



# Ohio Legislative Service Commission

## Bill Analysis

Bethany Boyd

### Am. H.B. 403

128th General Assembly

(As Reported by H. Local Government and Public Administration)

**Reps.** DeGeeter, Evans, Murray, Ujvagi, Domenick, Foley, Dodd, Harwood, Bacon, Brown, B. Williams, Bolon, Slesnick, Letson, Yuko, Hagan, Derickson, Sears

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## BILL SUMMARY

- Authorizes a nonchartered municipal corporation to establish a community emergency response team within the public safety department of the municipal corporation, consisting of volunteers who educate and train persons about disaster preparedness and response.
- Provides that the municipal corporation's director of public safety is the executive head of the community emergency response team and must appoint and remove team members and prescribe rules for the organization, training, administration, control, and conduct of the team.
- Affords the community emergency response team and its team members the same immunities and defenses in a civil action that a political subdivision has, and that employees of a political subdivision have, respectively, under the Political Subdivision Tort Liability Law.

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## CONTENT AND OPERATION

### Community emergency response teams

(R.C. 737.053)

#### Establishing a team

The bill authorizes the legislative authority of a nonchartered municipal corporation<sup>1</sup> to establish, by ordinance, a community emergency response team (CERT)

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<sup>1</sup> A nonchartered municipal corporation, sometimes called a "statutory municipal corporation," is a city or village that has not adopted a charter to exercise local self-government home rule powers granted by

within the municipal corporation's public safety department, and to provide for the regulation of CERT members. A "community emergency response team" is a group of volunteers who educates persons in the municipal corporation about disaster preparedness for hazards that may impact the community and trains those persons in basic disaster response skills, such as fire safety, light search and rescue, team organization, and disaster medical operations.

### **Duties of director of public safety**

The bill requires that the municipal corporation's director of public safety be the executive head of the CERT. The director of public safety must make all appointments and removals of team members, subject to any general rules prescribed by the legislative authority by ordinance, and must prescribe rules for the organization, training, administration, control, and conduct of the CERT. CERT members may assist first responders in accordance with the policies developed by the director of public safety. Members of the CERT are not in the classified service of the municipal corporation and are not eligible for membership in the Public Employees Retirement System.

### **Response team immunities and defenses**

A CERT providing service to a nonchartered municipal corporation under the bill has the same immunities and defenses in a civil action that a political subdivision has under the Political Subdivision Tort Liability Law (*see* **COMMENT 1**, below). CERT members have the same immunities and defenses in a civil action that employees of a political subdivision have under that Law (*see* **COMMENT 2**, below).

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## **COMMENT**

1. Generally, under the Political Subdivision Tort Liability Law (R.C. Chapter 2744.), a political subdivision is not liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by any act or omission of the political subdivision or its employees in connection with a governmental or proprietary function.<sup>2</sup> But a political subdivision is liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by: (1) the negligent operation of

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Ohio Constitution, Art. XVIII, § 7. Generally, a nonchartered municipal corporation must follow procedures prescribed by state law in matters of local self-government, hence the name statutory municipal corporation.

<sup>2</sup> Basically, a governmental function is a function that political subdivisions undertake as an obligation of sovereignty and that is for the common good of the citizens, and a proprietary function is one that involves activities customarily engaged in by nongovernmental entities, for example, operating a hospital or utility. *See* R.C. 2744.01.



any motor vehicle by a subdivision employee when the employee is engaged within the scope of the employee's employment and authority, except where certain full defenses negate that liability, one of which is being a member of a municipal corporation police department who was operating the motor vehicle while responding to an emergency call and the operation of the vehicle did not constitute willful or wanton misconduct, (2) the negligent performance of acts by an employee with respect to the political subdivision's proprietary functions, (3) the negligent failure to keep public roads in repair or to remove obstructions from public roads, except where the full defense that the municipal corporation does not have the responsibility for maintaining or inspecting a bridge within its boundaries negates that liability, (4) the negligence of an employee that occurs within or on the grounds of, and is due to physical defects within or on the grounds of, buildings that are used in connection with the performance of a governmental function, or (5) civil liability that is expressly imposed upon the political subdivision by a section of the Revised Code. (R.C. 2744.02.)

2. The Political Subdivision Tort Liability Law also affords an employee of a political subdivision immunity from liability, unless the employee's act or omission was manifestly outside the scope of the employee's employment or official responsibilities; the employee's act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner; or civil liability is expressly imposed upon the employee by a section of the Revised Code. (R.C. 2744.03.)

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## HISTORY

ACTION	DATE
Introduced	01-05-10
Reported, H. Local Gov't & Public Administration	05-12-10

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