



Auditor of State



Bulletin 2003-002

Date Issued: March 10, 2003

TO: All Township Trustees
All Township Clerks
All Township Administrators
All Independent Public Accountants

FROM: Betty Montgomery
Ohio Auditor of State

SUBJECT: Legislative Changes Related to Townships

This Bulletin identifies recent changes to numerous revised code sections dealing with townships. Please pay close attention to the effective dates of the new legislation.

Footbridge Repair

S. B. No. 157, effective May 30, 2002, modified Section 505.46, R.C. This statute allows townships to construct, rebuild and repair footbridges across rivers and streams when necessary to provide convenient means of access to public schools. The legislation increased the allowable cost of the construction, rebuilding, or repair from \$1,000 to \$15,000.

Statutory Changes regarding Township Activities

Am. Sub. H.B. No. 513, effective March 31, 2003, made changes to several statutes relating solely to the activities of townships. The following is a summary of those changes. If you have specific questions about how a certain change may affect your operations, contact your county prosecutor.

Real Estate Transfers (Section 505.10, R.C.) – Language added to this section authorizes the township trustees to sell or otherwise transfer real property owned by the township to any person upon whatever terms are agreed to between the board and the purchaser. The sale or transfer must be authorized by resolution upon a unanimous vote of the trustees.

Fire Fighting Equipment (Section 505.401, R.C.) – This new code section lets a township fire district issue bonds under the Uniform Public Securities Law (Chapter 133 R.C.) for acquiring fire fighting equipment, buildings, and sites for the district or for the purpose of constructing or improving buildings to house fire fighting equipment.

Snow and Ice Removal (Section 505.82, R.C.) – This section authorizes the trustees to declare an emergency during which the township has the power to remove snow, ice, debris or other obstructions from an undedicated road or stream bank in the unincorporated area of the township. The township may charge the owner for the removal. The township is required to notify, or make a good faith attempt to notify, the owner of its intent to remove the snow, ice, debris or other obstruction and of its intent to charge for doing so before taking action.

Prior to the legislation, the emergency declaration was limited to a one-month period. The new language allows the trustees to establish in the resolution declaring the emergency a period not to exceed six months during which the emergency powers will be in effect. The new legislation also authorizes the township to contract with the developer of an undedicated road to pay for the removal of snow and ice rather than collecting charges from the owners.

Nuisance Authority (Section 505.87, R.C.) – This section allows the trustees to determine that a property owner's failure to abate, control or remove any vegetation, refuse, garbage or debris on the owner's property constitutes a nuisance and to take the necessary action to correct the problem. At least seven days before acting, the township must notify the property owner of its intent to act and that any expenses incurred by the township will be entered upon the tax duplicate and become a lien on the property.

Prior to the new legislation, this notice was made by certified mail (if the owner is a resident of the township or a non-resident whose address is known) or by publishing the notice in a newspaper of general circulation in the township (if the owner's address is unknown and cannot be reasonably obtained). New language states that if the owner is a resident of the township or a nonresident whose address is known, notice may be given by posting the notice on the principal structure on the land and photographing the notice with a camera capable of recording on the photograph the date which it was taken. If this alternative notification approach is used, the township should retain both a copy of the notice and the dated photograph.

Obligation Authority (Section 507.11, R.C.) – This code section allows the township trustees, by resolution, to authorize township officers or employees to incur obligations on behalf of the township. New legislation allows the trustees, by resolution, to delegate this ability to authorize officers or employees to incur obligations on behalf of the township to the township administrator. The new language also raises the amount of the obligation that the officers or employees may incur on behalf of the township from \$750 to \$2,500.

The Auditor of State recommends that townships establish procedures that require officers and employees to notify the township clerk whenever they exercise the authority to obligate the township. The procedures should include a number of days by which the clerk is to be notified of the obligation and the information to be contained in the notification.

Cemetery Endowment Funds (Section 517.15, R.C.) – This section creates the permanent cemetery endowment fund which previously was used to receive gifts and bequests which were invested by the township and whose interest was used to maintain the burial lot designated by the person making the gift or bequest. The new legislation has expanded both the sources of money that may be receipted into this fund and the purposes for which the money may be used. The money that may be receipted into the fund now includes:

- 1) Gifts, devises or bequests received for the purpose of maintaining, improving or beautifying township cemeteries;
- 2) Charges added to the price regularly charged for burial lots for the purpose of maintaining, improving or beautifying township cemeteries;
- 3) Contributions of money from the township general fund;
- 4) An individual agreement with the purchaser of a burial lot providing that a part of the purchase price is to be applied to the purpose of maintaining, improving or beautifying any burial lot designated and named by the purchaser;
- 5) Individual gifts, devises or bequests made for the maintenance, improvement, and beautification of any burial lot designated and named by the person making the gift, devise or bequest.

The purposes for which the money may be expended now include the maintenance, improvement, and beautification of specific burial lots and the more general purpose of maintaining, improving and beautifying township cemeteries. The township is also no longer limited to spending only the interest earned by the fund.

Prior to the legislation, the clerk needed to maintain records of individual gifts and bequests and the interest that each one earned so that the clerk could demonstrate that interest was used only for the lot that the gift or bequest was intended to benefit. Now the money coming into the fund must be segregated 1) so that the clerk can identify and track the receipt, use and balance of the money that may be used for the benefit of the cemetery as a whole and 2) so that the clerk can demonstrate that money for individual lots is used for the benefit of the correct lot **and** is not used for the benefit of the township cemetery as a whole.

Sidewalk Repair (Section 5543.10, R.C.) – This code section currently provides for the construction, repair or maintenance by the county engineer of sidewalks connecting the public highways outside any municipal corporation. Construction is initiated upon the petition of a majority of the abutting property owners. Construction, repair or maintenance is initiated by a unanimous vote of either the county commissioners or the township trustees. The scope of this code section was expanded to provide for the construction, repair or maintenance by the county engineer of curbs and gutters as well as sidewalks.

Fence Maintenance (Section 5571.14, R.C.) – This section allows the township trustees to declare a fence to be a public nuisance if it bounds a public highway, is located wholly or in part upon the highway and interferes with the proper grading, draining or dragging of the highway, causes the drifting of snow on the road or in any manner

obstructs or endangers public travel. The trustees may order the owner, agent or occupant of the lands on which the fence is maintained to remove it within 30 days.

The new legislation changes “public highway” to township road and allows any object that bounds a township road and is located wholly or in part upon the road to be declared a nuisance, not just fences. The justifications for declaring the object to be a nuisance are expanded to include interfering with the maintenance of the road and interfering with snow or ice removal from the road. The new legislation also authorizes either the township trustees or the township highway superintendent to make the nuisance declaration.

Driveway Culvert Installations (Section 5571.16, R.C.) – This code section currently allows the township trustees, by resolution, to require any person to obtain a permit before making any excavation in a township highway or highway right-of-way. The legislation authorizes the township trustees to require any person seeking to install a driveway culvert in a township highway or highway right-of-way to obtain a permit in the same manner as provided for an excavation.

Levying Property Taxes for “Recreational purposes” (Section 5705.19, R.C.) – This section authorizes the township trustees, by resolution, to place a property tax levy on the ballot to be voted on by the residents of the township. The statute lists a variety of purposes for which the trustees may propose an additional tax, one of which is for “recreational purposes”. The bill changes the language to “parks and recreational purposes”. Previously the recreational levy was limited to a period of up to five years. The new language allows the levy to be for any specified number of years or for a continuing period of time, whatever is set forth in the trustees’ resolution.

The legislation also clarifies that a township levy for constructing and repairing streets and bridges may also be proposed for any specified number of years or for a continuing period of time, again depending on what is set forth in the resolution of the trustees.

** Please **note** that Am. Sub. H.B. No. 513 also amended Section 5705.13, R.C. Changes to that code section are discussed in Auditor of State Bulletin 2003-001.

Questions concerning this Bulletin should be addressed to the Legal Division of the State Auditor’s Office at (800) 282-0370.


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