



**Sub. H.B. 244**

127th General Assembly  
(As Passed by the General Assembly)

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

**Sens. Cates, Schuler, Seitz, Fedor, Harris, Spada**

**Effective date: August 14, 2008**

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**ACT SUMMARY**

- Authorizes townships, upon petition, to relocate overhead cables, wires, and other equipment underground.
- Authorizes townships to assess abutting and benefited properties for the cost of the relocation project and to require the payment of interest on unpaid assessments.
- Exempts townships and the owners of overhead cables, wires, and other appurtenant equipment from liability for service outages and other damages caused by the relocation, except for those caused by the negligence of the owner.
- Requires township trustees, when acting directly or pursuant to a petition, to contract only with the owner of overhead cables, wires, and other equipment that are to be relocated to carry out the relocation.
- Authorizes townships to charge interest on unpaid assessments for street lighting.
- Modifies existing law to conform with the act's provisions.

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## CONTENT AND OPERATION

### *Underground relocation of overhead utilities: an alternative procedure*

#### *Current underground relocation authority: by direct action of the board of township trustees*

(R.C. 515.15)

Continuing law amended in part by the act allows a board of township trustees to contract with any owner of overhead cables, wires, and appurtenant equipment on a street or right-of-way located within the township for the underground relocation of the overhead cables, wires, and appurtenant equipment. Unless a pre-existing agreement or contract between the parties provides otherwise, the township is to pay the cost of the relocation project as provided in the contract. Continuing law also allows township trustees, by resolution, to adopt and enforce regulations requiring owners of property abutting a street in which overhead wires, cables, and appurtenant equipment have been relocated underground and service connections have been provided to the street, right-of-way, or property line to install underground wires, cables, and other equipment from the street to the buildings or other structures on the property to which the utility service is supplied. The township may pay the cost of these installations, may enter upon private land to examine or survey lines for wires, cables, and other appurtenant equipment, and may appropriate as much land as is necessary for the purpose of relocating and installing cables, wires, and appurtenant equipment underground.

#### *Alternative underground relocation authority: by action of the township trustees upon petition*

(R.C. 515.04, 515.05, 515.15, and 515.16)

The act authorizes any person to 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 and designated private streets in an unincorporated area of the township. The petition must specify the metes and bounds of the area to be included in the underground relocation project and any properties served by private streets as designated in the petition, and must be signed by at least 75% of the landowners in the specified area whose land either abuts the streets or rights-of-way, including any designated properties served by private streets, or otherwise would be specially benefited by the relocation project. The township fiscal officer is required to notify and transmit a copy of the petition to the board of township trustees, and to schedule and give notice to the affected landowners of a hearing on the petition. (The

hearing must be held not more than 30 days after the trustees were notified of the petition.) If, after the hearing, the trustees approve the petition, the township is to contract only with the owner of the overhead cables, wires, and appurtenant equipment that are to be relocated to carry out the relocation. The owner of the overhead cables, wires, and appurtenant equipment is not required to agree to contract terms or conditions it finds unacceptable.

**Assessments for costs of relocation** (R.C. 515.16). Unless a pre-existing arrangement provides otherwise, or the township and the utility owner agree otherwise in their contract, the township is to pay the cost of the relocation project as provided in the contract. And any part of the relocation costs paid by the township is to be assessed upon the properties abutting the streets or rights-of-way or specially benefited by the relocation project. In other words, except as is otherwise explained below, the costs and expenses of the underground relocation project ultimately are to be paid by special assessments against the properties located in the project area that abut the streets or rights-of-way, including any designated properties served by private streets, or that otherwise are specially benefited by the project. The trustees, by resolution, therefore are to assess all lands abutting the streets or rights-of-way in the project area, including any designated properties that are served by private streets, and lands that are otherwise specially benefited by the project. The assessment may be levied as a percentage of the tax value of the property, in proportion to the special benefit resulting from the relocation project, by the foot frontage of the property abutting the streets or rights-of-way, or equally between the properties. The resolution may allow the assessments to be paid over a number of years not exceeding ten years. The trustees, by resolution, also may provide for the payment of interest on unpaid assessments and, upon doing so, are to specify an interest rate based on the current prime rate. (Interest on unpaid assessments is to be treated as part of the costs and expenses of the relocation project.)

The assessments and interest on unpaid assessments are to be certified to the county auditor. The auditor is to place the assessments and interest on the real property tax duplicate, and they are to be collected in the same manner and at the same time as real property taxes and deposited into the township's general fund.

If the trustees find that the underground relocation project will create general benefits in addition to special benefits, the trustees may pay that portion of the costs and expenses of the relocation project representing general benefits from the township general fund, except for any interest on unpaid assessments. The trustees, by resolution, may waive the assessment payments for all assessed lands for any year and pay the aggregate amount waived, minus any accrued interest on unpaid assessments, out of the township general fund. In no event may the total

assessments exceed the value of the special benefits to the entire project area resulting from the underground relocation project.

**Liability for outages and other damages** (R.C. 515.16). The act exempts townships from liability for service outages or other damage caused by the underground relocation project. The owner of the overhead cables, wires, and appurtenant equipment also is exempt from liability for service outages and other damage caused by the underground relocation project, unless the outage or other damage is caused by the owner's own negligence. The act specifies that this provision does not otherwise alter township liability under the Political Subdivision Tort Liability Law.

**Modification of existing law to conform to new provisions**

(R.C. 515.04, 515.12, and 515.15)

The act prohibits township trustees, when taking direct action to initiate an underground relocation project, from contracting with anyone other than the owner of the overhead cables, wires, and appurtenant equipment that are to be relocated to carry out the relocation. The act also allows the owner of the overhead cables, wires, and appurtenant equipment to refrain from entering into a contract containing terms or conditions that the owner finds unacceptable. The act exempts townships from liability for service outages or other damage caused by such an underground relocation project. The owner of the overhead cables, wires, and appurtenant equipment also is exempt from liability for service outages or other damage caused by the underground relocation project, unless the outage or other damage is caused by the owner's own negligence. The act specifies that this provision does not otherwise alter township liability under the Political Subdivision Tort Liability Law.

The act specifies that officers receive the same fees for services performed for relocation projects initiated by petition as they would receive for other similar services, and includes payments for the services of township officials in the cost for relocation projects that are assessed against abutting or benefited properties.

The act authorizes the board of township trustees to assess each lot or land owner for any reasonable expense incurred by the board, together with the actual cost of the additional personnel that are currently authorized to be employed to prepare and certify notices in place of the township fiscal officer. These costs must be assessed proportionately against each lot or land owner and must be included in the cost of the lighting district or relocation.

**Artificial (street) lighting: interest on unpaid assessments**

(R.C. 515.08 and 515.11)

The act amends existing law to authorize the board of township trustees, by resolution, to provide for the payment of interest on unpaid assessments against lots and lands in the lighting district benefited by an artificial (street) lighting project, and specifies that the interest is to be treated as part of the costs of furnishing and maintaining the lights. Any accrued interest, however, is to be excluded from the portion of costs and expenses of the lighting project that may be paid by the trustees upon a finding of general benefits resulting from the lighting project. The rate of interest is to be set in the resolution and based on the current prime rate. The county auditor places the unpaid assessments and interest on the real property tax duplicate, and they are payable in the same manner and at the same time as real property taxes are paid and collected.

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**HISTORY**

ACTION	DATE
Introduced	05-30-07
Reported, H. Local & Municipal Gov't & Urban Revitalization	01-15-08
Passed House (92-0)	01-23-08
Reported, S. State & Local Gov't & Veterans Affairs	04-15-08
Passed Senate (32-0)	04-22-08
House concurred in Senate amendments (95-0)	04-30-08

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