

AN ACT

To amend sections 505.60, 505.601, 5701.11, 5705.05, 5705.06, and 5709.121 of the Revised Code to authorize townships to use money derived from the general current expense levy for road and bridge construction and repair, to make clarifying changes to the laws authorizing a township to provide health care insurance, to expressly incorporate changes in the Internal Revenue Code since December 21, 2007, into Ohio tax law, to clarify qualifications for charitable institution exemptions from property taxation, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 505.60, 505.601, 5701.11, 5705.05, 5705.06, and 5709.121 of the Revised Code be amended to read as follows:

Sec. 505.60. (A) As provided in this section and section 505.601 of the Revised Code, the board of township trustees of any township may procure and pay all or any part of the cost of insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, prescription drugs, or sickness and accident insurance, or a combination of any of the foregoing types of insurance for township officers and employees. The board of township trustees of any township may negotiate and contract for the purchase of a policy of long-term care insurance for township officers and employees pursuant to section 124.841 of the Revised Code.

~~(B)~~ If the board procures any insurance policies under this section, the board shall provide uniform coverage under these policies for township officers and full-time township employees and their immediate dependents, and may provide coverage under these policies for part-time township employees and their immediate dependents, from the funds or budgets from which the officers or employees are compensated for services, such policies to be issued by an insurance company duly authorized to do business in this

state. ~~Any township officer or employee may refuse to accept the insurance coverage without affecting the availability of such insurance coverage to other township officers and employees.~~

(B) The board may also provide coverage for any or all of the benefits described in division (A) of this section by entering into a contract for group health care services with health insuring corporations holding certificates of authority under Chapter 1751. of the Revised Code for township officers and employees and their immediate dependents. If the board so contracts, it shall provide uniform coverage under any such contracts for township officers and full-time township employees and their immediate dependents, from the funds or budgets from which the officers or employees are compensated for services, and may provide coverage under such contracts for part-time township employees and their immediate dependents, from the funds or budgets from which the officers or employees are compensated for services, provided that each officer and employee so covered is permitted to:

(1) Choose between a plan offered by an insurance company and a plan offered by a health insuring corporation, and provided further that the officer or employee pays any amount by which the cost of the plan chosen exceeds the cost of the plan offered by the board under this section;

(2) Change the choice made under this division ~~(B) of this section~~ at a time each year as determined in advance by the board.

An addition of a class or change of definition of coverage to the plan offered under this division by the board may be made at any time that it is determined by the board to be in the best interest of the township. If the total cost to the township of the revised plan for any trustee's coverage does not exceed that cost under the plan in effect during the prior policy year, the revision of the plan does not cause an increase in that trustee's compensation.

(C) Any township officer or employee may refuse to accept any coverage authorized by this section without affecting the availability of such coverage to other township officers and employees.

(D) If any township officer or employee is denied coverage under a health care plan procured under ~~division (B) of this section~~ or if any township officer or employee elects not to participate in the township's health care plan, the township may reimburse the officer or employee for each out-of-pocket premium ~~that~~ attributable to the coverage provided for the officer or employee ~~incurs~~ for insurance ~~policies~~ benefits described in division (A) of this section that the officer or employee otherwise obtains, but not to exceed an amount equal to the average premium paid by the township for its officers and employees under ~~policies~~ any health care plan

it procures under ~~division (B)~~ of this section.

~~(D)~~(E) The board may provide the benefits authorized under this section, without competitive bidding, by contributing to a health and welfare trust fund administered through or in conjunction with a collective bargaining representative of the township employees.

The board may also provide the benefits described in this section through an individual self-insurance program or a joint self-insurance program as provided in section 9.833 of the Revised Code.

~~(E)~~(F) If a board of township trustees fails to pay one or more premiums for a policy, contract, or plan of insurance or health care services authorized ~~by division (A) or (B) of~~ under this section and the failure causes a lapse, cancellation, or other termination of coverage under the policy, contract, or plan, it may reimburse a township officer or employee for, or pay on behalf of the officer or employee, any expenses incurred that would have been covered under the policy, contract, or plan.

~~(F)~~(G) As used in this section and section 505.601 of the Revised Code:

(1) "Part-time township employee" means a township employee who is hired with the expectation that the employee will work not more than one thousand five hundred hours in any year.

(2) "Premium" does not include any deductible or health care costs paid directly by a township officer or employee.

Sec. 505.601. If a board of township trustees does not procure an insurance policy or group health care services as provided in section 505.60 of the Revised Code, the board of township trustees may reimburse any township officer or employee for each out-of-pocket premium attributable to the coverage provided for that ~~the~~ officer or employee ~~incurs~~ for insurance ~~policies~~ benefits described in division (A) of section 505.60 of the Revised Code that the officer or employee otherwise obtains, if all of the following conditions are met:

(A) The board of township trustees adopts a resolution that states that the township has chosen not to procure a health care plan under section 505.60 of the Revised Code and has chosen instead to reimburse its officers and employees for each out-of-pocket premium ~~that they incur~~ attributable to the coverage provided for them for insurance ~~policies~~ benefits described in division (A) of section 505.60 of the Revised Code that they otherwise obtain.

(B) That resolution provides for a uniform maximum monthly or yearly payment amount for each officer or employee to cover themselves and their immediate dependents, beyond which the township will not reimburse the officer or employee.

(C) That resolution states the specific benefits listed in division (A) of section 505.60 of the Revised Code for which the township will reimburse all officers and employees of the township. The township may not reimburse officers and employees for benefits other than those listed in division (A) of section 505.60 of the Revised Code.

Sec. 5701.11. The effective date to which this section refers is the effective date of this section as amended by ~~H.B. 157~~ Sub. H.B. 458 of the 127th general assembly.

(A)(1) Except as provided under division (A)(2) or (B) of this section, any reference in Title LVII of the Revised Code to the Internal Revenue Code, to the Internal Revenue Code "as amended," to other laws of the United States, or to other laws of the United States, "as amended," means the Internal Revenue Code or other laws of the United States as they exist on the effective date.

(2) This section does not apply to any reference in Title LVII of the Revised Code to the Internal Revenue Code as of a date certain specifying the day, month, and year, or to other laws of the United States as of a date certain specifying the day, month, and year.

(B)(1) For purposes of applying section 5733.04, 5745.01, or 5747.01 of the Revised Code to a taxpayer's taxable year ending after ~~December 28, 2006~~ December 21, 2007, and before the effective date, a taxpayer may irrevocably elect to incorporate the provisions of the Internal Revenue Code or other laws of the United States that are in effect for federal income tax purposes for that taxable year if those provisions differ from the provisions that, under division (A) of this section, would otherwise apply. The filing by the taxpayer for that taxable year of a report or return that incorporates the provisions of the Internal Revenue Code or other laws of the United States applicable for federal income tax purposes for that taxable year, and that does not include any adjustments to reverse the effects of any differences between those provisions and the provisions that would otherwise apply, constitutes the making of an irrevocable election under this division for that taxable year.

(2) Elections under prior versions of division (B)(1) of this section remain in effect for the taxable years to which they apply.

Sec. 5705.05. The purpose and intent of the general levy for current expenses is to provide one general operating fund derived from taxation from which any expenditures for current expenses of any kind may be made; ~~and the.~~ The taxing authority of a political subdivision may include in such levy the amounts required for carrying into effect any of the general or special powers granted by law to such subdivision, including the acquisition

or construction of permanent improvements and the payment of judgments, but excluding the payment of debt charges and, in the case of counties, the construction, reconstruction, resurfacing, or repair of roads and bridges ~~in counties and townships and the payment of debt charges~~. The power to include in the general levy for current expenses additional amounts for purposes for which a special tax is authorized shall not affect the right or obligation to levy such special tax. Without prejudice to the generality of the authority to levy a general tax for any current expense, such general levy shall include:

(A) The amounts certified to be necessary for the payment of final judgments;

(B) The amounts necessary for general, special, and primary elections;

(C) The amounts necessary for boards and commissioners of health, and other special or district appropriating authorities deriving their revenue in whole or part from the subdivision;

(D) In the case of municipal corporations, the amounts necessary for the maintenance, operation, and repair of public buildings, wharves, bridges, parks, and streets, for the prevention, control, and abatement of air pollution, and for a sanitary fund;

(E) In the case of counties, the amounts necessary for the maintenance, operation, and repair of public buildings, for providing or maintaining senior citizens services or facilities, for the relief and support of the poor, for the relief of needy blind, for the support of mental health, mental retardation, or developmental disability services, for the relief of honorably discharged soldiers, indigent soldiers, sailors, and marines, for mothers' pension fund, support of soil and water conservation districts, watershed conservancy districts, and educational television, for the prevention, control, and abatement of air pollution, and for the county's share of the compensation paid judges;

(F) In the case of a school district, the amounts necessary for tuition, the state teachers retirement system, and the maintenance, operation, and repair of schools;

(G) In the case of a township, the amounts necessary for the relief of the poor and for the prevention, control, and abatement of air pollution. ~~This~~

This section does not require the inclusion within the general levy of amounts for any purpose for which a special levy is authorized by section 5705.06 of the Revised Code.

Sec. 5705.06. The following special levies are hereby authorized without vote of the people:

(A) A levy for any specific permanent improvement which the

subdivision is authorized by law to acquire, construct, or improve, or any class of such improvements which could be included in a single bond issue;

(B) A levy for the library purposes of the subdivision, in accordance with the provisions of the Revised Code authorizing levies for such purposes, but only to the extent so authorized;

(C) In the case of a municipal corporation, a levy for a municipal university under section 3349.13 of the Revised Code, but only to the extent authorized;

(D) In the case of a county, a levy for the construction, reconstruction, resurfacing, and repair of roads and bridges, other than state roads and bridges;

(E) In the case of a county, a levy for paying the county's proportion of the cost of the construction, improvement, and maintenance of state highways;

(F) In the case of a township, a levy for the construction, reconstruction, resurfacing, and repair of roads and bridges, excluding state roads and bridges, including the township's portion of the cost of the construction, improvement, maintenance, and repair of county roads and bridges;

(G) The levies prescribed by division (B) of sections 742.33 and 742.34 of the Revised Code.

Each such special levy shall be within the ten-mill limitation and shall be subject to the control of the county budget commission, as provided by sections 5705.01 to 5705.47 of the Revised Code.

Except for the special levies authorized in divisions (A), (B), (C), (D), (E), and (G) of this section, any authority granted by the Revised Code to levy a special tax within the ten-mill limitation for a current expense shall be construed as authority to provide for such expense by the general levy for current expenses.

Sec. 5709.121. (A) Real property and tangible personal property belonging to a charitable or educational institution or to the state or a political subdivision, shall be considered as used exclusively for charitable or public purposes by such institution, the state, or political subdivision, if it meets one of the following requirements:

(1) It is used by such institution, the state, or political subdivision, or by one or more other such institutions, the state, or political subdivisions under a lease, sublease, or other contractual arrangement:

(a) As a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein;

(b) For other charitable, educational, or public purposes.

(2) It is made available under the direction or control of such institution, the state, or political subdivision for use in furtherance of or incidental to its charitable, educational, or public purposes and not with the view to profit.

(3) It is used by an organization described in division (D) of section 5709.12 of the Revised Code. If the organization is a corporation that receives a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code at any time during the tax year, "used," for the purposes of this division, includes holding property for lease or resale to others.

(B)(1) Property described in division (A)(1)(a) of this section shall continue to be considered as used exclusively for charitable or public purposes even if the property is conveyed through one conveyance or a series of conveyances to an entity that is not a charitable or educational institution and is not the state or a political subdivision, provided that all of the following conditions apply with respect to that property:

(a) The property has been listed as exempt on the county auditor's tax list and duplicate for the county in which it is located for the ten tax years immediately preceding the year in which the property is conveyed through one conveyance or a series of conveyances;

(b) The owner to which the property is conveyed through one conveyance or a series of conveyances leases the property through one lease or a series of leases to the entity that owned or occupied the property for the ten tax years immediately preceding the year in which the property is conveyed or an affiliate of such prior owner or occupant;

(c) The property includes improvements that are at least fifty years old;

(d) The property is being renovated in connection with a claim for historic preservation tax credits available under federal law;

(e) The property continues to be used for the purposes described in division (A)(1)(a) of this section after its conveyance; and

(f) The property is certified by the United States secretary of the interior as a "certified historic structure" or certified as part of a certified historic structure.

(2) Notwithstanding section 5715.27 of the Revised Code, an application for exemption from taxation of property described in division (B)(1) of this section may be filed by either the owner of the property or its occupant.

(C) For purposes of this section, an institution ~~is~~ that meets all of the following requirements is conclusively presumed to be a charitable institution ~~if the~~:

(1) The institution is a nonprofit corporation or association, no part of

the net earnings of which inures to the benefit of any private shareholder or individual;

(2) The institution is exempt from federal income taxation under section 501(a) of the Internal Revenue Code,~~the~~;

(3) The majority of the institution's board of directors are appointed by the mayor or legislative authority of a municipal corporation or a board of county commissioners, or a combination thereof,~~and the~~;

(4) The primary purpose of the institution is to assist in the development and revitalization of downtown urban areas.

SECTION 2. That existing sections 505.60, 505.601, 5701.11, 5705.05, 5705.06, and 5709.121 of the Revised Code are hereby repealed.

SECTION 3. No board of township trustees, township officer, or township employee shall be required to repay funds identified in a finding for recovery made by the Auditor of State as the result of the board of trustees having elected to provide township officer or township employee health care coverage, or reimbursement to a township officer or employee for such coverage, in violation of sections 505.60 and 505.601 of the Revised Code as they existed prior to amendment by H.B. 458 of the 127th General Assembly. The county prosecuting attorney and Attorney General are under no obligation to act, and shall not act, upon the Auditor of State's finding for recovery. Any such finding for recovery shall be considered resolved for the purposes of section 9.24 of the Revised Code. Any sum that has already been repaid by a person against whom such a finding for recovery was issued, or repaid by a person in anticipation of the issuance of such a finding, shall be paid to that person from the treasury of the public office to which the sum was credited.

SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to immediately clarify the terms governing the provision of health care to township officers and employees and preclude unnecessary recoveries. Therefore, this act shall go into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 458

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____