 2003, the tax levied by section 231
5735.29 of the Revised Code shall be partially allocated to 232
provide funding for townships. Each township shall receive the 233
greater of the following two calculations: 234

(i) The total statewide amount credited to townships under 235
division (A) of section 5735.291 of the Revised Code divided by 236
the number of townships in the state at the time of the 237
calculation; 238

(ii) Seventy per cent of the formula amount for that 239
township. 240

(c) The total difference between the amount of money credited 241
to townships under division (A) of section 5735.291 of the Revised 242
Code and the total amount of money required to make all the 243
payments specified in division (A)(5)(b) of this section shall be 244

deducted, in accordance with division (B) of section 5735.291 of 245
the Revised Code, from the revenues resulting from the tax levied 246
pursuant to section 5735.29 of the Revised Code prior to crediting 247
portions of such revenues to counties, municipal corporations, and 248
the highway operating fund. 249

(d) All amounts credited pursuant to divisions (A)(5)(a) and 250
(b) of this section shall be paid to the county treasurer of each 251
county for the total amount payable to the townships within each 252
of the counties. The county treasurer shall pay to each township 253
within the county its proportional share of the funds, which shall 254
be expended by each township only for the purposes of planning, 255
constructing, maintaining, widening, and reconstructing the public 256
roads and highways within the township, paying principal, 257
interest, and charges on obligations incurred pursuant to section 258
5531.09 of the Revised Code, and paying costs apportioned to the 259
township under section 4907.47 of the Revised Code. 260

No part of the funds designated for road and highway purposes 261
shall be used for any purpose except to pay in whole or part the 262
contract price of any such work done by contract, or to pay the 263
cost of labor in planning, constructing, widening, and 264
reconstructing such roads and highways, and the cost of materials 265
forming a part of the improvement; provided that the funds may be 266
used for the purchase of road machinery and equipment and for the 267
planning, construction, and maintenance of suitable buildings for 268
housing road machinery and equipment, and that all such 269
improvement of roads shall be under supervision and direction of 270
the county engineer as provided in section 5575.07 of the Revised 271
Code. No obligation against the funds shall be incurred unless 272
plans and specifications for the improvement, approved by the 273
county engineer, are on file in the office of the township fiscal 274
officer, and all contracts for material and for work done by 275
276

contract shall be approved by the county engineer before being 277
signed by the board of township trustees. The board of township 278
trustees of any township may pass a resolution permitting the 279
board of county commissioners to expend the township's share of 280
the funds, or any portion of it, for the improvement of the roads 281
within the township as may be designated in the resolution. 282

All investment earnings of the fund shall be credited to the 283
fund. 284

(B) Amounts credited to the highway operating fund pursuant 285
to divisions (B)(2)(c) and (C)(2)(d) of section 5735.23 and 286
division (A) of section 5735.26 of the Revised Code shall be 287
expended in the following manner: 288

(1) The amount credited pursuant to divisions (B)(2)(c) and 289
(C)(2)(d) of section 5735.23 of the Revised Code shall be 290
apportioned to and expended by the department of transportation 291
for the purposes of planning, maintaining, repairing, and keeping 292
in passable condition for travel the roads and highways of the 293
state required by law to be maintained by the department; paying 294
the costs apportioned to the state under section 4907.47 of the 295
Revised Code; paying that portion of the construction cost of a 296
highway project which a county, township, or municipal corporation 297
normally would be required to pay, but which the director of 298
transportation, pursuant to division (B) of section 5531.08 of the 299
Revised Code, determines instead will be paid from moneys in the 300
highway operating fund; and paying the costs of the department of 301
public safety in administering and enforcing the state law 302
relating to the registration and operation of motor vehicles. 303

(2) The amount credited pursuant to division (A) of section 304
5735.26 of the Revised Code shall be used for paying the state's 305
share of the cost of planning, constructing, widening, 306
maintaining, and reconstructing the state highways; paying that 307
portion of the construction cost of a highway project which a 308

county, township, or municipal corporation normally would be 309
required to pay, but which the director of transportation, 310
pursuant to division (B) of section 5531.08 of the Revised Code, 311
determines instead will be paid from moneys in the highway 312
operating fund; and also for supplying the state's share of the 313
cost of eliminating railway grade crossings upon such highways and 314
costs apportioned to the state under section 4907.47 of the 315
Revised Code. The director of transportation may expend portions 316
of such amount upon extensions of state highways within municipal 317
corporations or upon portions of state highways within municipal 318
corporations, as is provided by law. 319

Section 2. That existing sections 5541.05, 5571.20, and 320
5735.27 of the Revised Code are hereby repealed. 321