



H.B. 470

127th General Assembly
(As Introduced)

Reps. Setzer, Strahorn, Collier, Combs, Evans, Harwood

BILL SUMMARY

- Upon a determination that vegetation located on private property blocks or otherwise interferes with the sight lines of motorists traveling on township roads, permits a board of township trustees to send a notice requiring its removal to the property owner.
- Authorizes a board to order township workers to enter upon private land in order to remove vegetation that blocks or otherwise interferes with the sight lines of motorists traveling on township roads.
- Requires a board to make a written report to the county auditor of the board's action relating to the removal of the vegetation.
- Requires incurred expenses to be entered on the tax duplicate and the board to make restitution for certain property damage resulting from the removal.

CONTENT AND OPERATION

Background: removal of vegetation growing on or encroaching public right-of-way

In general, townships have a duty to maintain their roads.¹ Specifically, current law states, "the board of township trustees shall have control of the township roads of its township and . . . shall keep them in good repair."² Current law allows the removal of vegetation that either is growing on the public right-of-

¹ R.C. 5535.08, not in the bill.

² R.C. 5571.02, not in the bill.

way or encroaching on it. For example, a board of township trustees may trim or remove vegetation growing in or encroaching onto the right-of-way of township roads as is necessary.³ Also, a board of township trustees must destroy all brush, briars, burrs, vines, and noxious weeds growing within the limits of a township road.⁴ These provisions do not allow township workers to enter onto private property and remove vegetation that is located wholly on that private property, even if the vegetation hinders the sight lines of motorists traveling on township roads.

The bill: removal of vegetation wholly on private property

(R.C. 5571.18)

Required notice

If a board of township trustees determines, based upon evidence submitted by the county engineer, that, at a particular location, vegetation located on land that is located on a township road constitutes a clear and present danger to the safety of the traveling public (which may include pedestrians) because the vegetation blocks or otherwise interferes with the sight lines of motorists traveling on that township road, the board must send a written notice informing the land owner of that fact and also particularly describing the vegetation at issue. The notice must direct the owner to remove that vegetation within 15 days after the date of the notice. The notice further must inform the owner that if the owner does not remove the vegetation within that period, the board will remove the vegetation at the owner's expense.

Entering the property

If a board issues such a notice and the owner does not remove the described vegetation in a timely manner, the board must issue an order directing township employees to enter upon the land and remove the vegetation. The board must give notice of the "proposed" entry to the owner and to the person possessing the land, if that person is not the owner, by reasonably available means not less than three, but not more than seven, days before the entry date. The township employees must enter the land and remove the vegetation and nothing more. Such an entry does not constitute a trespass.

³ R.C. 5543.14, not in the bill.

⁴ R.C. 5579.04, not in the bill.

Report of board's action

The bill requires the board to make a written report to the county auditor of the board's action related to the removal of the vegetation. The board must include in the report a proper description of the premises and a statement of all expenses the township incurred in having township employees remove the vegetation, including any costs incurred in providing the required notice and the amount the township paid for labor, materials, fuel, and equipment.

Expenses to be recovered

The expenses incurred by the township must be entered upon the tax duplicate and become a lien upon the land from the date of the entry. The expenses must be collected as taxes are collected, and any amount collected must be returned to the township and placed in the township general fund.

Restitution for damages

The board must make restitution or reimbursement for any actual damage done to the land or to improvements or personal property located on the land by the township employees that is not incidental to the removal of the vegetation. If the township and owner of the land are unable to agree upon restitution or other settlement, damages are recoverable by civil action, except that the value of the vegetation removed is not recoverable.

HISTORY

ACTION	DATE
Introduced	02-06-08

H0470-I-127.doc/jc