



**Sub. H.B. 385**

126th General Assembly

(As Reported by H. Local & Municipal Government & Urban Revitalization)

**Reps. Brinkman, Seitz, Law, Schaffer, Webster, Wolpert, Domenick, Fende, Chandler, Daniels, J. McGregor, Combs**

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**BILL SUMMARY**

- Removes the limitation on the number of additional deferred compensation programs townships may offer to their officers and employees.
- Defines "board of township trustees" for the Limited Home Rule Township Law.
- Allows emergency resolutions to take immediate effect in limited home rule townships.
- Makes changes to the law authorizing a charge for certain multiple false fire alarms in townships.
- Establishes an alternative "direct" method for creating a fire and ambulance district.
- Increases to an amount not to exceed \$150 the maximum registration fee for transient vendors in townships.
- Increases the duration limitation on township lighting contracts from 10 years to 20 years.
- Authorizes certain townships that have used tax increment financing to pay the proceeds from the sale of a permanent improvement into their general fund under certain circumstances.
- Permits the presentation of the minutes from a board of county commissioners' previous day's meeting to be in written form, instead of being read aloud by the board's clerk.

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## CONTENT AND OPERATION

### *Deferred compensation plans for certain public employees*

#### *Current law*

Current law creates a deferred compensation program for eligible public employees that is administered by the Ohio Public Employees Deferred Compensation (OPEDC) Board. That law permits municipal corporations, counties, townships, park districts, conservancy districts, sanitary districts, health districts, public library districts, county law libraries, public institutions of higher education, and school districts to provide separate authorized plans or programs for deferring compensation of their officers and employees in addition to the OPEDC Board's program; however, counties, *townships*, park districts, conservancy districts, sanitary districts, health districts, public library districts, and county law libraries are limited to no more than two additional deferred compensation programs. (R.C. 148.04 and 148.06.)

### **Changes made by the bill**

The bill permits townships, like municipal corporations, public institutions of higher education, and school districts under current law, to provide additional authorized deferred compensation plans or programs *without any limitation* on the number that can be offered. But similar to current law applicable to municipal corporations, public institutions of higher education, and school districts, a township must offer additional plans or programs that include a reasonable number of options to its officers or employees for the investment of deferred compensation--including annuities, variable annuities, regulated investment trusts, and other investments approved by the township--that will assure the desired tax treatment of their deferred compensation. (R.C. 148.04(E) and 148.06.)

### **Limited home rule townships**

#### **Definition of "board of township trustees"**

The Limited Home Rule Township Law refers in several of its provisions to the governing body of such a township as the "board of township trustees," leading to confusion for some individuals as to whether a given reference in the Law is only to the board of township trustees of a limited home rule township or the board of township trustees of any township. To clarify these references in the Law, the bill provides a definition of "board of township trustees" for the Law, specifying that, except in those sections that provide for the *creation* of a limited home rule township (before the board could be one of such a township), a reference to a board of township trustees in the Law is to the board of township trustees of a limited home rule township. (R.C. 504.021.)

#### **Emergency resolutions**

Under the Limited Home Rule Township Law, an emergency resolution takes effect ten days after it is filed with the township fiscal officer, unless a later time is specified in the resolution. The bill eliminates this delay in effect for an emergency resolution of a limited home rule township and instead specifies that such an emergency resolution takes effect immediately upon its passage. (R.C. 504.11(B).)

### **False fire alarms in townships**

#### **Applicable false alarms**

Under current law, a board of township trustees may assess a charge for responding to a false fire alarm if (1) the fire department of the township, township fire district, or joint fire district, or a private fire company that contracts with any of those political subdivisions for fire protection, responds to a false

alarm from an automatic fire alarm system at a commercial establishment or residential building and (2) the board of township trustees gives a written notice to the premises' owner and lessee (if any) by certified mail that it may assess a stated charge of \$300 or less for each subsequent false alarm by that system that occurs "within a period of 30 days after any false alarm by that system." After that notice, the township may charge for a false alarm without further notice. (R.C. 505.391.)

The bill changes the false alarms for which a township may charge after the provision of the written notice, to subsequent false alarms occurring after three false alarms by the system within the same calendar year (R.C. 505.391(A)).

### **Lien procedure**

Current law provides that if a charge for a subsequent false alarm is not paid within 60 days after the owner or lessee receives by certified mail a written notice that the charge has been assessed, the charge must be entered upon the real property tax list, becomes a lien upon the property, and must be collected as taxes are collected. Collected charges (whether by normal payment or through the lien procedure) are deposited into the township general fund. (R.C. 505.391.)

The bill changes the procedure for unpaid false alarm charges by providing a 30-day notice before an unpaid charge becomes a lien. Under the bill, if payment of the bill assessing a charge is not received within 30 days, the township fiscal officer must send a notice by certified mail to the manager and the owner of the real estate of which the commercial establishment is a part, or to the occupant, lessee, agent, or tenant and the owner of the real estate of which the residential building is a part, indicating that failure (1) to pay the bill within 30 days or (2) to show just cause within 30 days why the bill should not be paid will result in the assessment of a lien on the real estate in the amount of the bill. If payment is not received or just cause for nonpayment is not shown within those 30 days, the amount of the bill must be entered upon the tax duplicate, is a lien upon the real estate upon that entry, and must be collected as other taxes. The bill requires charges so collected, instead of being deposited into the township general fund, to be earmarked in the township treasury for use for fire services.<sup>1</sup> (R.C. 505.391(B).)

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<sup>1</sup> *The bill repeals current law's general requirement that "charges collected" under R.C. 505.391 be deposited into the township general fund. It is not clear whether charges collected other than pursuant to the new lien procedure will continue to be deposited into the township general fund or also must be earmarked in the township treasury for use for fire services.*

## **Fire and ambulance districts**

### **Current law**

Under current law, in order to form a fire and ambulance district, the governing boards of a joint fire district and of a joint ambulance district may negotiate how to *combine* into a single "fire and ambulance" district that delivers both fire and ambulance services to the geographic area covered by those joint districts. That geographic area must be exactly the same in order for the joint districts to so combine. The governing boards then must adopt a joint resolution ratifying the negotiated agreement and specifying when the new fire and ambulance district comes into being. (R.C. 505.375.)<sup>2</sup>

### **Changes made by the bill**

The bill establishes an additional way to form a fire and ambulance district. Under the bill, the boards of township trustees of one or more townships and the legislative authorities of one or more municipal corporations, or the legislative authorities of two or more municipal corporations, or the boards of township trustees of two or more townships, are permitted to negotiate an agreement to form a fire and ambulance district. The agreement then must be ratified by the adoption of a joint resolution by a majority of the members of each board of township trustees and/or of each municipal corporation involved. The joint resolution must specify a date on which the district will come into being. (R.C. 505.375(A)(1)(a).)

In addition, if a joint fire district or a joint ambulance district is dissolved to facilitate creating a fire and ambulance district via the additional method mentioned above, the negotiating townships and/or municipal corporations forming the new district may transfer any of the funds on hand, moneys and taxes in the process of collection, credits, and real and personal property apportioned to them from the dissolved joint district to the new district for its use (R.C. 505.375(A)(1)(b)).

## **Fees for transient vendors in townships**

### **Background law**

Current law provides that a board of township trustees may require the registration of all transient vendors within the unincorporated territory of the township and regulate the time, place, and manner in which they may sell, offer for sale, or solicit orders for future delivery of goods. "Transient vendors" are

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<sup>2</sup> *This method of creating a fire and ambulance district continues to be available under the bill. It is relocated to division (A)(2) of R.C. 505.375.*

persons who open a temporary place of business for the sale of goods or who, on the streets or while traveling about the township, either sell or offer for sale goods, or solicit orders for future delivery of goods where payment is required prior to the delivery of the goods. "Transient vendors" do not include (1) persons who represent any of certain Ohio tax-exempted entities that notify a board of township trustees that its representatives are present in the township for the purpose of either selling or offering for sale goods, or soliciting orders for future delivery of goods, or (2) licensed auctioneers. (R.C. 505.94(A) and (B)(2).)

### **Registration fee**

Under current law, when registration is required of all transient vendors, a reasonable registration fee not to exceed \$75 may be charged for the registration period. The registration must be valid for at least a 90-day period. The bill increases the permissible fee to "not to exceed \$150" for such a registration period. (R.C. 505.94(A).)

### **Township lighting**

Under current law, upon making certain determinations, a board of township trustees may provide artificial lights for any road, highway, public place, or building under its control or any of the unincorporated territory of the township. If the township procures lighting under a contract (rather than installing a lighting system itself) and if the total estimated cost of the contract exceeds \$25,000, the board must competitively bid the contract. A lighting contract cannot exceed a ten-year period. (R.C. 515.01.)

The bill increases the limitation on township lighting contracts from a 10-year to a 20-year period (R.C. 515.01).

### **Disposition of the proceeds from the sale of township permanent improvements**

#### **Overview**

The Tax Levy Law provides that, if a political subdivision sells permanent improvements, other than utilities, the amount received from the sale must be paid into the sinking fund, the bond retirement fund, or a special fund for the construction or acquisition of permanent improvements. The bill carves an exception to this provision for certain townships. (R.C. 5705.10.)

#### **New exception**

Under the bill, a township that has a population greater than 15,000 according to the most recent federal decennial census and that has used township tax increment financing for real property in the township may pay proceeds from



the sale of a permanent improvement of the township *into its general fund* if both of the following conditions are satisfied (R.C. 5705.10(F) and (G)):

(1) The township fiscal officer determines that all foreseeable "public infrastructure improvements" to be made in the township in the ten years immediately following the date the permanent improvement is sold will have been financed through township tax increment financing on or before the date of the sale.<sup>3</sup> Written certification of this determination must be made part of the township's records.

(2) The permanent improvement being sold was financed entirely from moneys in the township's general fund.

### **County commissioners' board meetings minutes presentation**

Under current law, immediately upon the opening of each day's session of the board of county commissioners, the record of the proceedings of the previous day's session *must be read* by the board's clerk. The board members then must approve and sign the record, if it is correct. (R.C. 305.11.)

The bill permits each county commissioner to be provided with a *written form* of the record in lieu of having the clerk read it, and then the commissioners would approve and sign the record, if it is correct. (R.C. 305.11.)

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<sup>3</sup> *The bill's references to the township having "declared one or more improvements . . . to be a public purpose under section 5709.73" and to financing of permanent improvements "through resolutions adopted under section 5709.73" are to provisions of the Township Tax Increment Financing Law. Under that Law, by cross-reference to the Municipal Tax Increment Financing Law, a "public infrastructure improvement" is defined to include, but not be limited to, public roads and highways; water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including those projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities; and the enhancement of public waterways through improvements that allow for greater public access (R.C. 5709.40(A)(7) and 5709.73(A)(5)--not in the bill).*

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## HISTORY

ACTION	DATE
Introduced	10-18-05
Reported, H. Local & Municipal Gov't & Urban Revitalization	02-21-06

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