



## **H.B. 244**

127th General Assembly  
(As Introduced)

**Rep. Brinkman**

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### **BILL 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 provide for the payment of interest on unpaid assessments.
- Exempts townships and the owners of overhead cables, wires, and other 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.
- Modifies existing law to conform with new provisions proposed by the bill.

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### **CONTENT AND OPERATION**

#### ***I. Relocation Underground of Overhead Utilities: an Alternative Procedure***

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

Current law 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 relocation underground 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. Current law also allows township trustees to, by resolution, 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 provided. The township may pay the cost of these installations, may enter upon private land to examine or survey 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. (R.C. 515.15.)

**B.) *Alternative underground relocation authority: by action of the township trustees upon petition***

The bill authorizes any person to petition the township fiscal officer requesting the board of township trustees to relocate underground, overhead cables, wires, and appurtenant equipment on streets or rights-of-way in an unincorporated area of the township. The petition must specify the metes and bounds of the area to be included in the relocation project, and must be signed by 75% of the landowners in the specified area whose property either abuts the streets or rights-of-way 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 only to contract with the owner of the overhead cable, 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 it finds unacceptable. (R.C. 515.04, 515.05, and 515.16.)

**(1) *Assessments for Costs of Relocation***

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." 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. 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 trustees, by resolution, are to assess all lands abutting the streets or rights-of-way in the project area or that are otherwise specially benefited by the project. 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 fair market rate that would have been borne by securities issued in anticipation of collection of the assessments, if any such securities had been issued. (Interest on unpaid assessments is to be treated as part of the costs and expenses of the relocation project.) The assessments 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 determine that the relocation project will create general benefits, in addition to specific benefits conferred on affected properties, 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 interest on unpaid assessments. The trustees, by resolution, may waive the payments for assessed lands for any year and pay the aggregate amount waived out of the township general fund. In no event may assessments exceed the value of the special benefits resulting from the relocation project. (R.C. 515.16.)

**(2) Liability for Outages and other Damages**

The bill exempts townships and the owner of the overhead cables, wires, and appurtenant equipment from liability for service outages and other damage caused by the relocation project. Owners are liable for outages or other damages caused by their own negligence, however. (R.C. 515.16.)

**C.) Modification of existing law to conform to new provisions**

The bill prohibits township trustees, when taking direct action to initiate a 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 bill also allows the owner of the overhead cables, wires, and appurtenant equipment to refrain from entering into a contract containing terms and conditions which the owner finds unacceptable, and exempts townships and the owner of the overhead cables, wires, and appurtenant equipment from liability for services outages and other damage caused by the relocation project, unless the damage is caused by the owner's negligence. (R.C. 515.15.)

The bill requires 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 benefited or abutting properties. (R.C. 515.12.)

**II. Artificial (Street) Lighting: Authority Modified to Import Propositions of Law Pertaining to Interest on Unpaid Assessments**

The bill 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. The 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 fair market rate that would have been borne by securities issued in anticipation of the collection of assessments, if any such securities had been issued. (R.C. 515.08.)

The bill also requires that the interest on unpaid assessments be placed on the real estate tax duplicate by the auditor for collection installments, and that the additional assessments and unpaid interest, when collected, be deposited into the township treasury and used only for the purpose for which the assessments were levied. (R.C. 515.11.)

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**HISTORY**

ACTION	DATE
Introduced	05-30-07

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