OHIO
TOWNSHIP
HANDBOOK

Dave Yost • Auditor of State

March 2018

Dave Yost • Auditor of State

Dear Township Official:

Public service is both an honor and challenge. In the current environment, service at the local level may be more challenging than ever before. This handbook is one small way my office seeks to assist you in meeting that challenge.

To that end, this handbook is designed to be updated easily to ensure you have the latest information at your fingertips. Please feel free to forward questions, concerns or suggestions to my office so that the information we provide is accurate, timely and relevant.

Of course, a manual of this nature is not to be confused with legal advice. Should you have concerns or questions of a legal nature, please consult your statutory legal counsel, the county prosecutor's office or your private legal counsel, as appropriate.

I understand the importance of local government and want to make sure we are serving you in ways that meet your needs and further our shared goals. If my office can be of further assistance, please let us know.

I look forward to working with you as we face the unique challenges before us and deliver on our promises to the great citizens of Ohio.

Thank you for your service.

Sincerely,

Dave Yost

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March 2018 Revisions

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CALENDAR FOR TOWNSHIP OFFICERS AND FISCAL OFFICERS

JANUARY

1 New Year's Day is a legal holiday (O.R.C. 1.14, 511.10).
The fiscal year of the township begins (O.R.C. 9.34).
The annual term of each member of the volunteer fireman's dependents board begins (O.R.C. 146.04).
Certification of the total amount from all sources available for expenditures for all funds sent by township fiscal officer to county auditor (O.R.C. 5705.36).
Required passage date of annual appropriation measure (O.R.C. 5705.38).
Appropriation for the dragging of graveled and unimproved public roads (O.R.C. 5571.12).
Report of payroll changes during month to PERS (O.R.C. 145.17).
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).
Terms of township trustees (O.R.C. 505.01)

Second Monday

Annual Inventory (O.R.C. 505.04).

Third Monday

Martin Luther King Day is a legal holiday (O.R.C. 1.14, 511.10).

FEBRUARY

1 Report of payroll changes during month to PERS (O.R.C. 145.17).
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).

First Monday

Timing and membership of county budget commission. (O.R.C. 5705.27)

15 Payment to managing trustee of joint township cemetery of taxes collected therefore (O.R.C. 507.10).

Third Monday

Washington/Lincoln Day (Presidents') Day is a legal holiday (O.R.C. 1.14, 511.10).

MARCH

Annual meeting of health district advisory council (O.R.C. 3709.03).

1 Report of payroll changes during month to PERS (O.R.C. 145.17).
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).

Township annual financial report for non GAAP townships due within sixty days from the close of the fiscal year with Auditor of State, publication of financial report filing with Auditor of State and notice report is available for public inspection (O.R.C. 117.38).

First Monday

Apportionment of boundary line roads for maintenance (O.R.C. 5579.03).

CALENDAR FOR TOWNSHIP OFFICERS AND FISCAL OFFICERS (CONTINUED)

APRIL

1 Report of payroll changes during month to PERS (O.R.C. 145.17).
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).
Annual tax levy by trustees for improvement of township roads (O.R.C. 5575.10).

Annual appropriation measure due if operating on temporary budget (O.R.C. 5705.38).
The term of township fiscal officer begins (O.R.C. 507.01).

MAY

1 Report of payroll changes during month to PERS (O.R.C. 145.17).
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).

First Monday

Township fiscal officer to certify to board of township trustees the amount necessary for the payment of final judgments (O.R.C. 5705.08).

15 Deadline for appropriation for Memorial Day observance within the township(O.R.C.307.66).
Certification of drainage improvement levy to county auditor (O.R.C. 6131.53).

Last Monday

Memorial Day is a legal holiday (O.R.C. 1.14, 511.10).

31 Deadline for head of department to submit estimate of contemplated revenue and expenditure for ensuing fiscal year (O.R.C. 5705.28).

JUNE

1 Report of payroll changes during month to PERS (O.R.C. 145.17).
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).
Annual estimate of road funds for trustees by county engineer (O.R.C. 5543.02).

1 to 20 Destruction of noxious weeds growing along highways (O.R.C. 5579.04, 5579.08).

CALENDAR FOR TOWNSHIP OFFICERS AND FISCAL OFFICERS (CONTINUED)

JULY

1 Report of payroll changes during month to PERS (O.R.C. 145.17).
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).
Appropriation for the dragging of graveled and unimproved public roads (O.R.C. 5571.12).

4 Independence Day is a legal holiday (O.R.C. 1.14, 511.10).

5 Deadline for filing two copies of budget with township fiscal officer, and giving public notice of the required hearing (O.R.C. 5705.30).

14 Deadline for PERS to certify the rate necessary for township to pay the PERS obligation for next year. (O.R.C. 145.12).

15 Deadline for adoption of tax budget (O.R.C. 5705.28).

20 Deadline for submission of budget to county auditor (O.R.C. 5705.30).

AUGUST

1 Report of payroll changes during month to PERS (O.R.C. 145.17).
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).

1 to 20 Destruction of noxious weeds growing along highways (O.R.C. 5579.04, 5579.08).

15 Payment to managing trustee of joint township cemetery of taxes collected therefore (O.R.C. 507.10).

First Monday
County budget commission meeting (O.R.C. 5705.27).

SEPTEMBER

1 Report of payroll changes during month to PERS (O.R.C. 145.17).
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).
County Budget Commission action completed and certified to board of trustees (O.R.C. 5705.34, 5705.35).

1 to 20 Destruction of noxious weeds growing along highways (O.R.C. 5579.04, 5579.08).

30 Deadline for certification of tax levies to county auditor (O.R.C. 5705.34).

First Monday

Labor Day is a legal holiday (O.R.C. 1.14, 511.10).

CALENDAR FOR TOWNSHIP OFFICERS AND FISCAL OFFICERS (CONTINUED)

OCTOBER

1 Report of payroll changes during month to PERS (O.R.C. 145.17).
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).

Second Monday

Columbus Day is a legal holiday (O.R.C. 1.14, 511.10).

NOVEMBER

1 Report of payroll changes during month to PERS (O.R.C. 145.17).
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).

First Tuesday After First Monday in odd numbered years

General Election of township officers (O.R.C. 505.01, 507.01. 3501.01).

Following The Election

Notice by fiscal officer and service upon officers elected (O.R.C. 503.25).

11 Veterans Day is a legal holiday (O.R.C. 1.14, 511.10).

Fourth Thursday

Thanksgiving Day is a legal holiday (O.R.C. 1.14, 511.10)

DECEMBER

1 Report of payroll changes during month to PERS (O.R.C. 145.17)
PERS standard report form and remittance of contributions (O.R.C. 145.19, 145.51, O.A.C 145-3-01).

25 Christmas Day is a legal holiday (O.R.C. 1.14, 511.10).

31 (Or fiscal year end, if the township has a fiscal year that differs from the calendar year) Deadline for board of township trustees to amend tax budget to conform with official amended certificate of estimated resources (O.R.C. 5705.35).

Designation of Depositories: "Each governing board other than the state board of deposit shall meet *every five years on the third Monday or such regularly scheduled meeting date of the month next preceding the date of the expiration of its designation of depositories* for the purpose of designating the public depositories of the public moneys of the subdivision…for the period of five years commencing on the date of the expiration of the next preceding designation." (O.R.C. 135.12)(emphasis added)

SECTION A

TOWNSHIP OFFICERS AND EMPLOYEES

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I. TOWNSHIP OFFICERS GENERALLY

Qualifications for Office

1. Q. Who has the responsibility of determining the organization of township government?

   A. The General Assembly is vested with this responsibility by Article X, Section 2, of the Constitution of Ohio.

2. Q. What are the necessary qualifications for candidates for township office?

   A. A candidate must be a qualified elector and a resident of the township. Article XV, Section 4, of the Constitution of Ohio, O.R.C. 3.15(A)(3), O.R.C. 3503.01.

3. Q. May a person residing in an incorporated village be a candidate for township office?

   A. Only if the village in which the person resides is also within the limits of the township.

4. Q. Are township employees required to be residents of the township?

   A. O.R.C. 9.481(B)(1) states: "Except as otherwise provided in division (B)(2) of this section, no political subdivision shall require any of its employees, as a condition of employment, to reside in any specific area of the state." The exception may pertain to those employees that are required to respond to emergencies or disasters, and a successfully filed initiative petition could require that those personnel live in the county or adjacent county where the political subdivision is located.

5. Q. Can a person serve simultaneously in two public positions?

   A. The principal is well established that a person may not serve simultaneously in two public positions when he is subject to an impermissible conflict of interest. An impermissible conflict of interest occurs when a person's "responsibilities in one position are such as to influence the performance of his duties in the other position, thereby subjecting him to influences which may prevent his decisions from being completely objective." In order to determine whether an impermissible conflict of interest exists between two positions, we must first review the powers, duties, and responsibilities bestowed upon each position. This review will enable us to determine whether a person who holds the two positions simultaneously will confront a conflict of interest when he exercise the powers, duties, and responsibilities in either or both positions. Due to the broadness of this topic, and case specific nature, it is advised that the township trustees consult their legal counsel on a case to case basis. OAG. 2002-012.

6. Q. Can a person serve simultaneously as a township fiscal officer and a county commissioner?

   A. A person may serve simultaneously as a township fiscal officer and county commissioner within the same county, provided that as a township fiscal officer he does not prepare or present the township's tax budget to the county budget commission or explain to the county budget commission the township's need for moneys from the undivided local government fund and the undivided local government revenue assistance fund. As county commissioner, he may not participate in any deliberations, discussions, negotiations, or votes concerning annexation or detachment proceedings involving the township, a contract between the county and township, or an alternative method of apportioning the undivided local government fund and the undivided local government revenue assistance fund. OAG. 2003-006.

I. TOWNSHIP OFFICERS AND GENERALLY (CONTINUED)

Qualifications for Office (Continued)

7. Q. Can a person serve simultaneously as a township trustee and a member of the county planning commission?

   A. A person may serve simultaneously as a township trustee and a member of the county planning commission, provided that as a township trustee and planning commission member he does not participate in any deliberations, discussions, negotiations, or votes concerning matters in which he has a conflict of interest that is prohibited by applicable statutes governing conflicts of interest. OAG. 2003-041.

8. Q. Can a person serve simultaneously as a member or a township board of zoning appeals and member of the county planning commission?

   A. Yes. OAG. 2003-041.

9. Q. Can a person serve simultaneously as a trustee of a township and a member of a county rural zoning commission?

   A. Yes. A person may serve simultaneously as a trustee of a township that has not adopted a limited home rule government pursuant to O.R.C. chapter 504 and member of a county rural zoning commission. OAG. 2004-015.

More information regarding compatibility of public offices or positions can be found at http://www.ohioattorneygeneral.gov/Legal/Opinions/Compatibility-of-Public-Offices-or-Positions. For specific cases of simultaneous service, a board of township trustees should contact its legal counsel.

Nomination and Election of Township Officials

1. Q. How are candidates for township offices of trustee and fiscal officer nominated?

   A. Nominations of candidates for election as officers of a township shall be made only by nominating petition, unless a majority of the electors of such township have petitioned for a primary election. The nominating petitions of nonpartisan candidates shall be signed by not less than twenty-five qualified electors of the township. The nominating petitions must be filed with the board of elections not later than four p.m. of the ninetieth day before the day of the general election. O.R.C. 3513.253.

2. Q. When and how are township trustees and the fiscal officer elected?

   A. They are elected on a nonpartisan ballot on the first Tuesday following the first Monday in November, in the odd-numbered year. O.R.C. 3501.02, 3501.01(A), and 3505.04.

3. Q. What is the correct fee for a candidate for the office of township fiscal officer to pay in filing a nominating petition with the board of elections?

   A. The amount required of a candidate filing a nominating petition under O.R.C. 3513.10 is ten dollars ($10).

4. Q. What is the correct fee for a candidate for the office of township trustee to pay in filing a nominating petition with the board of elections?

   A. The amount required of a candidate filing a nominating petition under O.R.C. 3513.10 is ten dollars ($10).

I. TOWNSHIP OFFICERS AND GENERALLY (CONTINUED)

Term of Office

1. Q. In what year should a township elect two trustees?

   A. Two trustees shall be elected in 2001 and every four years thereafter. O.R.C. 505.01.

2. Q. In what year should a township elect one trustee and a township fiscal officer?

   A. One trustee and a township fiscal officer shall be elected in 2007 and every four years thereafter. O.R.C. 505.01, 507.01.

3. Q. What is the term of office?

   A. The term of office is for four years and until a successor is elected and qualified. O.R.C. 505.01, 507.01, 3.01.

4. Q. When does the term of office begin?

   A. In the case of the township trustee, the term of office begins on the first day of January following the election. In the case of the township fiscal officer, the term of office begins on the first day of April following the election. O.R.C. 505.01, 507.01.

Certificate of Election

1. Q. How does the successful candidate for the office of township trustee or fiscal officer receive notice of election?

   A. O.R.C. 3505.38 requires the board of elections to issue a certificate of election to the successful candidate after the time within which applications for recounts of votes has expired and after recounts of votes which have been applied for are completed.

Oath of Office

1. Q. Is a township trustee or fiscal officer required to take an oath of office?

   A. Yes. O.R.C. 3.22, so requires.

2. Q. What oath is a trustee or fiscal officer required to take?

   A. In accordance with Article XV, Section 7 of the Constitution of Ohio and O.R.C. 3.23, a trustee or fiscal officer must take an oath or affirmation to support the Constitution of the United States, and of the State of Ohio, and to faithfully discharge the duties of his office.

3. Q. Who can administer the oath of office?

   A. The oath of office may be administered by any elected official to an elected or appointed official who is within the geographical limits of the constituency of the official administering the oath. Members of the general assembly may administer the oath of office to any elected or appointed official for any office established by the constitution or laws of this state. In addition, any judge of any court established by the constitution of this state, as well as any notary public, may administer an oath of office. The township fiscal officer may administer an oath of office. O.R.C. GC 3.24 and O.R.C. 507.06.

I. TOWNSHIP OFFICERS GENERALLY (CONTINUED)

Oath of Office (Continued)

4. Q. If the oath of office of a township officer is taken before an officer other than the township fiscal officer, how is the fiscal officer notified of this fact?

   A. The officer before whom such oath is taken has the duty forthwith to deposit with the fiscal officer of the township a certificate of such oath. O.R.C.503.26

Giving Bond

1. Q. Is a trustee required to give bond before entering upon the duties of his office?

   A. Yes, each trustee is required to give a bond of not less than $1,000. O.R.C. 505.02.

2. Q. To whom is the bond of the trustee given?

   A. The bond is given to the state for the use of the township. O.R.C. 505.02.

3. Q. To whom is the bond of the fiscal officer payable?

   A. The bond is payable to the board of township trustees. O.R.C. 507.03.

4. Q. In what amount should the bond be given by a township trustee?

   A. In the case of a township trustee the bond should be given in the sum of one thousand dollars, although under certain circumstances, additional bond may be required by the judge who approves the bond of the trustee. O.R.C. 505.02 and 505.03..

5. Q. In what amount should the bond be given by a township fiscal officer?

   A. In the case of a township fiscal officer, the minimum bond amount is set by statute (O.R.C. 507.03) based on the budget of the township:

Township Budget	Minimum Bond
$50,000 or less	$10,000
$50,001 to $100,000	$35,000
$100,001 to $250,000	$60,000
$250,001 to $500,000	$85,000
$500,001 to $750,000	$110,000
$750,001 to $1,500,000	$135,000
$1,500,001 to $3,500,000	$160,000
$3,500,001 to $6,000,000	$195,000
$6,000,001 to $10,000,000	$220,000
$10,000,001 or more	$250,000

In addition any assistant(s) must also give a bond for the same amount indicated above. O.R.C. 507.02 and 507.03.

I. TOWNSHIP OFFICERS GENERALLY (CONTINUED)

Giving Bond (Continued)

6. Q. When must a township fiscal officer be covered by the new bond minimum?

   A. A fiscal officer who entered upon duties of office prior to November 5, 2004 and gave bond in accordance with O.R.C. 507.03 then in effect, and has provided the bond required to qualify for office is not required to provide a bond that meets the new minimum requirements during the current term of the incumbent fiscal officer. An individual who seeks to enter into the office of fiscal officer on or after November 5, 2004, either to begin a new term or to fill a vacancyduring an existing term, is required to give bond at not less than the minimums currently provided for in O.R.C. 507.03. OAG 2005-004.

7. Q. If, for the same amount of the premium, a township trustee would be able to obtain bond in an amount greater than $1,000.00, for example, $2,000.00, may the trustee purchase such a bond?

   A. Yes. Although not a legal requirement, it is suggested the maximum coverage that can be obtained for the same premium that would be paid for a $1,000.00 bond be obtained. O.R.C. 505.02

8. Q. May bond be entered into with an authorized guarantee company as surety or must personal bond be given?

   A. A duly authorized guarantee company may act as one or both of the sureties required by O.R.C. 505.02, as authorized by O.R.C. 3929.14 and 3929.16.

9. Q. May township trustees and/or the township fiscal officer be covered by a blanket bond?

   A. No. 1965 O.A.G. No. 87.

10. Q. If personal bond is given, how many sureties are necessary and what must their qualifications be?

    A. Such a trustee's bond must be signed by at least two individual sureties who must be residents of the township, or a corporate surety. O.R.C. 505.02.

11. Q. May the premium of a licensed surety company on the bond of a township trustee or fiscal officer be paid out of the township treasury?

    A. Yes. O.R.C. 3929.17.

12. Q. When may a trustee be required to give additional bond or a new bond?

    A. When the approving judge finds it necessary and on application of at least twelve freeholders (person(s) having title to realty) of the township. O.R.C. 505.03.

Approving the Bond

1. Q. May a trustee or fiscal officer act as surety on another trustee's or fiscal officer's bond?

   A. Although there is no specific prohibition against this practice, such an arrangement is not good public policy and should be avoided..

2. Q. For what length of time should the bond run?

   A. O.R.C. 505.02 states that the length of the bond should run for the trustee’s term of office.

I. TOWNSHIP OFFICERS GENERALLY (CONTINUED)

Approving the Bond (Continued)

3. Q. May a probate judge approve the bond of a township trustee?

   A. No. O.R.C. 505.02 requires that such bond be approved by a judge of the county court or judge of a municipal court having jurisdiction in the township.

4. Q. Who approves the bond of a newly elected fiscal officer?

   A. The board of township trustees shall approve the fiscal officer's bond. O.R.C. 507.03.

5. Q. Is the fiscal officer of a board of township trustees required to keep any record of the acceptance of bonds of township officers?

   A. Yes. O.R.C. 507.04 requires that the township fiscal officer record the acceptance of the bonds of township officers.

Filing Bond

1. Q. Where shall the bond of a trustee be filed?

   A. Such bond shall be deposited with the township fiscal officer, who is then required to record it in the township bond book. O.R.C. 507.04..

2. Q. Where shall the bond of a fiscal officer be filed?

   A. Such bond shall be recorded by the fiscal officer and filed with the county treasurer. O.R.C. 507.03.

Vacancy in Township Office

1. Q. What are some of the ways in which a vacancy in the office of township trustee or fiscal officer might arise?

   A. A vacancy might occur by reason of non-acceptance of the office by a newly elected candidate for the office of trustee or fiscal officer. A vacancy might occur by reason of death or removal of the person chosen for the office. A vacancy would also occur whenever a township trustee or fiscal officer should cease to reside in the township or if such trustee were absent from the township for 90 consecutive days except in the case of sickness or injury, or U.S. military service. O.R.C. 503.24, 503.27, and 503.241.

I. TOWNSHIP OFFICERS GENERALLY (CONTINUED)

Vacancy in Township Office (Continued)

2. Q. If a trustee or fiscal officer dies, resigns, refuses to accept office, or a vacancy in the office of township trustee or township fiscal officer arises for any reason, who has the authority to fill such a vacancy?

   A. Such vacancy must be filled in accordance with O.R.C. 503.24. Under this section, the board of township trustees shall appoint a person having the qualifications of an elector to fill such vacancy for the unexpired term or until a successor is elected. If a township is without a board or if no appointment is made within 30 days after the occurrence of a vacancy, a majority of the persons designated as the committee of five on the last-filed nominating petition of the township officer whose vacancy is to be filled who are residents of the township shall appoint a person having the qualifications of an elector to fill the vacancy for the unexpired term or until a successor is elected. If at least three of the committee members who are residents of the township cannot be found, or if that number of such members fails to make an appointment within ten days after the 30-day period in which the board of township trustees is authorized to make an appointment, then the presiding probate judge of the county shall appoint a suitable person having the qualifications of an elector in the township to fill the vacancy for the unexpired term or until a successor is elected. If a vacancy occurs in a township elective office more than 40 days before the next general election for municipal and township officers, a successor shall be chosen at that election to fill the unexpired term, provided the term does not expire within one year from the day of the election. If the term expires within one year from the day of the next general election for municipal and township officers, an appointed successor shall serve out the unexpired term.

3. Q. If, because of a boundary change, a township officer no longer resides in the township in which he was elected to serve as office holder, under the provisions of O.R.C. 503.24, does the 30 day period in which a board of township trustees must appoint a new township trustee begin to run from the actual time the township officer ceases to reside in the township or from the time the trustees, under O.R.C. 503.241, declare a vacancy to exist in such office?

   A. The 30 day period begins to run from the actual time the township officer ceases to reside in the township. Although O.R.C 503.241, states that such office shall be deemed vacant and the board of township trustees shall declare a vacancy to exist in such office, the second paragraph of O.R.C 503.24, provides that the township trustees shall have 30 days "after the occurrence of a vacancy on the board" within which to fill the vacancy. If it were to be said that the time did not begin to run until the township trustees declared the office vacant, the township trustees might delay indefinitely declaring the office vacant. Therefore, it must be concluded that the language in O.R.C 503.241 does not control in this instance, and the vacancy would be said to occur when the township trustee ceases to reside within the limits of the township, whether or not the township trustees have declared the office vacant.

4. Q. If a township trustee or fiscal officer establishes a temporary residence to be near his place of business, but retains a permanent residence in the township of which he is fiscal officer or trustee, would the establishment of the temporary residence outside the township disqualify him from holding the office of fiscal officer or trustee in the township, thus creating a vacancy in the office?

   A. It is well settled in Ohio that the "legal residence" of a person, as defined in relation to the holding of a public office, is that place where his habitation is fixed and permanent, and to which, whenever he is absent, he has the intention of returning. Thus, removal for temporary purposes would not create a vacancy in the office, unless he was absent from the township for ninety consecutive days without a proper excuse. O.R.C. 3503.02.

I. TOWNSHIP OFFICERS GENERALLY (CONTINUED)

Vacancy in Township Office (Continued)

5. Q. Does the removal of a township trustee or fiscal officer from the township of which he is an officer create a vacancy in the board of trustees or office of fiscal officer?

   A. A "removal" of a township trustee or fiscal officer which is of such a nature that he is no longer an elector of that township creates a vacancy in the office. O.R.C. 503.24

6. Q. If a vacancy on the board of township trustees is caused by the inability of one of the trustees-elect to qualify, i.e. refuse to take the oath, refuse to provide bond, not a resident of the township; is there any process by which one of the old trustees could continue on, on the theory that his successor has not been properly elected or qualified?

   A. No. The vacancy on the board of trustees existing by reason of the ineligibility of the trustee-elect should be filled by appointment, as provided in O.R.C. 503.24. There is no authority for a trustee to hold over for the unexpired term in such an instance.

7. Q. Mr. P, whose name appeared on the ballot as a candidate for election, served during the election as presiding judge in one of the election precincts of the township for which he was a candidate. (A) If he receives enough votes to be elected, will he be issued a certificate of election by the election officials? (B) If so, may he proceed to qualify for the office of township trustee?

   A. (A) If Mr. P receives enough votes to be elected, he will be issued a certificate of election. (B) Even so, Mr. P will not be qualified to take office because O.R.C. 3501.15, provides that no person who is a candidate for an office or position to be voted for by the electors of a precinct shall serve as a precinct election officer in said precinct.

8. Q. Is the absence of a township officer a sufficient basis for declaring a township office vacant?

   A. Yes. Under O.R.C. 503.241, if a township officer is absent from the township for 90 consecutive days, his office shall be deemed vacant, and the board of township trustees shall declare a vacancy to exist in such office.

9. Q. How many meetings may a township trustee miss, if the board meets twice a month, before the other members of the board of township trustees may declare the office vacant?

   A. Failure to attend meetings is not a basis upon which the township trustees may declare the office of township trustee vacant. It is true that O.R.C. 503.241 provides that township trustees are authorized to declare the office of township trustee vacant (1) if the township trustee ceases to reside in the township, or (2) if the township trustee is absent from the township for 90 consecutive days. However, the absence referred to in O.R.C. 503.241, has been determined to mean a physical removal from the township for the 90 day period, and does not include a merely constructive removal resulting from failure to attend meetings. OAG-65-70.

I. TOWNSHIP OFFICERS GENERALLY (CONTINUED)

Vacancy in Township Office (Continued)

10. Q. The fiscal officer of a township is re-elected, but an illness makes it impossible for him to attend to the duties of his office. What can the township trustees do if he refuses to resign for the new term to which he was re-elected?

    A. Township trustees are authorized to declare vacancy only under the circumstances set forth in O.R.C. 503.241. O.R.C. 503.241 specifically provides that illness shall not be considered an absence, which would authorize the township trustees to declare the office vacant, unless the officer who is ill has failed to cause to be filed with the township trustees a physician's certificate of his illness within 10 days after the expiration of the 90 consecutive days of absence from the township. The trustees are empowered to appoint a deputy township fiscal officer when a township fiscal officer is unable to carry out the duties of his office. Such deputy fiscal officer shall serve during the period of time the fiscal officer is absent or incapacitated, or until a successor fiscal officer is elected or qualified. O.R.C. 507.02.

11. Q. What if two trustees are away from their offices at the same time?

    A. There cannot be a quorum until one or both absent trustees return(s) and a majority of the trustees exits. OAG 65-70.

12. Q. Under what circumstances must the township trustees appoint a deputy fiscal officer?

    A. When the township fiscal officer is unable to carry out the duties of the office because of military service, a court ordered suspension under section 507.13, or other disqualification or incapacity, the township trustees are required to appoint a deputy fiscal officer to perform the duties of the fiscal officer during the period of disqualification or disability. O.R.C. 507.02.

13. Q. How is the compensation of the fiscal officer and deputy fiscal officer established?

    A. The board of trustees shall, by resolution, adjust and determine the compensation of the fiscal officer and deputy fiscal officer. The total compensation of both the fiscal officer and any deputy fiscal officer shall not exceed the sums fixed by O.R.C.507.02 in any one year.

14. Q. Why is a nonresident of a township ineligible to be appointed to the office trustee or fiscal officer?

    A. Article XV, Section 4 of the Constitution of Ohio, requires any person elected to any office in the state to have the qualifications of an elector. O.R.C. 3.15(A)(3) states “Each person holding an elective office of a political subdivision shall be a resident of that political subdivision.”

I. TOWNSHIP OFFICERS GENERALLY (CONTINUED)

Vacancy in Township Office (Continued)

15. Q. May the duties of elected township officers be assigned during a medical emergency?

A. The duties of a township trustee may not be assigned to another person during a medical emergency that renders the trustee unable to discharge the duties of his office. OAG 2008-038. When a township fiscal officer is unable to carry out the duties of office because of illness, because of entering the military service of the United States, because of a court ordered suspension as provided for under section 507.13 of the Revised Code, or because the fiscal officer is otherwise incapacitated or disqualified, the board of township trustees shall appoint a deputy fiscal officer, who shall have full power to discharge the duties of the office. O.R.C. 507.02

16. Q. Are the provisions of law pertaining to mutual aid agreements, the propriety of assigning duties to elected township officers, or filling vacancies in elected township offices affected by federal and state declarations of emergency?

A. The provisions of law pertaining to (1) the authority of a township to enter into mutual aid agreements for reciprocal road maintenance and repair services, (2) the propriety of assigning the duties of elected township officers, and (3) filling vacancies in elected township offices are not repealed or otherwise affected by federal and state law empowering federal, state, and local officials to declare a state of emergency in a township or the type of emergency the township is confronting. OAG 2008-038

Illegal Interest in Public Contracts

1. Q. Do the criminal portions of the Ohio Revised Code cover the area of criminal liability for possessing an unlawful interest in a public contract?

A. Yes. This topic is now comprehensively treated in O.R.C. 2921.42.

2. Q. To whom is this statute applicable?

A. It is applicable to all "public officials." This includes not only any elected or appointed officer, but also employees or agents of a political subdivision. Therefore, all township officers and employees are criminally liable under this code section if the other elements of the crimes are present. "Public official" is defined in O.R.C. 2921.01. This statute applies to temporary as well as permanent "public officials."

3. Q. Is a public official who is unaware that his interest in a public contract is illegal free from criminal liability?

A. No. Although it must be established that the official was aware of his interest in the contract, there is no need to show that he was aware of the illegality of his interest. O.R.C. 2921.42; State v. Pinkney, 36 Ohio St.3d 190 (1988).

4. Q. Assuming that the requisite status and interest is present, what conduct is prescribed by the statute?

A. O.R.C. 2921.42 provides: No public official shall knowingly do any of the following:

(1) Authorize, or employ the authority or influence of his office to secure authorization of any public contract in which he, a member of his family, or any of his business associates has an interest;

I. TOWNSHIP OFFICERS GENERALLY (CONTINUED)

Illegal Interest in Public Contracts (Continued)

(2) Authorize, or employ the authority or influence of his office to secure the investment of public funds in any share, bond, mortgage, or other security, with respect to which he, a member of his family, or any of his business associates either has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees.

(3) During his term of office or within one year thereafter occupy any position of profit in the prosecution of a public contract authorized by him or by a legislative body, commission, or board of which he was a member at the time of authorization, unless the contract was let by competitive bidding to the lowest and best bidder.

(4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which he is connected.

(5) Have an interest in the profits or benefits of a public contract which is not let by competitive bidding when required by law, and which involves more than one hundred fifty dollars.

5. Q. What penalties attach for violation of O.R.C. Section 2921.42?

A. Violation of division (A) (1) or (2) of this section is a felony of the fourth degree. Violation of division (A) (3), (4), or (5) of this section is a misdemeanor of the first degree. Penalties vary, with potential fines and terms of imprisonment. O.R.C. 2921.42(E).

6. Q. O.R.C. 511.13 also addresses illegal interest in public contracts. Are O.R.C. 511.13 and O.R.C. 2921.42 dependent upon each other?

A. No. O.R.C. 511.13 prohibits any officer or employee of a township from being interested in a contract entered into by the township unless the employee or officer is a shareholder but not a director of officer of the contracting corporation, and his or her only interest in the corporation consists of less than 5% of the corporate stock which is worth less than $500.00. Also, the officer or employee must file with the county commissioners an affidavit to that effect. O.R.C. 511.13 is not dependent upon O.R.C. 2921.42 and must be construed and applied separately. O.R.C. 511.13 provides a broader prohibition than O.R.C. 2921.42 but, unlike O.R.C. 2921.42, provides no criminal sanctions. (OAG 1982-008 approved and followed). OAG 2007-044. O.R.C. 2921.42(G) contains certain notable exceptions to the criminal prohibitions contained in that section.

7. Q. If a person is elected to office as a Township Trustee, and prior to his taking office he is party to an ongoing multi-year contract to supply the Township with garage storage facilities for a number of years in the future, may he continue to benefit from that pre-existing multi-year contract after taking office? If not, do the other Township Trustees have a legal duty to take steps to set aside that contract to avoid paying the newly-elected Trustee payments that would otherwise be due under that pre-existing contract?

A. If a person enters into an ongoing multi-year contract to supply a township with garage storage facilities for a number of years in the future and is subsequently elected to the office of township trustee, the person is prohibited by O.R.C. 511.13 from serving as township trustee and continuing to have an interest in that preexisting multi-year contract. To avoid the prohibited conflict, the person may refuse the office of township trustee or, prior to taking office as trustee, divest himself or herself of the interest in the contract. O.R.C. 511.13 does not impose upon the other trustees the legal duty to take steps to set aside the contract. OAG 2007-044.

I. TOWNSHIP OFFICERS GENERALLY (CONTINUED)

Illegal Interest in Public Contracts (Continued)

8. Q If a Township Trustee owns a garage that he leases to a third party, and that third party then subleases the garage to the Township, does the Trustee continue to have sufficient "interest" in a contract with the Board such that this arrangement violates O.R.C. 511.13, *provided* the lease and/or sublease serve to eliminate any contractual relationship directly between the Township and the Trustee (and indeed provide for the Trustee being denied many of the typical rights of a landlord)?

   A. If the garage owner and the township void the ongoing multi-year contract and replace it with an arrangement under which the garage owner leases the garage to a third party who is expected to and does sublease the garage to the township, and if the garage owner takes office as township trustee, the trustee/owner has not divested himself of all interests in contracts of the township under O.R.C. 511.13. Rather, even if the lease/sublease arrangement serves to eliminate any direct contractual relationship between the township and the trustee/owner and denies the trustee/owner many of the typical rights of a landlord, the trustee/owner has a prohibited interest under O.R.C. 511.13 in the township's sublease, which provides for moneys of the township to be paid to rent the trustee/owner's garage and to be channeled to the trustee/owner. OAG 2008-008.

9. Q. Do the provisions of O.R.C. 511.13, which prohibit members of a Board of Trustees and officers and employees of a Township from having an interest in contracts entered into by the Board, unless the criteria for a permissible interest set forth in that section is met, limited to a five percent (5%) or less ownership of shares in a company, by an individual who is not an officer or director thereof, with a value of no more than five hundred dollars ($500.00), apply to prohibit all contracts not meeting such criteria, when a Trustee, officer or employee of the Township simply works for the company for which a contract is proposed, or should a particularizing inquiry be utilized to determine the existence of a direct pecuniary or personal interest?

   A. A trustee, officer, or employee of a township who is employed by an entity with which the township enters into a contract has an interest in the contract for purposes of O.R.C. 511.13, regardless of whether it can be demonstrated that the trustee, officer, or employee has a direct pecuniary or personal interest in the contract. OAG 2008-002.

Insurance as Compensation

1. Q. May township officers receive the benefits of a health insurance plan, with the premiums of such plan paid for with public funds?

   A. Yes, but such benefits are subject to the limitations discussed below. O.R.C. 505.60

2. Q. Assuming that a board of township trustees were to adopt an insurance plan for township officers, would such a plan be considered part of the officers' "compensation"?

   A. Yes. AOS Bulletin 96-002.

3. Q. Does this imply that the insurance premiums are to be paid from the annual salary of a township officer or that the salary is to be reduced by the amount of the premiums?

   A. No, it is to be paid in addition to the salary of the officer. AOS Bulletin 96-002.

I. TOWNSHIP OFFICERS GENERALLY (CONTINUED)

Insurance as Compensation (Continued)

4. Q. Can a board of township trustees reimburse a township officer, who was denied coverage by the township's regular health insurance carrier, for the cost of the officer's independently obtaining health insurance coverage for the officer and the officer's immediate dependents through the officer's outside employment.

   A. O.R.C. 505.60 (D)authorizes such reimbursement payments. In 2015, however, the United States Internal Revenue Service, and the United States Department of Labor issued guidance indicating that, under the Federal Affordable Care Act, such reimbursements would be subject to Federal penalty unless they were integrated into a group health plan. SEE Department of Labor Technical Release No. 2013.03; IRS Bulletin 2015-17, and 2015 OAG 21. The Federal 21st Century Cures Act which became effective on January 1, 2017, however, now permits such reimbursements which are not integrated to a health plan as to employers which employ fewer than fifty full-time or full-time equivalent employees as described in the law, but only when the qualifying employer does not offer any group health plan to its employees and officers, and reimbursements are available to all employees and officers on the same terms. It is recommended that, before undertaking any such reimbursement program, township officials consult with legal counsel and/or a qualified insurance consultant. O.R.C. 505.60 and 505.602.

5. Q. Can a board of township trustees reimburse a township officer, who elects not to participate in the coverage by the township's regular health insurance carrier, for the cost of the out-of-pocket premium attributable to that officer for health care coverage provided through the employer of the spouse of the officer?

   A. Section 505.60 authorizes such reimbursement payments, but only for those insurance policies described in O.R.C. 505.60(A), and only if the township adopts a resolution in accordance with O.R.C. 505.601(A) and (C) that authorizes such reimbursement. SEE, however, answer to question I.4. above. OAG 2005-038.

6. Q. Can a board of township trustees pay directly to the employer of the spouse of a township officer that portion of the cost of health insurance premium the employer attributes to the coverage provided the township's officer?

   A. No. OAG 2005-038.

7. Q. When may insurance coverage be authorized for an officer?

   A. It must be authorized before the commencement of the term for which the officer has been elected or appointed. Ohio Const., Art II, Section 20, provides: "The General Assembly, in cases not provided for in this Constitution, shall fix the term of office and the compensation of all offices but no change therein shall affect the salary of any officer during his existing term, unless the office be abolished." The terms "salary" and "compensation," as used in this section, are synonymous. Thus any insurance plan authorized after commencement of office would be a "change in salary," and therefore unconstitutional. OAG 81-099; AOS Bulletin 96-002.

I. TOWNSHIP OFFICERS GENERALLY (CONTINUED)

Insurance as Compensation (Continued)

8. Q. Brownheim Township negotiated a health insurance plan for its officers with a reputable insurance company. A contract was executed; premiums were paid out of township funds; and coverage for the officers was properly authorized prior to the commencement of their terms. However, the policy lapsed during the officers' existing terms, and a new policy with identical benefits has to be negotiated. This was done, but the new policy required higher premiums. Under these new circumstances, would the increased cost constitute a "change in compensation?"

   A. An increase in the cost of insurance coverage furnished to elected officials and township employees without an increase in the extent of insurance coverage is not in violation of Ohio Constitution, Art. II, Section 20. OAG No. 81-099.

9. Q. One of Brownheim Township's Trustees elected not to participate in a hospitalization plan offered by the township, even though he is properly authorized to do so at the beginning of his term of office. If he later changes his mind and decides to participate, will such participation be in violation of Ohio Const. Art II, Section 20?

   A. No. The goal of this constitutional section is clear. It is to prevent the pay or compensation of a public official from being modified by action taken during his or her current terms. However, that rationale does not apply to this situation. This trustee should not be penalized for declining insurance which was properly available to him at the beginning of his term. Therefore, he may later exercise an option to accept the insurance without violating Ohio Const., Art. II, Section 20, even though he had previously declined it, providing that the insurance was available to him at the commencement of his term of office. Such a trustee may opt to participate in an insurance plan even though his elected predecessor decided not to do so, provided that the plan was available prior to the actual commencement of his the office. OAG 78-054 and OAG 2012-024.

Waiver of Compensation

1. Q. May a township officer voluntarily waive compensation (either salary or benefits) at any time during their term of office?

   A. As stated in *State ex rel. Hess v. City of Akron, 132 Ohio St. 305 (1937)*: "The occupant of a public office may waive part of the established salary thereof," and "[s]uch a waiver is not contrary to public policy." OAG 2012-024

II. TOWNSHIP TRUSTEES

Compensation of Trustees

1. Q. How is the compensation of a township trustee determined?

   A. Township trustees are compensated on either a per diem or salary basis in the amounts set forth in O.R.C. 505.24. The township trustees' salaries are limited to two hundred (200) days annually. The amount of compensation varies with the township budget, as indicated in the following table:

Township Budget	**2016**	**2017**	**2018** See Note 1 (no increase)
$50,000 or less			
$50,000.01 – 100,000			
$100,000.01 – 250,000			
$250,000 or less	$38.49	$40.41	$40.41
$250,000.01 – 500,000	$44.57	$46.80	$46.80
$500,000.01 – 750,000	$47.27	$49.63	$49.63
$750,000.01 – 1,500,000	$54.01	$56.71	$56.71
$1,500,000.01 – 3,500,000	$59.42	$62.39	$62.39
$3,500,000.01 – 6,000,000	$64.82	$68.06	$68.06
$6,000,000.01 – 10,000,000	$83.99	$88.19	$88.19
Greater than $10,000,000	$107.98	$113.38	$113.38

Definition of Budget

1. Q. Is it the amount of the budget that is the controlling factor in determining the compensation of a township trustee or is it the receipts and expenditures of the township?

   A. In determining the compensation of a trustee, the controlling factor is the budget and not the receipts and expenditures. O.R.C. 505.24.

2. Q. As used in O.R.C. 505.24, relative to compensation of a township trustee, what is the meaning of the term "budget"?

   A. Ordinarily the word "budget" means the request filed with the budget commission by the taxing authority. However, if that definition were used in determining the compensation of a township trustee there would be nothing to prevent any township from filing a request for an amount in excess of $50,000.00 of the available resources for use in that fiscal year. Therefore, "budget" must be interpreted as the amount of money that the budget commission certifies that the trustees of a township would have available for expenditures during the fiscal year, as shown on its latest amended official certificate of estimated resources. For this purpose, "budget" means the official certificate of estimated resources of the township and any amended certificates issued by the county budget commission. OAG 92-003; OAG 99-015.

II. TOWNSHIP TRUSTEES (CONTINUED)

Definition of Budget (Continued)

3. Q. If the township has a budget of $10,000 and then amended the budget in that year so that, as amended, the budget is now $21,000, which budget is controlling as to the compensation of a trustee?

   A. In such an instance, the compensation of a township trustee would be controlled by the budget as amended and supplemented, and not the original budget adopted by the township trustees, assuming that an amended official certificate of estimated resources had been obtained from the budget commission recognizing this additional revenue. OAG 79-006 and OAG 99-015. See the following two questions and answers for further clarification.

4. Q. If the township has a budget of $100,000, subsequently amended to $101,000, how does such an amendment of the budget affect the per diem to which a trustee is entitled?

   A. After an amendment of the budget as specified, the per diem of the trustee for the remainder of the year is that established by statute for the higher budgetary level. He may not, however, enjoy the benefits of this increase retroactively, and be paid the higher rate for days of work preceding amendment of the budget. Rather the trustee receives the higher salary, only from the date the County Auditor approved the amended certificate. OAG 79-006; OAG 92-003; OAG 99-015.

5. Q. If the township has a budget of $100,000, subsequently amended to $101,000, how does such an amendment of the budget affect the annual salary to which a trustee is entitled?

   A. The annual salary would be increased on the effective date of the budget increase to the salary for the higher compensation bracket. This increase must, however, be pro rated for the portion of the year remaining after the effective date of the increase and would not result in a retroactive payment for the portion of the year already served. OAG 99-015.

What Constitutes a Day's Work

1. Q. If a township trustee, on a per diem basis, works on the township roads and in the evening of that same day attends a township meeting, what compensation is he entitled to?

   A. Since the township trustee is entitled to a fixed payment for each day of service in the business of the township, the service on the road and the attendance at a regular or special meeting in the evening of the same day would constitute one day's service in the business of the township and such trustee would be entitled only to his per diem for such duties. O.R.C. 505.24.

2. Q. If the township trustees, on a per diem basis, are called in by the county engineer for the purpose of revising the road mileage and in the evening of the same day the trustees meet to make appropriations for the year, are the township trustees entitled to their per diem for each meeting?

   A. No. According to the provisions of O.R.C. 505.24, township trustees are entitled to a fixed payment per day for services rendered in the interest of the township. Therefore, they could not receive their per diem for each meeting.

II. TOWNSHIP TRUSTEES (CONTINUED)

What Work is Compensable

1. Q. May a trustee who is employed in private industry legally be paid his/her per diem as township trustee if such trustee takes care of his duties as trustee after regular working hours, Saturdays, Sundays and holidays?

   A. Yes. O.R.C. 505.24.

2. Q. If a trustee is sick but not bedfast and is unable to go out on the road, can he draw his salary?

   A. Trustees paid on a per diem basis may be paid for work actually done in the service of the township, and properly presented to the fiscal officer. Therefore, an ill trustee who could not work could not be paid. However, trustees compensated on a salary basis could receive salary payments despite an illness. O.R.C. 505.24.

Method of Payment

1. Q. The method of determining the compensation of a trustee, as presented in answer 1 (Definition of Budget, pg. A-12), is quite clear. By what method, however, are the trustees paid? At monthly or weekly intervals?

   A. Two methods of payment are acceptable: (1) trustees may be paid on a per diem basis, or (2) they may elect to be paid by annual salary in equal monthly installments. O.R.C. 505.24.

2. Q. How are trustees paid on a per diem basis?

   A. If the township maintains the per diem method of compensation, the board of township trustees must establish, by resolution, a method by which the board members shall periodically notify the township fiscal officer of the number of days spent in the service of the township and the kinds of service rendered on those days. It is the position of the Auditor of State that such notice must: (a) be reduced to writing; (b) indicate the number of days of service; and (c) indicate the kind of service rendered on each day. The per diem compensation must be paid from the township general fund or from other township funds in proportion to the kinds of service rendered. This notice must be kept by the fiscal officer. Failure to file and maintain such notice properly may result in findings for recovery or adjustments to the township financial statements. O.R.C. 505.24.

3. Q. At what intervals should the trustee present his service record for payment?

   A. This interval should be specified in the resolution of the board of township trustees. This interval will depend on how the frequency and timing of payroll is determined and should be specified in a resolution of the board of township trustees. O.R.C. 505.24.

4. Q. Must the trustee's service record be notarized?

   A. No. O.R.C. 505.24 does not require the record be notarized.

II. TOWNSHIP TRUSTEES (CONTINUED)

Method of Payment (Continued)

5. Q. If the general fund of a township cannot support the compensation for all of the trustees, can any portion of their salary be allocated from other township funds?

   A. Yes. O.R.C. 505.24(D) states that trustees that are paid by the "per diem" method must document "…number of days spent in the service of the township and the kinds of services rendered on those days. The per diem compensation shall be paid from the township general fund or from other township funds in such proportions as the kinds of services performed may require." Also, see OAG 2004-036. If the trustees are paid by the "salary" method, O.R.C. 505.24(D) states: "Each trustee shall certify the percentage of time spent working on matters to be paid from the township general fund and from other township funds in such proportions as the kinds of services performed." AOS Bulletin 2011-007 provides additional information on this issue.

6. Q. How are trustees paid on a salary basis?

   A. The salary may not exceed the maximum amount which the trustee could receive if he were paid on a per diem basis and must be paid in equal monthly installments. O.R.C. 505.24.

7. Q. How is the salary method adopted?

   A. Adoption may be effected only by a unanimous vote of the board. It becomes effective on January 1 of the year following the year during which the board votes. O.R.C. 505.24.

8. Q. If the board is dissatisfied with the annual salary, and would like to return to the per diem method, is unanimous action necessary?

   A. No. To return to the per diem method, only majority action is required. Such action is effective, however, only on January 1 of the year following such action. O.R.C. 505.24.

9. Q. In the event that a trustee should die, resign, or otherwise vacate his office in the course of his term, what are the limits on compensation for his successor?

   A. The limits on compensation for a trustee are imposed on the individual, and not on the office. Therefore, the successor could draw his per diem to the full statutory limit. If the salary method of payment is used, each person holding the office may receive payments for only those months, and any fractions thereof, during which he holds the office. For the trustee leaving office, any adjustment necessary as to his compensation may be made in his final payment.

10. Q. Must a daily log of township work performed be maintained by the township trustees if the township adopts an annual salary method of compensation?

    A. No, however, if the trustees are to be compensated, in part, from a fund or funds of the township other than the general fund, there must be a reasonable compilation of the time of each trustee in service to the fund or funds so that the payments are justified. O.R.C. 505.24.

II. TOWNSHIP TRUSTEES (CONTINUED)

Method of Payment (Continued)

11 Q. Can township trustees be paid from the township's ambulance and emergency medical services fund?

A. If a township trustee, who is paid on a per diem basis, spends time working on matters related to the township's ambulance and emergency medical service, and properly documents his time under the method adopted by the board of township trustees pursuant to O.R.C. 505.24(D), then the per diem earned by the trustee for that work may be paid from the ambulance and emergency medical services fund established pursuant to O.R.C. 505.84. If, however, a township trustee is paid an annual salary, his compensation is not eligible for payment from the ambulance and emergency medical services fund, unless the trustee certifies by percentage the amount of time worked on matters related to the township's ambulance and emergency medical services.

12. Q. Are township trustees required to document their work to receive compensation?

A. The method of payroll chosen at the beginning of the year may determine if documentation is required and to what extent. If the trustee is paid by the "per diem" method, documentation is required regardless if he is paid solely from the general fund. (O.R.C. 505.24(D)) If a trustee is paid by the "salary method", and is paid solely from the general fund, no documentation is required. However, if a trustee is paid by the "salary method" and any portion of his salary is appropriated from any of the restricted funds that month, he must certify, by a percentage figure, the amount of work performed related to those restricted funds for that pay period as well as the general fund.

Once a method is chosen, either the per diem or annual salary method, it must be used for the entire year. Since the fiscal officer must compute pro-rata amounts charged to other funds, if payroll is drawn from restricted funds, the trustees are required to provide a certification document showing the amount of time worked that relates to all funds, including the general fund. See Auditor of State Bulletin 2011-007.

13. Q How specific/detailed should trustees be when certifying worked performed? Is there a specific form required?

A. Trustees can use the sample form provided in Auditor of State Bulletin 2011-007, or they can develop their own form, as long as the information they are certifying illustrates the percentage of time spent that relates to the time worked.

14. Q. If a township trustee is documenting their time so their salary can be allocated to different funds, can their related benefits be allocated to the same funds?

A. Yes, as long as the trustee certifies by percentage the amount of time worked for these funds, the benefits can be allocated as well. (O.R.C. 505.60, OAG 2004-036 and Auditor of State Bulletin 2011-007).

15. Q. What percentage of a trustee's salary and related benefits may be charged to funds other than the general fund?

A. Time spent working on matters other than the general business of the township must be documented, and only that time may be allocated to funds other than the general fund. Attendance at board meetings and other activities supporting the general business of the township must be allocated to the general fund; therefore, the allocation of 100 percent of a trustee's compensation to funds other than the general fund is not permitted under Ohio law. (Auditor of State Bulletin 2013-002)

II. TOWNSHIP TRUSTEES (CONTINUED)

Attendance at Meetings

1. Q. Do the township trustees have the right to charge the per diem rate for each day's attendance at a county-wide meeting with other township boards of trustees within the county?

   A. Yes. It has been held that in the absence of an apparent abuse of discretion and evidence of bad faith by a particular trustee, it cannot be said, as a matter of law, that it is unlawful for township trustees, after determining the need for a conference with the trustees of other townships for the purpose of discussing the duties of township trustees, their problems with respect to highways, cemeteries and poor relief, to credit themselves with the time expended in attending such a meeting as being "service in the business of the township," for which they are entitled to per diem compensation. O.R.C. 505.24; 1936 OAG 5126.

2. Q. May township trustees receive their per diem as provided in O.R.C. 505.24, for attending the annual meetings of the Ohio State Association of Township Trustees and Fiscal officers?

   A. Yes. It has long been the practice of public officials to form state organizations and hold meetings at least once a year. There is no express legal basis for such organizations or for the payment of compensation to such public officials for attending meetings of such organizations. However, it has been the general impression that the exchange of ideas and comparison of methods has resulted in a great deal of public benefit. Therefore, it has been held that in the exercise of sound discretion, and in the absence of an abuse of discretion or evidence of bad faith in a particular case, the township trustees may, after having determined the need and propriety of attending such meetings as being service in the business of the township, receive per diem and expenses for attendance at such meeting. O.R.C. 505.24; 1936 OAG 5126.

3. Q. May a board of township trustees pay the association dues of a county-wide trustee association since membership in this association is a prerequisite for attendance at the meetings?

   A. Yes, but only if the association is one which was formed for the purpose of improving township government. If that requirement is met, dues may be paid from the general fund. O.R.C. 505.24; OAG 80-041.

4. Q. Where invitations have been extended to all township trustees to attend a "Good Roads Day" at the Ohio State Fair and sponsored by the state highway department, are the township trustees entitled to a per diem compensation and their expenses for attending such meeting?

   A. No. Trustees are not entitled to their per diem for attendance at all meetings under any circumstance. In the instance at hand, the proposed attendance at the State Fair is not compensable, nor can such trustee be paid expenses for attending such meeting. 1940 OAG 2806.

5. Q. May a township trustee, other than the chairman of the board of township trustees, attend a meeting of the district advisory council of the general health district and be compensated for attendance?

   A. No. O.R.C. 3709.03 (A), authorizes only one township trustee to attend the meetings of the advisory council of the general health district. This section provides the trustee authorized to attend shall be the chairman of the board of township trustees.

II. TOWNSHIP TRUSTEES (CONTINUED)

Attendance at Meetings (Continued)

6. Q. If the chairman of the board of township trustees is unable to attend a meeting of the district advisory council of the general health district, may any other trustee attend in his place and be paid?

   A. Yes. O.R.C. 3709.03 (A), authorizes the board of township trustees to select an alternate from among themselves to serve if the chairman of the board of township trustees is unable to attend.

7. Q. Who should pay the per diem and expenses of township trustees attending a meeting called by the county engineer under O.R.C 5543.06?

   A. Each official attending shall receive his/her actual and necessary expenses in addition to his/her regular per diem or salary, which shall be paid by the county treasurer from the road fund of the county on itemized vouchers approved by the engineer. O.R.C. 5543.06.

Expenses of Trustees

1. Q. May a trustee hire someone with an automobile to take him out to inspect the roads and, if so, may the person hired be paid for the use of the automobile?

   A. No. There is no authority in law given to the township trustee to cover such an expenditure. Township trustees are to furnish their own transportation and when such travel is within the township, may not collect any expense in connection with the use of their cars on township business within the township. 1958 OAG 2087.

2. Q. Under what conditions may a trustee collect pay for mileage for the use of his automobile on township business?

   A. Township trustees may be reimbursed for their necessary traveling expenses incurred by them while using their personally owned automobiles on their official business. 1957 OAG 243.

3. Q. May a township trustee be paid for his necessary expenses in the use of his automobile, going to and from the place of business that supplies parts for township equipment?

   A. The only time that a township trustee would be permitted an allowance to cover such expenses would be if the place of business where parts are procured should be located outside the township. 1957 OAG 243.

4. Q. When a trustee travels outside the township on township business, what expenses would be allowed for the use of his car?

   A. Only actual expenses involved in the operation of his automobile are allowed. The township trustees should pass a resolution establishing a reimbursement rate per mile, as well as other pertinent travel reimbursement policies. The rate paid state employees for mileage or the rate authorized by IRS may be looked to as a guide in determining what a reasonable rate per mile might be. 1957 OAG 243.

II. TOWNSHIP TRUSTEES (CONTINUED)

Expenses of Trustees (Continued)

5. Q. What amount may a township trustee collect as expenses in attending the convention of the Ohio State Association of Township Trustees and Fiscal officers?

   A. There is no definite sum set to determine the allowance to trustees for meals and lodging. The only yardstick used in the determination of the legality of the amount of expenses which can be charged is the application of the United States Code S. U.S. App. Section 505(3) ((1998 ed.) Supp V), which states: "The expense must be actual and necessary." Receipts for expenditures are necessary. However, the trustees may by resolution establish a reimbursement policy which states the following:

      a. A dollar limit below which receipts are not needed; for example, parking below $1.00.

      b. A total maximum limit on expenditures; for example, no more than $300 each to attend the annual convention of the Ohio State Association of Townships Trustees and Fiscal officers.

      c. Any policies covering travel expenses for officials and/or employees; i.e., reimbursement for meals or tips.** AOS Bulletin 2004-002.

      Note: alcoholic beverages are **not reimbursable expenditures.

Township Website

1. Q. What may a township include in a township website? May they include links to other websites?

   A. A board of township trustees is authorized pursuant to O.R.C. 9.03(B) to operate a township website that communicates information about the plans, policies, and operations of the township to members of the public and other persons who may be affected by township matters. A board of township trustees is prohibited by O.R.C. 9.03(C)(1)(e) and (2) from using public funds to support or oppose a candidate for public office, a recall effort, or a levy or bond issue, and from compensating a township employee for time spent on any activity to influence the outcome of an election for any of these purposes. Therefore, a township is prohibited from compensating township employees or otherwise using public funds to include on its web site a link to the web site of another organization if that organization's website advocates the support or defeat of a candidate, recall effort, or levy or bond issue. A board of township trustees is not permitted to expend public funds in order to include on the township website a link or other information concerning matters that do not fall within the statutory authority of the township. OAG. 2002-001.

Certified Public Records Training Requirements

1. Q. Who is required to receive certified public record training?

   A. All officials elected to statewide or local office are required to receive 3 hours of CPRT for each term of office. Exceptions include justices of the Supreme Court, court of appeals, common pleas, municipal court, county court or a clerk of any of those courts. (O.R.C. 109.43(B) and 149.43(E))

II. TOWNSHIP TRUSTEES (CONTINUED)

Certified Public Records Training Requirements (Continued)

2. Q. What is the purpose of this training?

   A. The training is designed to enhance the elected officials' knowledge of the duty to provide access to public records. (O.R.C. 109.43(B))

3. Q. Who is responsible for providing this training?

   A. The training was developed by the office of the Ohio Attorney General. (ORC 109.43(B)) Currently, the Ohio Attorney General and the Ohio Auditor of State's offices are the only two offices offering CPRT. In the future, the AGO may contract with other state agencies or private entities to perform these trainings. (O.R.C. 109.43(D))

4. Q. If I cannot attend CPRT before the end of my term, can I designate someone to attend the training on my behalf?

   A. If the elected official so chooses, the law allows a designee to be appointed to receive the training on the elected official's behalf. The designee must be an employee in the elected official's public office and there must be evidence of the designation. Often one of the group of elected officials will be chosen as the designee for all of the others (e.g.: the Village Clerk attends the training for his/her own requirement and also is the designee for the members of the village council).(O.R.C.109.43(A)(1), O.R.C. 149.43(A)(12) and O.R.C. 149.011(A))

5. Q. What type of evidence of the designation is acceptable?

   A. Acceptable evidence includes a resolution dated prior to the training that stipulates who is attending the CPRT and if that person is attending on his own behalf and/or on behalf of other elected officials in his office. Also, a certificate from the AGO or AOS indicating that the person(s) registered for the training did, in fact, attend and receive the certification is necessary.

III. TOWNSHIP FISCAL OFFICER

Training of Fiscal Officer

1. Q. Is a township fiscal officer required to attend training?

   A. Yes. To enhance the background and working knowledge of township fiscal officers in government accounting, budgeting and financing, financial report preparation, and the rules adopted by the auditor of state, the auditor of state shall conduct education programs and continuing education courses for individuals elected or appointed for the first time to the office of township fiscal officer, and shall conduct continuing education courses for individuals who continue to hold the office in a subsequent term. The Ohio township association also may conduct such initial education programs and continuing education courses if approved by the auditor of state. The auditor of state, in conjunction with the Ohio township association, shall determine the manner and content of the initial education programs and continuing education courses.

   A newly elected or appointed township fiscal officer shall complete at least six hours of initial education programs before commencing, or during the first year of, office. A township fiscal officer who participates in a training program held under section 117.44 of the Revised Code may apply those hours taken before commencing office to the six hours of initial education programs required under this division.

   In addition to the six hours of initial education required under division (B) of this section, a newly elected township fiscal officer shall complete at least a total of eighteen continuing education hours during the township fiscal officer's first term of office.

   A township fiscal officer who is elected to a subsequent term of office shall complete twelve hours of continuing education courses in each subsequent term of office. O.R.C. 507.12

Removal of Fiscal Officer

1. Q May a township fiscal officer be removed from office?

   A. O.R.C. 507.13 provides the conditions and process for the removal of a township fiscal officer. Section 117.40 also provides a procedure for the removal of a township fiscal officer who knowingly refuses to keep the accounts of the township as required by Chapter 117 or rules adopted by the Auditor of State under that chapter. An action for removal under the section is initiated by the Ohio Attorney General at the request of the Auditor of State and is heard in the common pleas court of the county in which the township is located.

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Duties of Fiscal officer
Keeping the Minutes

1. Q. Should the fiscal officer read the minutes for approval and give a financial statement at each meeting?

   A. The reading of the minutes for approval and the provision of a financial statement at each meeting are determined by the board of trustees when creating their rules of procedures for the management of their meetings. There is no legal requirement that the minutes be read for approval or that a financial statement be provided at each meeting. However, it is customary for the fiscal officer to do so because it enables the minutes of the meeting to reflect how and when this information was transmitted to the board.

2. Q. What format do the minutes of a township trustees' meeting have to take to satisfy public record keeping statutes?

   A. Audio or videotape recordings, word-for-word transcripts, even abstracts of the discussions indicating the identity of the speakers, the chronology and the substance of their statements, serve as legitimate means of satisfying public record-keeping statutes. White v. Clinton County Board of Commissioners, 76 Ohio St. 3d 416,424 (1996); O.R.C. 121.22. Furthermore, public records must contain full and accurate minutes including sufficient facts and information to permit the public to understand and appreciate the rationale behind the relevant public body's decision. White, 76 Ohio St. 3d 416,424 (1996).

3. Q. Must the township fiscal officer keep the records of the township in a public facility?

   A. No. However, in any township where the fiscal officer does not keep the township's records in a public facility, the board of township trustees, once each quarter of each year, may request the fiscal officer to provide the board with copies of township records for its review. If the board makes such a request, it shall inform the fiscal officer which records it wants copies of by indicating the dates or types of the records being requested. A request made under this section does not diminish any trustee's right to inspect township records under division (B) of section 149.43 of the Revised Code. O.R.C. 507.04(B).

4. Q. Can a board of township trustees of a township which has not adopted limited home rule government under Chapter 504 designate a person to take minutes of board meetings pursuant to O.R.C. 504.09?

   A. A board of township trustees that has not adopted a limited home rule government pursuant to Chapter 504 of the Ohio Revised Code is not authorized to designate a person to keep its journal and take the minutes of board meetings. OAG 2005-042.

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Duties of Fiscal officer (Continued)
Issuance of Warrants

1. Q. Is the fiscal officer required to sign all checks on the township for the payment of money?

   A. Yes. O.R.C. 507.11, provides that no money belonging to the township shall be paid out except upon an order signed personally by at least two of the township trustees and countersigned by the township fiscal officer.

2. Q. May a fiscal officer refuse to sign a warrant which has been approved by all three trustees if the fiscal officer has reason to believe that payment is irregular or illegal?

   A. When two or more members of the board have signed a voucher approving payment of a township obligation which is legal and regular in every respect it is the duty of the township fiscal officer to draw up the warrant for payment of such obligation. When, however, the township fiscal officer is in doubt as to the legality of the voucher, he should consult with the prosecuting attorney before drawing the warrant and follow the prosecutor's advice on the matter. To protect himself further, the fiscal officer should cause to be entered in the minutes of the meeting information to the effect that the prosecutor had been consulted on the matter and his advice followed.

3. Q. In order to simplify things in regard to money withheld by the county auditor for auditor's and treasurer's fees, election expenses and similar things, why not give the money to the township and let the fiscal officer issue the check for the same?

   A. Such a procedure would not be in accordance with the statutes which provide that the amount chargeable to each subdivision shall be withheld by the county auditor from the moneys payable thereto at the time of the next regular tax settlement. O.R.C. 3501.17(A).

4. Q. Can townships use online payments to pay invoices?

   A. Yes, if the payee provides a written authorization designating a financial institution and an account number to which the payment is to be credited, (O.R.C. 9.37(B)) and order for such payment signed by at least two township officers and countersigned by the township clerk. O.R.C. 507.11(B); 1997 OAG No. 97-053. Townships should also be aware of the Uniform Electronic Transactions Act, Chapter 1306 of the Revised Code, which generally applies to electronic records and electronic signatures relating to a transaction.

5. Q. Can a township pay its employees by direct deposit?

   A. A township may pay its employees by direct deposit of funds by electronic transfer provided the board of township trustees authorizes such automatic payments by resolution. OAG 2009-034. However, pursuant to O.R.C. 5705.41(B), (C), and (D)(1), a township may not make any expenditure of money unless a warrant has been issued against a proper fund, moneys have been appropriated properly to fund such expenditure, and the township fiscal officer has certified the amount. Furthermore, pursuant to R.C. 507.11(B), a board of township trustees is required to approve each payroll and township financial obligation with an order signed by at least two of the township trustees and the township fiscal officer. OAG 2009-034; OAG 97-053; O.R.C. 9.37.

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Duties of Fiscal officer (Continued)
Issuance of Warrants (Continued)

6. Q. May a fiscal officer contract with a credit union service organization to assist the township with preparation of payroll and other records?

   A. Provided the requirements of O.R.C. 9.35(C)(1) through(4) are satisfied, a township fiscal officer may contract with a credit union service organization to assist the township with the preparation of payroll and other records, the preparation, signing, and issuance of checks, the preparation of reports and accounts, and the performance of all similar duties. OAG 2011-011.

7. Q. Must a board of township trustees authorize a contract with a credit union service organization for services necessary to transfer payments of money to township employees' accounts using electronic funds transfers in order to satisfy the township's payroll obligation?

   A. Pursuant to O.R.C. 9.37, a township fiscal officer may contract with a credit union service organization for services necessary to transfer payments of money to township employees' accounts using electronic funds transfers in satisfaction of the township's payroll obligation, provided that the board of township trustees authorizes such a contract by resolution. Such an arrangement under O.R.C. 9.37 between a township fiscal officer and a credit union service organization does not contravene the requirements of O.R.C. Chapter 135. OAG 2011-011.

Preparation of the Annual Financial Report

1. Q. When shall the annual financial report of the township be prepared and published?

   A. Such report must be filed with the Auditor of State within 60 days after the close of the fiscal year. O.R.C. 117.38.

2. Q. On what forms shall the report be filed and what shall it contain?

   A. Users of the Uniform Accounting Network (UAN) shall file their annual financial report in accordance with UAN guidelines.

   Non-UAN townships shall file an annual report on the forms provided by the Auditor of State.

   The financial report shall be made in accordance with forms prescribed by the Auditor of State and shall contain: O.R.C. 117.38

   (A) Amount of collections and receipts, and accounts due from each source;.
   (B) Amount of expenditures for each purpose;
   (C) Income of each public service industry owned or operated by a municipal corporation, and the cost of such ownership operation;
   (D) Amount of public debt of each taxing district, the purpose for which each item of such debt was created, and the provision made for the payment thereof.
   (E) Other pertinent information as required by the Auditor of State.

3. Q. How shall the annual financial report be published?

   A. O.R.C. 117.38 states that at the time the report is filed with the Auditor of State, the fiscal officer must publish in the newspaper notice of the completion of the report and the fact that the report is available at the office of the fiscal officer. Publication of the summary sheet for cash basis reports is not required.

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Duties of Fiscal officer (Continued)
Preparation of the Annual Financial Report (Continued)

4. Q. At what rate may the township contract to pay for the publication of the annual report in the newspaper?

   A. O.R.C. 7.10, states that "except when the rate is otherwise fixed by law, publishers of newspapers may charge and receive for such advertisements, notices, and proclamations rates charged on annual contracts by them for a like amount of space to other advertisers who advertise in its general display advertising columns." This indicates that the township shouldn't pay any more than any other customer of the newspaper for like advertising space.

5. Q. What if there is an emergency situation which prevents the fiscal officer from filing and publishing the financial report within 60 days of the end of the fiscal year?

   A. The township fiscal officer should prepare a letter to the Auditor of State, Chief of Local Government Services, explaining the circumstances and date when the report will be filed. The request for extension should be submitted no later than 60 days before the township's deadline for filing its financial report. The request should be signed by the township fiscal officer and a member of the board of township trustees. The Auditor of State will consider granting extensions under very limited circumstances as follows (1) the public office is located in an area where a major flood or natural disaster has recently occurred; (2) records are destroyed through fire or casualty; (3) the public office is going through its first time GAAP conversion; (4) records are not updated due to recent death or disability of the person responsible for preparing the financial report; or (5) a newly elected public official requests extension due to poor maintenance of financial records by the predecessor official. Upon filing the report, a request for the waiver of penalty should be made to the Auditor of State. The Auditor of State has the authority to consider and waive all or any part of the penalty.

Accounting Records

1. Q. What books are required by law to be kept by the fiscal officer?

   A. The fiscal officer must keep an accurate record of the board's proceedings at all meetings, and an accurate record of the township's accounts and transactions. The township is required to provide the fiscal officer with a journal or minute book, an account book, a book for recording the oaths and bonds of township officials, a book of the record of township roads, and a book for recording the sale of cemetery lots, as well as a cash journal, receipts ledger, and appropriation ledger, and cash journal. O.R.C. 507.04, 507.05.

2. Q. May a township fiscal officer choose his own method of bookkeeping so long as he follows good accounting procedures?

   A. No. The township fiscal officer is not authorized to choose his own method of bookkeeping except in a very limited sense per O.R.C. 117.43. This section provides that the Auditor of State may prescribe by rule, the requirements for accounting and financial reporting for public offices other than state agencies.

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Duties of Fiscal officer (Continued)
Miscellaneous Duties

1. Q. Does a fiscal officer of a township not having a fire department have any duty to investigate fires and report the result of his investigation to the state fire marshal?

   A. No. The fire prevention officer of a township having no fire department shall make such investigation and report. The result is that the fiscal officer no longer has this responsibility. O.R.C. 505.38 (B).

2. Q. May the township trustees require the fiscal officer to be present in his office at certain daytime hours each week?

   A. No. The township fiscal officer is an elected official and, therefore, his office is on the same plane as are the offices of the members of the board of township trustees. The result is that under normal circumstances he, like the township trustees, is responsible only to the public. The township trustees would have no authority to determine that he should be present in the office during certain daytime hours. 1986 OAG 057.

3. Q. May the fiscal officer of a township maintain his or her office from the fiscal officer's home?

   A. Yes. A fiscal officer may maintainhis or her office within the fiscal officer's home. 1986 OAG 057.

4. Q. Who is responsible for delivery of election booths and ballot boxes to the voting places at election time, the township or the board of elections?

   A. O.R.C. 3501.37, provides that the fiscal officer of a township or the auditor of a municipal corporation "shall have booths and equipment on hand and in place at the polling places in each precinct before the time for opening the polls on election day, and for this service the board may allow the necessary expenses incurred. In cities this duty shall devolve on the board." It is evident, therefore, that in the township territory outside the limits of a municipality, the township fiscal officer has the duty of seeing to it that such election equipment is delivered to the polling places in the precincts.

5. Q. Does the township fiscal officer have any duty to remove the booths and other equipment after the election is over?

   A. No. O.R.C. 3501.37, provides that "After each election, the precinct election officials of each precinct, except when the board of elections assumes the duty, shall see that the movable booths and other equipment are returned for safekeeping to the township fiscal officer of the township or to the clerk or auditor of the municipal corporation in which the precinct is situated."

6. Q. Do the township officials have any authority to designate the polling place or to move it from one location in the township to another?

   A. No. O.R.C. 3501.18, provides that the duty to designate the polling place lies with the board of elections and not with any township officials.

7. Q. Is the township fiscal officer required to attend meetings of the township trustees?

   A. Yes. O.R.C. 507.04(A) requires the fiscal officer to personally attend at least one meeting of the board during each quarter of every year, unless attendance is prevented by the occurrence of an emergency.

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Duties of Fiscal officer (Continued))
Miscellaneous Duties (Continued)

8. Q. What duties does a township fiscal officer have in regards to building permit fees collected under O.R.C. 3781.102(E)?

   A. A township fiscal officer has a duty to deposit building permit fees collected under O.R.C. 3781.102(E) into a public depository of the township, invest or deposit the fees in various investments, and keep the financial records associated with, and account for, the deposit and use of the fees. OAG 2011-026.

Deputy Fiscal officer

1. Q. When may a deputy township fiscal officer be appointed?

   A. A deputy township fiscal officer shall be appointed if an incumbent fiscal officer shall be unable to carry on the duties of his office because of illness, because he has entered the military service of the United States, because of a court ordered suspension as provided for under section 507.13 of the revised code, or because he is otherwise incapacitated or disqualified. O.R.C. 507.02.

2. Q. Who shall appoint a deputy township fiscal officer?

   A. The board of township trustees shall appoint the deputy fiscal officer. O.R.C. 507.02.

3. Q. May the township trustees appoint a deputy fiscal officer under O.R.C. 507.02, when the fiscal officer absents himself for several months at a time from the township, for example, a vacation in Florida, when there are checks that must be written by the fiscal officer to pay regular township employees and to take care of other important matters?

   A. No. Before the township trustees may appoint a deputy fiscal officer to discharge the duties of the office during the fiscal officer's absence, they must find the fiscal officer's inability to perform the duties of the office based on one or more of the reasons as set out in O.R.C. 507.02. These reasons include that a township fiscal officer is unable to carry out the duties of his office because of illness, because he has entered the military service of the United States, because of a court ordered suspension as provided for under section 507.13 of the revised code, or because he is otherwise incapacitated or disqualified. Mere absence alone would not be a sufficient reason to make such an appointment. Of course, if the absence exceeds 90 consecutive days, this would be considered the basis for declaring the township office vacant and give the trustees cause to appoint a different person as fiscal officer. O.R.C. 507.02; O.R.C. 503.24.

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Duties of Fiscal officer (Continued)
Deputy Fiscal officer (Continued)

4. Q. During what period of time may a deputy fiscal officer serve?

   A. A deputy fiscal officer may serve during the time a fiscal officer is absent, incapacitated, or until a successor fiscal officer is elected or qualified. Such deputy fiscal officer must, however, give bond for the faithful discharge of his duties before entering on the discharge of such duties. O.R.C. 507.02 and O.A.G. 66-243.

5. Q. What requirements does a deputy fiscal officer have to meet?

   A. The deputy fiscal officer must meet the qualifications of an elector and must post bond. O.R.C. 507.02 and O.A.G. 66-243

6. Q. In what amount may the deputy fiscal officer be compensated?

   A. O.R.C. 507.02, controls the amount of compensation to which a deputy fiscal officer is entitled, but does not specifically state the amount that shall be paid to the deputy fiscal officer. Instead, this section provides that: "The board shall by resolution adjust and determine the compensation of the fiscal officer and the deputy fiscal officer. The total compensation of both the fiscal officer and any deputy fiscal officer shall not exceed the sums fixed by O.R.C. 507.09 in any one year."

7. Q. In an instance in which the books of the township are in a poor condition, or if for some other reason it is thought desirable, may the township hire an accountant or some other specialist to audit the books or to put them in a good condition?

   A. The board of township trustees may obtain an audit by a private accountant only with the prior approval of the Auditor of State pursuant to O.R.C. 115.56 or 117.11. The board may, however, contract with a private accountant to correct the township books with the concurrence of the township fiscal officer. Upon request, the Local Government Services Division of the Auditor of State's Office may be available at a reasonable cost to provide such assistance.

Assistant Fiscal officer

1. Q. If the fiscal officer feels that the duties of the township are such that he is not going to be able to do all the work himself, may the township fiscal officer hire an assistant fiscal officer to aid him in keeping the books?

   A. Yes. The township fiscal officer may hire and appoint one or more persons as the fiscal officer finds necessary to provide assistance to the township fiscal officer or deputy fiscal officer. The township fiscal officer may set the compensation of those persons subject to the prior approval of the board of township trustees. Those persons shall serve at the pleasure of the township fiscal officer or, in the absence of the fiscal officer, the deputy fiscal officer. The township fiscal officer may delegate to an assistant any of the duties the fiscal officer is otherwise required to perform. The appointment of assistants under this section does not relieve the township fiscal officer of responsibility to discharge the duties of the office but shall serve to provide assistance to the fiscal officer in performing those duties. The compensation of an assistant appointed under this section shall be included in the estimate of contemplated expenditures for the township fiscal officer's office that is submitted to the board of township trustees for approval as provided in section 5705.28 of the Revised Code. O.R.C. 507.021.

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Duties of Fiscal officer (Continued))
Assistant Fiscal Officer (Continued)

2. Q. Must an assistant township fiscal officer give bond?

   A. Yes. Before serving, an assistant to the township fiscal officer shall give bond for the faithful discharge of the duties of the office as may be delegated by the fiscal officer. The bond shall be payable to the board of township trustees and shall be for the same sum as required under section 507.03 of the Revised Code for the township fiscal officer, with sureties approved by the board, and conditioned for the faithful performance of duties delegated by the fiscal officer. The bond shall be recorded by the township fiscal officer, filed with the county treasurer, and carefully preserved. O.R.C. 507.021(C).

Compensation of Fiscal officer
When Trustees May Determine Compensation

1. Q. In what instances do the township trustees have authority to exercise their discretion in determining the amount of compensation to which a township fiscal officer shall be entitled?

   A. The township trustees have no authority to set the salary of a township fiscal officer. O.R.C. 507.09 specifically sets forth the compensation levels of township fiscal officers. These limits are set forth in the following table.

Township Budget	**2016**	**2017**	**2018** See Note 1 (no increase)
$50,000 or less			
$50,000.01 – 100,000			
$100,000.01 – 250,000			
$250,000 or less	$10,398	$10,918	$10,918
$250,000.01 – 500,000	$13,370	$14,039	$14,039
$500,000.01 – 750,000	$14,854	$15,597	$15,597
$750,000.01 – 1,500,000	$17,826	$18,717	$18,717
$1,500,000.01 – 3,500,000	$20,796	$21,836	$21,836
$3,500,000.01 – 6,000,000	$22,282	$23,396	$23,396
$6,000,000.01 –	$25,573	$26,852	$26,852
Greater than $10,000,000	$29,585	$31,064	$31,064

Note 1: Note 1: A provision in the most recent state budget bill combined the lowest budget categories into one - $250,000 and below. **Only those township officials elected or appointed after September 29, 2015 are entitled to the increase in 2017**, as current officials are not eligible for midterm increases pursuant to the Ohio Constitution.

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Compensation of Fiscal officer
Other Compensation

1. Q. May a fiscal officer certify the assessment list of the years of a twenty year lighting contract, and each year collect the fee provided by O.R.C. 515.12?

   A. No. O.R.C. 515.12 requires that the annual assessments certified to the county auditor in the year of assessment, be certified for the entire ten year period. The fiscal officer would not be authorized to certify the entire list of assessments each year and collect the fifty cents per parcel each year in the ten year period. Therefore, the township fiscal officer would be compensated only for this initial certification of these assessments at the beginning of the ten year period. He would, however, in subsequent years, be entitled to the fees set forth in O.R.C. 515.12, for certifying any changes or additions in assessments. See also O.R.C. 515.11.

2. Q. What are the fees to which a fiscal officer is entitled as compensation for duties performed in the establishment of a lighting district, and how shall such fees be paid?

   A. The fiscal officer is entitled to a fee of fifty cents from each lot or land owner for whom a notice is prepared, plus the sum of fifty cents for each assessment certified to the county auditor. The fiscal officer's fees are not payable out of township funds. Instead, the total amount of the fees should be determined and included in the cost of the lighting district and assessed against the property. O.R.C. 515.12, provides that: "The compensation shall be in addition to all other compensation provided by law." Therefore, any such compensation received by the fiscal officer would be outside the limitations set forth in O.R.C. 507.09.

3. Q. May a township fiscal officer receive compensation for assuming the duties of secretary to the board of township trustees?

   A. No. A township fiscal officer may assume the duties associated with the position of secretary to the board of township trustees, but may not receive additional compensation for doing so. OAG2011-027.

4. Q. May a township fiscal officer receive a portion of building permit fees as extra compensation for performing duties in regard to the collection and disbursement of building permit fees imposed pursuant to O.R.C. 3781.102(E)?

   A. No. Regardless of the type of fund in which building permit fees collected under O.R.C. 3781.102(E) are deposited, a township fiscal officer is not entitled to receive a portion of the fees as extra compensation. OAG 2011-026.

5. Q. By what method is the township fiscal officer paid his compensation?

   A. The method by which township fiscal officers are paid their compensation is set forth in O.R.C. 507.09. All township fiscal officers are to be paid on a salaried basis, in equal monthly installments.

6. Q. From what fund should the compensation of fiscal officer be paid?

   A. A township fiscal officer may be compensated from the township general fund or from other township funds based on the proportion of time the township fiscal officer spends providing services related to each fund. A township fiscal officer must document the amount of time the township fiscal officer spends providing services related to each fund by certification specifying the percentage of time spent working on matters to be paid from the township general fund or from other township funds in such proportions as the kinds of services performed. (O.R.C. 507.09(E)) See Auditor of State Bulletin 2011-007. This allocation is only permitted going forward from September 29, 2011, retrospective allocation is not permitted

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Compensation of Fiscal officer (Continued)
Other Compensation (Continued)

6. Q. What percentage of a fiscal officer's salary and related benefits may be charged to funds other than the general fund?

   A. Time spent working on matters other than the general business of the township must be documented, and only that time may be allocated to funds other than the general fund. Attendance at board meetings and other activities supporting the general business of the township must be allocated to the general fund; therefore, the allocation of 100 percent of a fiscal officer's compensation to funds other than the general fund is not permitted under Ohio law. (Auditor of State Bulletin 2013-002)

Compensation of Fiscal officer Appointed to Fill Vacancy

1. Q. If the fiscal officer resigns on July 1, 1999, and a successor is immediately appointed, how is the compensation of each determined?

   A. Pursuant to O.R.C. 507.09(E), each fiscal officer is entitled to his pro rata share of the compensation set forth in O.R.C. 507.09. The limits on compensation are to be applied to the office and the combined compensation of the two office holders may not exceed the maximum specified by statute. State ex rel. Ryland v. Schinkal, 49 Ohio St. 2d 1 (1976).

Expenditure: A Paying Out of Money

1. Q. Are the monies paid out or disbursed by a township fiscal officer to redeem township notes in anticipation of issuance of bonds, a part of the budget upon which a fiscal officer's compensation may be based?

   A. Yes. When the notes are redeemed in anticipation of issuance of bonds there has been an expenditure, since an expenditure is defined as a paying out of money. Such monies may properly be included as part of the budget and the total expenditures of the township. O.R.C. 507.09, sets forth the compensation level of township fiscal officers based upon the township budget.

Expenses of Fiscal officer

1. Q. Is the fiscal officer allowed so much per month for expenses when the money is appropriated for such purpose?

   A. No. There is no authority in law for the township trustees to appropriate a monthly amount to cover expenses of the fiscal officer. The authorized compensation of the fiscal officer is set forth in O.R.C. 507.09. However, in some instances, township trustees may allow and pay for expenses incurred in attendance of meetings by the township fiscal officer. 1937 OAG No. 242; 1936 OAG No. 6064.

2. Q. Can a township fiscal officer charge mileage or expenses for the use of his automobile such as for trips to cemeteries to sell lots to patrons?

   A. No. There is no authority in law to reimburse a township fiscal officer for mileage or expense incurred by him in the use of his personally owned automobile while performing duties within the township.

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Compensation of Fiscal officer (Continued)
Expenses of Fiscal officer (Continued)

3. Q. Is the fiscal officer entitled to extra compensation in addition to his salary, for trips he has to make to the auditor (Auditor of State or independent public accountant) with the books when such trips are within the township?

   A. No. Trips within the township for any purpose of the township business do not entitle a fiscal officer to any extra compensation for the expense of the use of his car.

4. Q. Is the township fiscal officer entitled to compensation to cover the expenses of operation of his automobile incurred while traveling on township business outside the township?

   A. Yes. Provided the trips outside the township are strictly on township business, the fiscal officer may be reimbursed for reasonable expenses incurred in operation of the fiscal officer's automobile provided the township business requires him to travel outside the limits of the township. 1957 OAG No. 243.

5 Q. If a fiscal officer, of a township with no townhall, keeps and maintains township records at her house, is she entitled to reimbursement for expenses incurred in the moving of township records to a new residence?

   A. While there is no direct authority for this reimbursement, maintaining township records is in the public interest and is essential to the performance of the fiscal officer's statutory duties. The township trustees may compensate a fiscal officer for various expenses incurred while performing township business in the officer's own home, so long as the expenses are reasonable, expenditures are properly documented, and there is a properly enacted resolution. Please see AOS Bulletin 2003-005.

6. Q. May a board of trustees pay rent to a fiscal officer for keeping and maintaining township records in her home?

   A. If the township has no townhall, the board of trustees is authorized to purchase, lease, or construct, and furnish, equip, and maintain office space (O.R.C. 505.26). As long as there are is a properly enacted resolution, it is up to the discretion of the trustees whether or not to pay rent to the fiscal officer for the maintenance of township records in her home. Please see AOS Bulletin 2003-005.

7. Q. May the township fiscal officer incur obligations on behalf of the township where the specific expenditure has not been previously authorized by the board of trustees?

   A. The board of township trustees may, by resolution, authorize township officers and employees to incur obligations of $2,500.00 or less. If authorized by resolution, then a fiscal officer may incur obligations up to the set amount. The obligations incurred shall subsequently be approved by adoption of a formal resolution of the board of trustees. O.R.C. 507.11(A). No money belonging to the township shall be paid out except upon an order signed personally by at least two of the township trustees, and countersigned by the township fiscal officer. O.R.C. 507.11(B).

III. TOWNSHIP FISCAL OFFICER (CONTINUED)

Fiscal officer as a Township Employee

1. Q. Is the elected fiscal officer, working on behalf of the township, covered by workers' compensation?

   A. All elected officials and employees of a township either on a salary or hourly basis are covered by workers' compensation. O.R.C. 4123.01(A)(1)(a). et. seq.

2. Q. May a fiscal officer become a member of the public employees retirement system?

   A. Yes. As an elected official, the township fiscal officer may join the public employees retirement system, although he is under no obligation to do so. O.R.C. 145.20.

Certified Public Records Training Requirements

1. Q. Who is required to receive certified public record training?

   A. With the exception of certain elected officials, all officials elected to statewide or local office are required to receive 3 hours of CPRT for each term of office. A township official may participate in the training himserlf or herself, or have it completed by his or her designe who is another officer or an employee of the township. (O.R.C. 109.43(B) and 149.43(E))

2. Q. What is the purpose of this training?

   A. The training is designed to enhance the elected officials' knowledge of the duty to provide access to public records. (O.R.C. 109.43(B))

3. Q. Who is responsible for providing this training?

   A. The training was developed by the office of the Ohio Attorney General. (O.R.C. 109.43(B)) Currently, the Ohio Attorney General and the Ohio Auditor of State's offices are the only two offices offering CPRT. In the future, the AGO may contract with other state agencies or private entities to perform these trainings. (O.R.C. 109.43(D))

4. Q. If I cannot attend CPRT before the end of my term, can I designate someone to attend the training on my behalf?

   A. If the elected official so chooses, the law allows a designee to be appointed to receive the training on the elected official's behalf. The designee must be an employee in the elected official's public office and there must be evidence of the designation. Often one of the group of elected officials will be chosen as the designee for all of the others (e.g.: the Village Clerk attends the training for his/her own requirement and also is the designee for the members of the village council).(O.R.C.109.43(A)(1), O.R.C. 149.43(A)(12) and O.R.C. 149.011(A))

5. Q. What type of evidence of the designation is acceptable?

   A. Acceptable evidence includes a resolution dated prior to the training that stipulates who is attending the CPRT and if that person is attending on his own behalf and/or on behalf of other elected officials in his office. Also, a certificate from the AGO or AOS indicating that the person(s) registered for the training did, in fact, attend and receive the certification is necessary.

IV. EMPLOYEES OF A TOWNSHIP

Unionization

1. Q. Is the Public Employees Collective Bargaining Act, 1983 S 133, applicable to a township?

   A. Whether or not the Act is applicable to a particular township is determined based on the amount of population in the unincorporated area of the township. The Act applies to all townships with a population of at least 5,000 in the unincorporated area of the township according to the most recent federal decennial census. O.R.C. 4117.01(B).

2. Q. Are all public employees permitted to engage in collective bargaining under the Act?

   A. In a township with a population over 5,000 in the unincorporated area, all employees are covered by the Act, except:
   (1) Persons holding elective office;
   (2) Employees of the general assembly and employees of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;
   (3) Employees on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the governor or the chief executive;
   (4) Persons who are members of the Ohio organized militia, while training or performing duty under section 5919.29 or 5923.12 of the Revised Code;
   (5) Employees of the state employment relations board, including those employees of the state employment relations board utilized by the state personnel board of review in the exercise of the powers and the performance of the duties and functions of the state personnel board of review;
   (6) Confidential employees;
   (7) Management level employees;
   (8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;
   (9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;
   (10) Supervisors;
   (11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;
   (12) Employees of county boards of election;
   (13) Seasonal and casual employees as determined by the state employment relations board;
   (14) Part-time faculty members of an institution of higher education;
   (15) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;
   (16) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;
   (17) Employees of community-based correctional facilities and district community-based correctional facilities created under sections 2301.51 to 2301.58 of the Revised

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IV. EMPLOYEES OF A TOWNSHIP (CONTINUED)

Unionization (Continued)

3. Q. Who has the responsibility for the administration of the Act?

   A. The Act shall be administered by a board consisting of three members to be appointed by the governor with the advice and consent of the senate, who are knowledgeable about labor relations or personnel practices, and known as the State Employment Relations Board ("SERB"). O.R.C. 4117.02.

4. Q. What rights are given to public employees under the Act?

   A. Public employees who are covered by the Act are given, under O.R.C. 4117.03(A), the right to:
   (1) form, join, assist, or participate in, or refrain from forming, joining, assisting, or participating in, except as otherwise provided in Chapter 4117 of the Ohio Revised Code, any employee organization of their own choosing;
   (2) engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection;
   (3) representation by an employee organization;
   (4) bargain collectively with their public employer to determine wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, and enter into collective bargaining agreements;
   (5) present grievances and have them adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and as long as the bargaining representatives have the opportunity to be present at the adjustment.

5. Q. What area of the employer/employee relationship are subject to bargaining?

   A. The employer is not required to bargain on subjects reserved to the management and direction of the township except as they affect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. However, the employer may voluntarily bargain on matters of inherent managerial policy: the direction, supervision, evaluation and hiring of employees; the maintenance and improvement of the efficiency and effectiveness of governmental operations; the determination of the overall methods, process, means or personnel by which governmental operations are to be conducted; the suspension, discipline, demotion or discharge for just cause, or the layoff, transfer, assignment, schedule, promotion, or retention of employees; the determination of the adequacy of the work force; determination of the overall mission of the employee as a unit of government; and the effective management of the work force. O.R.C. 4117.08(A) and (C).

6. Q. Are there any areas which are prohibited topics of bargaining?

   A. Yes. The Act provides certain areas are not proper topics of bargaining, and these include: the conduct and grading of civil service examinations; the rating of the candidates; the establishment of eligible lists from the examinations; the eligible lists; and, the original appointments from the eligible lists. O.R.C. 4117.08(B).

IV. EMPLOYEES OF A TOWNSHIP (CONTINUED)

Unionization (Continued)

7. Q. How does a township determine what bargaining unit is the recognized representative?

   A. The employee bargaining unit may be recognized in following ways:

      (1) By being certified by the State Employment Relations Board when a majority of the voting employees in the unit select the employee organization as their representative in a board-conducted election under O.R.C. 4117.07;

      (2) Filing a request with a public employer with a copy to the State Employment Relations Board for recognition as an exclusive representative as set forth in O.R.C. 4117.05(A)(2).

      Subsequent to the receipt of the request by a public employer, the public employer may request an election under division (A)(2) of section 4117.07 of the Ohio Revised Code, or the public employer can (a) post notice in each facility in which employees are employed, setting forth the description of the bargaining unit, the name of the employee organization requesting recognition, the date of the request for recognition, and advise employees that objections to certification be filed with the State Employment Relations Board not later than the twenty-first day following the date of the request for recognition; or (b) immediately notify the State Employment Relations Board of the request for recognition.

8. Q. Does the Act establish unfair labor practices and remedies for their occurrence?

   A. Yes. O.R.C. 4117.11 and 4117.12, set forth unfair labor practices (O.R.C. 4117.11) and the remedies and procedures available to the party aggrieved by them (O.R.C. 4117.12).

9. Q. Are methods prescribed for the resolution of disputes arising out of the negotiation, modification, or termination of a collective bargaining agreement?

   A. Yes, O.R.C. 4117.14 sets forth a detailed guideline of methods to resolve disputes.

10. Q. Are strikes prohibited?

    A. Whether or not a strike is prohibited is determined according to two factors: first, the public employee and the position held; and, second, whether, if the employees are in a class permitted to strike and the process outlined in O.R.C. 4117.14 has been followed. Generally, those prohibited from striking include safety and health employees, emergency medical or rescue personnel, and their dispatchers. The list is not exhaustive, and the specific categories of employees prohibited from striking is set forth in O.R.C. 4117.14(D)(1).

11. Q. How can a strike be terminated?

    A. Strikes can be enjoined under certain circumstances, which are set forth in O.R.C. 4117.15 and 4117.16. Strikes by those safety and health employees prohibited from striking are enjoined pursuant to O.R.C. 4117.15. Strikes by other employees may be temporarily enjoined if the strike is creating a clear and present danger to the public health and safety, as set forth in O.R.C. 4417.16.

12. Q. What effect does the Act have on the employer/employee relationship in a township whose population does not measure at least 5,000 in the unincorporated areas?

    A. If the township has a population of less than 5,000 in the unincorporated area, it is not subject to the Act, and is not required to recognize unions or engage in collective bargaining.

IV. EMPLOYEES OF A TOWNSHIP (CONTINUED)

Non-Union or Public Employees – General Provisions not covered by Collective Bargaining Agreement

Qualifications

1. Q. Is there any requirement that employees of a township be residents thereof?

   A. No. Townships are generally prohibited from imposing residency requirements on employees. O.R.C. 9.481(B) states:

   > (1) Except as otherwise provided in division (B)(2) of this section, no political subdivision shall require any of its employees, as a condition of employment, to reside in any specific area of the state.
   >
   > (2)(a) Division (B)(1) of this section does not apply to a volunteer.
   >
   > (b) To ensure adequate response times by certain employees of political subdivisions to emergencies or disasters while ensuring that those employees generally are free to reside throughout the state, the electors of any political subdivision may file an initiative petition to submit a local law to the electorate, or the legislative authority of the political subdivision may adopt an ordinance or resolution, that requires any individual employed by that political subdivision, as a condition of employment, to reside either in the county where the political subdivision is located or in any adjacent county in this state…

2. Q. May a minor under eighteen be employed to do all kinds of township work, including operating a road grader?

   A. No. O.R.C. 4109.05, provides that the director of commerce shall adopt rules prohibiting the employment of minors in occupations which are hazardous or detrimental to their health. No minor may be employed in any such occupation. Therefore, if the type of work for which the minor is being employed could be construed as "hazardous or detrimental" to the minor, the Industrial Relations Agency should be consulted first.

Mode of Employment

1. Q. May one township trustee by himself contract to employ persons to perform township business or must all three trustees agree on the employment?

   A. The hiring of employees must be done with the consent and approval of the majority of trustees. In an instance in which a township is divided up into road districts, the mere division as such does not give the trustee assigned to each of such districts the authority to hire the employees for his district. To acquire that authority, specific language in a resolution would have to provide that the trustee would have such power.

Rate of Pay

1. Q. May township employees be paid on a salary basis, or may they only be paid at an hourly rate?

   A. Since there is no general statute controlling the mode of payment of township employees, they may be paid on either an hourly, per diem, or salary basis as set forth by a resolution or resolutions of the board so long as there is compliance with minimum wage and FLSA requirements.

IV. EMPLOYEES OF A TOWNSHIP (CONTINUED)

Non-Union or Public Employees – General Provisions not Covered by a Collective Bargaining Agreement (Continued)
Rate of Pay (Continued)

2. Q. What minimum wage requirements apply to township employees?

   A. Township employees must be paid the state minimum wage per Article II, Section 34a of the Ohio Constitution, and 29 U.S.C., Section 218. The current minimum wage, with some exceptions, is $8.30 per hour. This minimum wage amount will increase each January 1 by the rate of inflation according to the consumer price index. For current Ohio minimum wage information, visit: http://www.com.ohio.gov/documents/dico_2017MinimumWageposter.pdf

3. Q. What exemptions to the minimum wage apply to townships?

   A. Townships with annual budgets of less than $297,000 for the preceding calendar year shall pay a wage rate of not less than that established under the Federal Labor Standards Act, currently $7.25. The gross revenue figure will be increased each January 1 by the change in the consumer price index, rounded to the nearest one thousand dollars. Article II, Section 34a of the Ohio Constitution, https://www.legislature.ohio.gov/laws/ohio-constitution/section?const=2.34a

4. Q. At what rate must employees be paid for overtime work?

   A. Under the Fair Labor Standards Act, employees must be paid at one and one half times their base rate for all hours worked in excess of forty hours in one week. Firefighting personnel, if not exempt, must be paid at one and one half times their base rate for all hours worked in excess of 212 hours in a 28 day work period. Law enforcement employees, if not exempt, must be paid at one and one half times their base rate for all hours worked in excess of 171 hours in a 28 day work period. O.R.C. 4111.03.

5. Q. May employees be given compensatory time in lieu of overtime?

   A. Yes. Employees may be given “comp” time at a rate of one and one half to a maximum of 240 hours. Public safety, emergency response, and seasonal personnel may accrue up to 480 hours of comp time. All overtime beyond the applicable limit must be paid in cash. Accrued and unused “comp” time must be paid in cash upon separation at the higher of the employee's average rate of pay over the preceding three years or the final rate of pay. O.R.C. 4111.03.

6. Q. What does O.R.C. 4115.04 provide as to the determination of the prevailing wage?

   A. Every public authority authorized to contract for or construct with its own forces a public improvement, before advertising for bids or undertaking such construction with its own forces, shall have the Bureau of Employment Services determine the prevailing rate of wages of mechanics and laborers in accordance with O.R.C. 4115.05 for the class of work called for by the public improvement in the locality where the work is to be performed.

IV. EMPLOYEES OF A TOWNSHIP (CONTINUED)

Non-Union or Public Employees – General Provisions not Covered by a Collective Bargaining Agreement (Continued)
Rate of Pay (Continued)

7. Q. How is the word "construction" defined in determining whether the prevailing wage must be paid?

A. O.R.C. 4115.03(B), as amended effective January 1, 2016, "Construction,"

(1) Except as provided in division (B)(3) of this section, any new construction of a public improvement, the total overall project cost of which is fairly estimated to be more than the following amounts and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority:
   (a) One hundred twenty-five thousand dollars, beginning September 29, 2011 and continuing for one year thereafter;
   (b) Two hundred thousand dollars, beginning when the time period described in division (B)(1)(a) of this section expires and continuing for one year thereafter;
   (c) Two hundred fifty thousand dollars, beginning when the time period described in division (B)(1)(b) of this section expires.

(2) Except as provided in division (B)(4) of this section, any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a public improvement, the total overall project cost of which is fairly estimated to be more than the following amounts and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority:
   (a) Thirty-eight thousand dollars, beginning on the effective date of this amendment and continuing for one year thereafter;
   (b) Sixty thousand dollars, beginning when the time period described in division (B)(2)(a) of this section expires and continuing for one year thereafter;
   (c) Seventy-five thousand dollars, beginning when the time period described in division (B)(2)(b) of this section expires.

(3) Any new construction of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction, the total overall project cost of which is fairly estimated to be more than seventy-eight thousand two hundred fifty-eight dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(4) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction, the total overall project cost of which is fairly estimated to be more than twenty-three thousand four hundred forty-seven dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority.

8. Q. What minimum wage provisions shall the contract between the township and the successful bidder for the construction, reconstruction, or improvement of a road contain?

A. O.R.C. 4115.06, provides that the contract shall contain a provision requiring the successful bidder and all his subcontractors to pay a rate of wages which shall not be less than the rate of wages fixed under O.R.C. 4115.04.

IV. EMPLOYEES OF A TOWNSHIP (CONTINUED)

Non-Union or Public Employees – General Provisions not Covered by a Collective Bargaining Agreement (Continued)
Rate of Pay (Continued)

9. Q. When improving a township road by force account as provided in O.R.C. 5575.01, is it necessary for the township to pay a rate of wages which shall not be less than the rate of wages fixed as provided in O.R.C. 4115.04.

   A. No. O.R.C. 4115.06, was amended to exempt the township from paying the prevailing wage when proceeding by force account as provided in O.R.C. 5575.01.

10. Q. If the township is going to employ a person to perform a maintenance or repair service for the township other than painting or decorating, as, for example, cutting grass in the cemetery, cleaning the townhall, operating a fire engine, or maintaining a township road by spreading gravel on it, what wage must such a person be paid?

    A. The requirement of O.R.C. 4115.04, does not apply to the employment of labor for maintenance projects. Therefore, it would not be necessary to contact the Department of Industrial Relations in order to obtain the prevailing rates of services of such maintenance mechanics and laborers. See definition, O.R.C. 4115.03(B).

11. Q. How often may the township trustees determine the salary that is to be paid a township employee?

    A. Once the township trustees have determined the wage rate to be paid township employees, any subsequent increase to such employees would be permissible only in the event that a new resolution, duly entered upon the minutes of the meeting, was adopted by the board of township trustees.

Hours of Employment

1. Q. Is there any prohibition against a township working the road crew for more than eight hours a day or forty-eight hours per week on the maintenance and repair of the roads?

   A. Section 37, Article II of the Constitution of Ohio provides that: “Except in cases of extraordinary emergency, not to exceed eight hours shall constitute a day's work, and not to exceed forty-eight hours a week's work, for workmen engaged on any public work carried on or aided by the state, or any political subdivision thereof whether done by contract, or otherwise.” However, the constitutional provision is related to construction of public improvements and not to their maintenance and repair. 29 U.S.C. 207 also prohibits some workers from being required to work more than eight hours per day or forty hours per week without sufficient compensation. However, Section 207 has many exceptions.

IV. EMPLOYEES OF A TOWNSHIP (CONTINUED)

Vacation, Sick Leave, and Holidays

1. Q. Is there any statute which specifically governs the amount of vacation or sick leave that township employees may be granted?

   A. It depends. O.R.C. 124.38 and 124.39 only apply to civil service townships. If a township does not qualify as a civil service township, then the board of township trustees determines the vacation and sick leave policies of township employees. A "civil service township" means any township with a population of ten thousand or more persons residing within the township and outside any municipal corporation, which has a police or fire department of ten or more full-time paid employees, and which has a civil service commission established under O.R.C. 124.40(B).

2. Q. Does the fact that statutory provisions are not made for townships other than civil service townships means that they are prohibited from providing sick leave or vacation benefits for their employees?

   A. No. The trustees of townships other than civil service townships may, in their sound discretion, grant vacations and sick leave to township employees.

3. Q. What guide may the trustees of townships, other than civil service townships, follow in granting vacations and sick leave?

   A. In addition to O.R.C. 124.38 and 124.39; 124.13 et. seq., may be used as a guide by the trustees in exercising their discretion in these matters.

4. Q. If a township has both full-time or salaried employees and hourly or per diem employees, may vacation pay and sick leave be granted to all employees in both classifications?

   A. Yes. Although there is no statute specifically granting vacation pay or sick leave to township employees, the township trustees have implied authority in the exercise of sound discretion to grant all such employees reasonable periods of vacation as well as sick leave.

5. Q. May a township employee receive both sick leave and vacation with pay?

   A. Since the granting of either privilege depends upon the discretion of the employing official, it would be entirely within the exercise of their discretion for the township trustees to grant either sick leave or vacation time.

6. Q. May part-time township employees be granted a reasonable amount of sick leave with pay?

   A. Yes.

7. Q. If a township has both full-time or salaried employees and hourly or per diem employees, may pay for legal holidays be granted to all employees in both classifications?

   A. Yes. O.R.C. 511.10, states that "Any township employee working on a salary or hourly basis is entitled to eight hours of holiday pay for New Year's Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Washington-Lincoln's Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas of each year, provided that the employee is a regular employee with at least six months full-time township service, prior to the month when such holiday occurs." Holidays shall occur when specified in O.R.C. 1.14.

IV. EMPLOYEES OF A TOWNSHIP (CONTINUED)

Vacation, Sick Leave, and Holidays (Continued)

8. Q. When a holiday designated in O.R.C. 511.10, occurs during the vacation period of a full-time regular township employee having at least six months of full-time township service, should the holiday be charged as a day of vacation?

   A. No.

9. Q. If a township employee should die and has not used up all of the vacation time allotted to him, may the township trustees pay the estate of such township employee for any earned but unused vacation time?

   A. Yes. Allotted vacation time, once earned, becomes a vested right. Therefore, the estate of the deceased employee would be entitled to the allotments, provided such a policy was in effect in the township at the time of the employee's death.

10. Q. Is it permissible to pay an employee vacation pay after he has served notice of retirement or other termination?

    A. The trustees may, acting within their discretion, permit an employee to use his vacation credits prior to the effective date of his retirement or termination, or permit the employee to be paid in cash for the amount of vacation credits he has accrued prior to the effective date of termination. Any cash payment must be made after retirement or separation, and no PERS deduction may be taken.

11. Q. May an employee be paid accrued sick leave upon retirement or termination?

    A. Yes. There exists no statutory provision limiting the authority of a board of trustees to adopt such a policy.

12. Q. May the township trustees authorize the payment of a $200.00 bonus to township employees at the end of the year if they have not used their sick time?

    A. Yes. Such authority may be inferred from the statutory authority of the trustees to fix the compensation of township employees.

13. Q. May a non-civil service township adopt a policy pursuant to O.R.C. 511.10 whereby as part of their employee compensation, it credits a township employee who has transferred from another form of public service with a portion of his or her unused accumulated sick leave?

    A. Absent a collective bargaining agreement providing otherwise, a board of trustees of a non-civil service township may grant the employees it hires pursuant to O.R.C. 511.10 credit, as a form of compensation, for unused sick leave accumulated in prior public employment. O.R.C. 511.10 authorizes a board of township trustees to employ and fix the compensation of the employees mentioned therein. A board of trustees possesses, as part of its authority to fix compensation, the power to grant its employees sick leave benefits, subject to any statutory restrictions. OAG. 2002-034.

IV. EMPLOYEES OF A TOWNSHIP (CONTINUED)

Retirement

1. Q. Where can information relative to the public employees retirement system be obtained?

   A. Letters should be directed to the Public Employees Retirement System, 277 East Town Street; Columbus, Ohio 43215. Phone calls should be directed to (614) 466-2085.

2. Q. How long may the township trustees employ a person before he must become a member of the public employees retirement system?

   A. Membership in the system is compulsory and must begin immediately upon being appointed.

3. Q. Does membership in another retirement system exempt a public employee from compulsory membership in the public employees retirement system?

   A. No. Any employee who is contributing to or is receiving retirement or disability benefits from a police relief and pension fund, a fireman's relief and pension fund, state highway patrol retirement system, or a municipal retirement system established prior to June 30, 1938, or who has been granted a disability retirement allowance by the state teachers retirement system, or the school employees retirement system is a member and is eligible to make contributions or accrue benefits in the public employees retirement system.

4. Q. Would it be compulsory for casual employees such as those hired for a few hours or for irregular periods of time as for example persons to cut brush or weeds to belong to the public employees retirement system?

   A. Yes. There would be no exemptions for these or any other township employees. O.R.C. 145.03.

5. Q. May a township trustee become a member of the public employees retirement system?

   A. Yes. It is not mandatory that an elected official become a member, as in the case of employees; however, at his option, a trustee may elect membership in the public employees retirement system. O.R.C. 145.20.

6. Q. Are old exemptions still valid?

   A. No. Exemptions granted before the new regulations are no longer valid.

7. Q. May an employee whose earnings from such employment are or become taxable subject to tax on wages by virtue of the enactment of Section 102 of the Social Security Amendments of 1983, elect to have such earnings exempted from contribution to the public employees retirement system?

   A. Yes. A member of the public employees retirement system whose earnings from such employment are or become taxable pursuant to the Social Security Amendment may elect to have such earnings exempted from contribution by filing with the public employees retirement board a written request, bearing his signature, not later than 90 days after the date the member becomes subject to the tax on wages. O.R.C. 145.034.

IV. EMPLOYEES OF A TOWNSHIP (CONTINUED)

Retirement (Continued)

8. Q. If a person who worked for the township from 1950 to September 15, 1957, but who was not a member of the public employees retirement system during that period of time now wishes to make up the back payments, how should such arrearage be computed?

   A. The township should submit a record of the payroll record of such employee to the Public Employees Retirement System at 277 East Town Street, Columbus, Ohio, 43215 and that agency will determine the amount payable by the employee and the amount due from the township.

9. Q. May the employee's and employer's contribution to the pubic employees retirement system be paid from any fund other than the general fund?

   A. Yes. Since the employee's contribution is taken from his salary, as of necessity, the employee's share should be paid from whatever fund the employee is paid. As to the employer's contribution, O.R.C. 145.12, provides that the board of township trustees of each township "may reimburse the fund from which such appropriation is made by transferring to such fund from any other fund of such subdivision the proportionate amount of such appropriation that should be chargeable to such fund whether such fund is derived from taxation or otherwise." In the alternative, such payment may be made directly out of any funds, whether derived from taxation or otherwise, from which the salaries or compensation of employees are payable.

10. Q. May a township "pick up" all or part of the employees' share of the contributions to the public employees retirement system, as a fringe benefit?

    A. The procedures in question are very complex, requiring approval by both the Internal Revenue Service and the retirement system. It is therefore suggested that, if such a plan is considered, the township should obtain the advice of the prosecuting attorney and contact the Public Employees Retirement System. It should also be noted that a plan which involves the township trustees, or township fiscal officer, may be an improper increase in their compensation, whether or not it is commenced during a term of office.

11. Q. Two township employees joined the public employees' retirement system and made back payments of over eight hundred dollars, with the result that the general fund of the township will be depleted when the township is billed and pays its portion from the general fund. Is there any other fund from which payment can be made?

    A. Yes. The township's share of the contribution to the public employees' retirement system should be taken from the funds from which the service of the employees was paid. Therefore, if the two employees worked on the road during the time of their employment and their salaries were paid from the road fund, payment could be made from the road fund.

12. Q. If a person who had been employed by the township and was a member of the public employees retirement system during such employment stopped working for the township in 1976 and at that time withdrew the amount he had paid into the retirement system, is there any way he can pay back the amount he had withdrawn so that his retirement will benefit from this prior period of employment?

    A. Yes. The Public Employees Retirement System should be consulted on this matter. Letters should be directed to Public Employees Retirement System, 277 East Town Street; Columbus, Ohio 43215. Phone calls should be directed to (614) 466-2085.

IV EMPLOYEES OF A TOWNSHIP (CONTINUED)

Retirement (Continued)

13. Q. Does a township have authority to purchase, as a fringe benefit for its elected officials, additional service credit, as described in O.R.C. 145.201, in the Public Employees' Retirement System?

    A. No. A township is without authority to purchase additional service credit for its elected officials. Elected public officials whose compensation is set by statute are not entitled to receive fringe benefits that are not statutorily provided or made available. The compensation of elected township officials, like that of state, county, and other local elected officials, is set by statute and no statute authorizes them to participate in pick up plans offered as a fringe benefit where there is no corresponding reduction in salary. OAG 2004-048.

14. Q. If an elected official is denied a pay increase due to the prohibition on midterm pay increases, can that official get retirement credit for the increase that was denied?

    A. When a contributing OPERS member has been elected or appointed to an office…and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during a term of office, the member may elect to have the amount of the member's and employer's contributions calculated upon the basis of the increased salary for the office. O.R.C. 145.2916

    If the member elects to have the combined amount by which the member's and employer's contribution would have increased withheld from the member's salary, the member shall notify the employer and the employer shall make the withholding commensurate with the period of denied salary and transmit it to the retirement system. The payment of the amount by which the employer's contribution would have increased shall be credited to the employer's accumulation fund.

    If the payment of the increased contributions is made in accordance with this section, the increased annual salary as provided by law for the office for the period for which the member paid increased contributions thereon shall be used in determining the member's earnable salary for the purpose of computing the member's final average salary. O.R.C. 145.2916

15. Q. Are independent contractors considered "public employees" for the purpose of contributions to OPERS?

    A. A public employer who on or after January 7, 2013 begins to receive personal services from an individual it classifies as an independent contractor or another classification other than public employee shall inform the individual of the classification and that no contributions will be made to the public employees retirement system for the services. Not later than thirty days after the services begin, the employer to whom the personal services will be rendered shall require the individual to acknowledge, in writing on a form provided by the system, that the individual has been informed that the employer does not consider the individual a public employee and no contributions will be made to the public employees retirement system for the services. The employer shall retain the acknowledgement for a period of five years after the date the services begin and immediately transmit a copy of it to the public entity responsible for submitting to the system the reports required by O.R.C. 145.47. The public entity shall transmit a copy of the acknowledgement to the system. O.R.C. 145.038

IV EMPLOYEES OF A TOWNSHIP (CONTINUED)

Insurance

1. Q. Is there any manner in which a township may procure, for its employees, group plan insurance for accident, sickness and life, the premium to be paid by the employee?

   A. Yes. O.R.C. 505.60(A) provides for this.

2. Q. Does a board of township trustees have authority to enter into a contract with an insurance company or a hospital service association to pay the premium from township funds for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, disability, hearing aids, prescription drugs or sickness and accident insurance for township officers and employees and their immediate dependents?

   A. Yes. O.R.C. 505.60. Auditor of State Bulletin 96-002 addresses how the Auditor of State's Office will review group insurance benefits provided by townships for their trustees, fiscal officer, and employees under O.R.C. 505.60. The bulletin addresses a "uniform" group health plan which is a plan that offers the same coverage to all trustees, the fiscal officer, and full time employees. Various other issues regarding different health insurance issues are addressed in this bulletin. Please refer to this bulletin for the various issues addressed.

3. Q. To what fund should any group insurance purchased from township funds pursuant to O.R.C. 505.60, be charged?

   A. The expenditure can be properly charged to those funds paying the salaries and wages of the respective township employees.

4. Q. May the board of trustees procure and pay for group life insurance for officers and employees?

   A. Yes. O.R.C. 505.602 provides " a board of township trustees may procure and pay all or any part of the cost of group life insurance to insure the lives of officers and full-time employees of the township. The amount of group life insurance coverage provided by the board to insure the lives of officers of the township shall not exceed fifty thousand dollars per officer."

5. Q. Is a township board of trustees, pursuant to O.R.C. 505.602, or any other statute, authorized to participate with another political subdivision, such as a county, in a joint program to provide group life insurance for officer and employees?

   A. A township board of trustees may procure group life insurance for its employees in conjunction with an individual or joint self-insurance program for health care benefits, provided that the policy of group life insurance is not self insured. O.R.C. 9.833 (D).

IV EMPLOYEES OF A TOWNSHIP (CONTINUED)

Insurance (Continued)

6. Q. May township officials and/or employees serve on the governing body of a joint self-insurance program to which the township is a member?

   A. Yes. O.R.C. 9.833(F). A public official or employee of a political subdivision who is or becomes a member of the governing body of the program administrator of a joint self-insurance program in which the political subdivision participates is not in violation of division (D) or (E) of section 102.03, division (C) of section 102.04, or section 2921.42 of the Revised Code as a result of either of the following:

   (1) The political subdivision's entering under this section into the written agreement to participate in the joint self-insurance program;

   (2) The political subdivision's entering under this section into any other contract with the joint self-insurance program.

7. Q. May a township take out insurance, insuring its employees against liability for damages and injuries to persons and property, including liability on account of death or accident by wrongful act occasioned by the operation of a motor vehicle, motor vehicles with auxiliary equipment, or self-propelling equipment or trailers owned or operated by the township while such vehicle is being used or operated in the course of the business of the township?

   A. Yes. O.R.C. 9.83, so provides. See also O.R.C. 505.63, 505.23, as to volunteer firemen.

8. Q. May a township enter into a contract for the purchase of a long-term care insurance policy covering all of its elected officials and employees?

   A. Yes. A board of township trustees may negotiate and contract for the purchase of a long term care insurance policy for township officers and employees, and may pay any or all of the premium charged. O.R.C. 505.60.

9. Q. Is a township required to provide uniform coverage for township officers, employees and their immediate dependents?

   A. Yes. If a board of township trustees chooses, pursuant to O.R.C. 505.60, to procure for its officers or employees any of the health insurance benefits described therein, O.R.C. 505.60(B) provides that townships MUST provide uniform coverage to township officers (trustees and fiscal officer), full-time township employees, AND their immediate dependents.

10. Q. Is a township required to provide coverage to part-time township employees?

    A. No. O.R.C. 505.60(B) states that townships MAY provide coverage to part-time employees. O.R.C. 505.60(G)(1) defines a “part-time employee”, as a township employee who is hired with an expectation that the employee will work not more than one thousand five hundred hours in any one year (approximately 28 hours per week).

11. Q. Is a volunteer firefighter considered an employee under the Affordable Care Act if the volunteer firefighter receives benefits?

    A. No. A volunteer firefighter appointed by the township is a bona fide volunteer and not an employee for purposes of section 513 of the "Patient Protection and Affordable Care Act," 124 Stat. 119 (2010), 26 U.S.C. 4980H , if, for providing those fire protection services, the volunteer receives any of the benefits provided in Chapter 146., 4121., or 4123. or section 9.65, 505.23, 3333.26 ,3923.13, or 4113.41 of the Revised Code.

IV EMPLOYEES OF A TOWNSHIP (CONTINUED)

Insurance (Continued)

12. Q. May a township reimburse a township officer or employee for an out-of-pocket insurance policy premium for the township officer or employee and their immediate dependents?

    A. Yes. O.R.C. 505.60(D) states that a township MAY reimburse a township officer or employee for each out-of-pocket premium that the officer or employee incurs for insurance polices described in O.R.C. 505.60(A) or if the officer or employee is denied coverage under the township group plan. The reimbursement cannot exceed an amount equal to the average premium paid by the township for its officers and employees under policies it procures under O.R.C. 505.60(A), i.e., Township Group Health Plan. Reimbursement for out-of-pocket premiums for the officer or employee's immediate dependents is effective as of March 22, 2013, and is not retroactive (OAG 2013-040). Reimbursement may NOT be made if the township officer or employee elects single coverage under the township group plan, and seeks reimbursement for dependents for an outside plan. OAG 2017-007.

13. Q. If a township chooses not to procure a group health plan, can the township reimburse township officers or employees for their out-of-pocket insurance policy premiums?

    A. Yes. O.R.C. 505.601 provides that a township choosing not to procure a group health plan MAY reimburse any township officer or employee for each out-of-pocket premium that the officer or employee incurs for insurance coverage.

14. Q. Does a township seeking to provide reimbursement under O.R.C. 505.601 need to follow any procedures prior to providing reimbursement?

    A. Yes. O.R.C. 505.601 requires that the township (1) adopt a resolution, (2) state within the resolution that the township chose not to procure a group health insurance plan, (3) state that instead of the group health plan, the township chose to adopt a reimbursement policy, (4) provide a uniform maximum monthly or yearly payment amount for each officer or employee, beyond which the township will not reimburse, (5) state the only benefits the township will reimburse are those listed within O.R.C. 505.60(A) and benefits not listed in O.R.C. 505.60(A) will not be covered, and finally (6) adopt the resolution.

15. Q. May a township reimburse officers or employees for monthly Medicare Parts A, B, and D premiums?

    A. Yes. A board of township trustees may reimburse a township officer or employee pursuant to O.R.C. 505.601 for monthly Medicare Parts A, B, and D premium payments made by the officer or employee, so long as the benefits provided by Medicare Parts A, B, and D are consistent with the benefits identified in the township resolution stating that the township has chosen not to procure a health care plan under O.R.C. 505.60 and the reimbursement does not exceed the uniform monthly or yearly payment amount set by the resolution (OAG 2013-022, OAG 2015-021).

CAUTION: Questions and answers 12 through 15 above relate only to an interpretation of what is permissible under relevant provisions of the Ohio Revised Code. On March 21, 2010, the United States Congress passed the "Patient Protection and Affordable Care Act" (Public Law 111-148; the ACA) which was signed into law by President Barack Obama on March 23, 2010. That enactment, together with the "Health Care and Education Reconciliation Act" which was signed March 20, 2010, codifies amendments to the United States Internal Revenue Code, and to certain provisions within Title 42 of the United States Code. Federal authorities have interpreted provisions within these changes to the law to mean that the action of an employer in reimbursing an employee for his or her hospitalization or health care insurance premiums creates a "group health plan" which may be in violation of the ACA, and which may result in the assessment of financial penalties against the employer. Further, the United States Congress has enacted the 21st Century Cures Act which became effective on January 1, 2017, Under the terms of that enactment, an eligible employer which employs fewer than fifty full-time or full-time equivalent employees as defined under the law may provide for such reimbursements if the employer does not offier a separate group health lan to its employees and officers, and if the reimbursements are available to all employees and officers on the same terms. It is strongly recommended that officials of any township which is making such reimbursements or which contemplates beginning to do so consult with legal counsel as to these issues. Questions in regard to the status of this matter may be directed to the Legal Division of the Auditor of State's Office at 800-282-0370.

IV EMPLOYEES OF A TOWNSHIP (CONTINUED)

Insurance (Continued)

16. Q. Are reimbursements for healthcare premiums subject to Ohio Public Employee Retirement System (OPERS) contributions?

    A. This is a determination for OPERS to make. If a township is unsure whether an amount is OPERS earnable salary, the township should request a determination from OPERS.

17. Q. Can a township establish a self-insurance program?

    A. Yes. O.R.C. 9.833, 2744.08, and 2744.081, describe legal and accounting requirements for self-insured subdivisions. Auditor of State Bulletin 2001-005 and 2011-008 clarify the Revised Code requirements, gives guidance related to funding self-insured plans, describes actuarial qualifications and applicable standards for actuarial reporting, and includes an example risk management disclosure cash-basis subdivisions should include with their audited financial statements.

    If you have questions about self-insurance plans, you may wish to discuss this with a qualified actuary, your independent public accountant or your regional Auditor of State's Office.

18. Q. What are some of the requirements for a township's self insurance program established under O.R.C 9.833?

    A. The program must: A) Prepare and maintain a certified audited financial statement and a report of amounts reserved for the program and disbursements made from such funds. B) Provide the report to the AOS. C) Include a contract with a certified public accountant and a member of the American Academy of Actuaries. (O.R.C. 9.833, see also AOS 2011-008)

19. Q. Do the above additional requirements have an impact on townships participating in individual land joint self-insurance pools?

    A. Yes, Under O.R.C. 9.833, townships have the authority to establish/participate in individual and joint self-insurance programs. As such, it is important to note that a township, as a member of the pool, has a responsibility to ensure that any program it participates in is in compliance with O.R.C. 9.833.

20. Q. Can a board of township trustees, in an effort to lower health insurance premium costs, procure a plan with a higher deductible and copayments that are commonly offered under health insurance policies? If so, can they establish a program of self-insurance to pay the copayments and deductible amounts not paid by the health care insurance policy?

    A. A board of township trustees, in accordance with O.R.C. 505.60, may procure and pay for all or a portion of the cost of a high-deductible health care insurance policy that provides the benefits enumerated in O.R.C. 505.60(A) for township personnel and may, at the same time, establish and maintain with township moneys a program of self-insurance in accordance with O.R.C. 9.833 to pay the copayments and deductible amounts not paid by the health care insurance policy for the benefits listed in O.R.C. 505.60(A). OAG 2008-018.

IV EMPLOYEES OF A TOWNSHIP (CONTINUED)

Insurance (Continued)

21. Q. What impact does demutualization have on townships?

    A. Some public bodies may be eligible to receive cash or stock as a part of the company's conversion process. If stock is received, the township trustees should be advised that Article VIII, Sections 4 and 6 of the Ohio Constitution, prohibit public bodies from becoming a "stockholder in any joint stock company, corporation, or association." That being said, Article VIII, Section 6 of the Constitution provides an exemption which allows public bodies to purchase insurance from mutual insurance companies. Therefore, because any such stock initially received by a public body because of the companies' demutualization can be said to have been derived form the public body's constitutionally permissible purchase of insurance from a mutual insurance company, the Auditor of State will not cite nor issue a Finding for Recovery against a public body that has received stock in this way. However, because of the constitutional prohibition on public bodies being stockholders, the Auditor of State's recommendation is that each public body receiving stock should sell the stock at a reasonably prompt and beneficial time at the discretion of the public body. (AOS Bulletin 2002-002).

22. Q. What should be done with cash received as a result of demutualization?

    A. Any township that receives cash directly from, or as a result of the sale of stock received from demutualizing companies may deposit and record it at their discretion. The Auditor of State does not consider such monies to be a "rebate," which would require it to be recorded in the finds from which the insurance premiums were paid. Nor is it considered "interest earned on public money," which in most cases would require it to be recorded in the General Fund. Therefore, the Auditor of State's recommendation is that in a public meeting, the township trustees should determine the fund into which the cash will be recorded and that decision should be reflected in the minutes of the meeting. (AOS Bulletin 2002-002).

23. Q. What is a health savings account?

    A. A health savings account is a tax-exempt trust or custodial account established for the purpose of paying qualified medical expenses (as listed in Internal Revenue Service Publication 502) of an eligible individual and the eligible individual’s spouse or dependents. To be an eligible individual in any given month, an individual must (1) be covered under a high deductible plan on the first day of that month, (2) not be covered by any other health plan that is not a high deductible health plan (with certain exceptions for plans providing limited types of coverage), (3) not be enrolled in Medicare, and (4) not be claimed as a dependent on another person’s tax return. For more information see http://www.irs.gov/pub/irs-drop/n-04-2.pdf.

24. Q. Can a township establish and maintain a health savings account program?

    A. Yes. Political subdivisions that provide health care benefits for their officers or employees may … Establish and maintain a health savings account program whereby employees or officers may establish and maintain health savings accounts in accordance with section 223 of the Internal Revenue Code. Public moneys may be used to pay for or fund federally qualified high deductible health plans that are linked to health savings accounts or to make contributions to health savings accounts. A health savings account program may be a part of a self-insurance program. O.R.C. 9.833(B)(2).

IV EMPLOYEES OF A TOWNSHIP (CONTINUED)

Insurance (Continued)

25. Q. Does the express authorizations of townships to establish and maintain a health savings account in O.R.C. 9.833 preclude townships from establishing a health reimbursement arrangement?

A. No. OAG 2007-032

Other Benefits
Health and Wellness Benefit Program

1. Q. Can the township offer any additional benefits that promote a healthy lifestyle?

A. A board of township trustees can offer a health and wellness benefit program to its officers and full-time employees. (O.R.C. 505.603(B)). The fiscal officer can deduct from the employee's salary or wages the benefit that is offered on a group basis if the employee authorizes in writing that the township fiscal officer may deduct that amount and if at least 10% of the township employees voluntarily elect to participate in receipt of that benefit. (O.R.C. 505.603(C) per HB 225, 129th GA, effective 3/22/2012).

Deferred Compensation Plans

1. Q. What type of deferred compensation plans are available to township employees?

A. A board of township trustees can offer deferred compensation plans or programs to all of the township's officers and employees. The plan or program must present a reasonable number of options to the township's officers and employees for investment of the deferred funds that will assure their desired tax treatment. Any income deferred under a plan or program must be included as regular compensation, but is not to be included in the computation of any federal and state income taxes withheld on behalf of the officer or employee. (O.R.C. 148.061 per HB 225, 129th GA, effective 3/22/2012).

Workers' Compensation

1. Q. Which township employees are covered by workers' compensation?

A. O.R.C. 4123.01(A)(1)(a) defines the word "employee" as it is used in the workers' compensation act and provides that an employee shall mean: "(1) Every person in the service of the …township…, including regular members of lawfully constituted police and fire departments or ...townships, whether paid or volunteer, and wherever serving within the state or on temporary assignment outside thereof, ...under any appointment or contract of hire, express or implied, oral or written, including any elected official of the ...township…

IV EMPLOYEES OF A TOWNSHIP (CONTINUED)

Township Attorney

1. Q. May the township trustees hire an attorney to examine the title to a parcel of real estate they are about to purchase?

   A. Yes. O.R.C. 309.09, provides that the prosecuting attorney shall be the legal advisor for all township officials unless the township has adopted the limited self-government form of township government pursuant to Chapter 504, Ohio Revised Code, and has not entered into a contract to have the prosecuting attorney as the township law director, in which case the township law director...shall be the legal advisor for all township officers, boards, and commissions. In addition, O.R.C. 309.09 authorizes the township trustees to employ other counsel or attorneys on the order of the board of township trustees duly entered upon the journal in which order the compensation to be paid for legal services is fixed. The township trustees would, therefore, be authorized to adopt a resolution hiring an attorney to transact the township business in question or any other legal matter which the township trustees desire, provided the resolution appointing such attorney fixes the amount of compensation which the attorney shall receive.

2. Q. If a township hires its own attorney, what are the conditions, i.e., (a) specified duties, (b) length of contract, (c) tenure, and (d) formula basis of salary?

   A. O.R.C. 309.09 authorizes the township trustees to hire an attorney either for the transaction of one particular item of business or on an annual basis. If an attorney is hired whether on an annual basis or otherwise, the township trustees must enter the order in the minutes of their meeting, fixing in such order the amount that is to be paid for the legal services. The duties, length of contract, tenure and formula for basis of salary are not specified in the statute. Therefore, these are matters which the trustees, in the exercise of their own sound discretion, may control. See also O.R.C. 505.62, authorizing the employment of counsel for Annexation proceedings.

3. Q. The township trustees adopted a resolution designating C.D. attorney to take care of a certain legal problem for the township, making no mention of the amount of money that the attorney was to be paid. Subsequently, after the work was completed, the attorney requested payment from the township in the amount of $350.00. Upon reviewing the work which the attorney had undertaken, the township voted to pay him $275.00. Is the township now authorized to pay the attorney $275.00?

   A. No. O.R.C. 309.09 does authorize township trustees to employ counsel other than the prosecuting attorney to execute certain legal matters. However, this section authorizes the township trustees to employ such an attorney only "on the order of the board of township trustees, duly entered upon its journal, in which the compensation to be paid for such legal services shall be fixed." Since no compensation was fixed in the resolution employing the attorney duly entered upon the journal, no compensation may now be paid.

4. Q. Would an attorney hired by a township be an “employee” or an “independent contractor?”

   A. In order to determine whether an attorney employed by a township pursuant to O.R.C. 309.09(A) is an independent contractor or an employee of the township, it is necessary to consider all the circumstances surrounding the arrangement between the township and the attorney. Relevant factors include the degree of independence which the attorney possesses, whether the attorney performs legal services solely for the township, whether the attorney is paid for particular services or is paid a yearly salary, whether the township or the attorney provides office space and supplies, and whether the attorney has the right to hire assistants and the obligation to pay these assistants. OAG NO. 80-098. Legal counsel should be consulted regarding this determination.

IV EMPLOYEES OF A TOWNSHIP (CONTINUED)

Township Attorney (Continued)

5. Q. Why would it be necessary to make the employee/independent contractor determination?

   A. This issue is important in terms of fringe benefits. An attorney who is an employee of the township is entitled to the discretionary fringe benefits granted by the township to its employees, provided that he otherwise qualifies for such benefits. This may include sick leave, vacation, and hospitalization and life insurance coverage. However, an attorney who is an independent contractor is not entitled to be compensated for discretionary fringe benefits due to employees. OAG - No. 80-098.

Township Administrator

1. Q. Are the township trustees required to appoint a township administrator?

   A. Generally, the position of township administrator is optional. (O.R.C. 505.031(A) However, if the electors of an unincorporated territory of a township petition the board of trustees to adopt a limited home rule government in accordance with O.R.C. 504.01, the board of trustees is required to appoint a township administrator before adopting a resolution and submitting it to the board of elections. (O.R.C. 505.031(A)(2)).

2. Q. In the event that such a position is established within the township, upon what terms and conditions does the administrator hold office?

   A. A township administrator operates under the direction and supervision of the board of township trustees, holding office at the pleasure of such board. The salary of the township administrator is to be determined by the board of township trustees. O.R.C. 505.031(C).

3. Q. In the event that the office of township administrator is temporarily or permanently vacated by the incumbent due to illness, vacation, death, resignation or removal from office, how is the vacancy to be filled?

   A. In the event of such a vacancy, the chairman of the board of township trustees, or another selected by him with the approval of the board, shall act as township administrator until the township administrator returns to his duties or the board appoints a new township administrator. O.R.C. 505.031.

4. Q. Out of what fund is the salary of the township administrator paid?

   A. This normally would be a general fund expenditure. However, if the township administrator is performing services directly benefiting other funds, then payment of a portion of salaries and benefits may be permissible from such funds.

5. Q. What duties are imposed upon the township administrator?

   A. Pursuant to O.R.C. 505.032, the township administrator is specifically assigned the duties, under the direction and control of the board of township trustees, of assisting the administration, of executing and enforcing the policies and resolutions of the board, of supervising and directing the activities of the divisions of township government, of recommending measures for adoption by the board, of preparing and presenting reports to the board, of advising the board on the fiscal condition of the township, and of preparing and submitting the budget for the ensuing fiscal year. In addition to the specific duties enumerated above, the township administrator must also perform such additional duties as the board specifies. The board is authorized to assign to the township administrator any office, position, or duties under the control of the board of township trustees.

IV EMPLOYEES OF A TOWNSHIP (CONTINUED)

Township Administrator (Continued)

6. Q. May a township fiscal officer also serve as township administrator?

   A. No. The positions of township fiscal officer and township administrator are incompatible. OAG No. 77-037.

7. Q. May a member of a board of a general health district also serve as a township administrator?

   A. No. The positions of township administrator and member of a board of health of a general health district are incompatible. OAG No. 83-010.

Volunteers as Employees

1. Q. Are volunteers performing work for the township considered employees?

   A. "Employee" means an officer, agent, employee, or servant, whether or not compensated or full time or part time, who is authorized to act and is acting within the scope of the officer's, agent's, employee's, or servant's employment for a political subdivision. "Employee" does not include an independent contractor. "Employee" includes any elected or appointed official of a political subdivision. "Employee" also includes a person who has been convicted of or pleaded guilty to a criminal offense and who has been sentenced to perform community service work in a political subdivision whether pursuant to O.R.C. 2951.02 or otherwise, and a child who is found to be a delinquent child and who is ordered by a juvenile court pursuant to O.R.C. 2152.19 ir 2152.20 to perform community service or community work in a political subdivision. O.R.C. 2744.01(B)

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SECTION B

LAND USE CONTROL

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I. TOWNSHIP ZONING

Initiation of Zoning

1. Q. Do the township trustees decide the question of whether zoning shall be adopted, or is this question decided by placing it on the ballot?

   A. The provisions relating to township zoning are contained in Chapter 519. of the Ohio Revised Code. Ultimately, the question of whether or not zoning shall be adopted must be submitted to the electorate. Zoning proceedings are commenced, however, by one of two methods. Under the first method, O.R.C. 519.03, would authorize the board of township trustees to initiate the proceedings on its own motion by adopting a resolution declaring its intention to proceed under O.R.C. 519.02 to 519.25, inclusive. The second method by which the zoning proceedings may be initiated is upon the presentation of a proper petition to the board of township trustees, requesting the board to proceed with township zoning. Such a petition would be properly brought only if "signed by a number of qualified voters residing in the unincorporated area of the township or part thereof to be included in the zoning plan equal to not less than eight per cent of the total vote cast for all candidates for governor in such area at the most recent general election at which a governor was elected....." O.R.C. 519.03(B).

2. Q. Does the township zoning resolution go into effect at the time of the adoption of the zoning plan by the board of township trustees?

   A. No. The township zoning resolution does not go into effect unless a majority of the vote cast on the issue is in favor of the proposed plan of zoning. Furthermore, the resolution shall take immediate effect upon the board of elections' certification of an approved zoning plan. The zoning resolution could, of course, set a date upon which it would go into effect and if the zoning resolution received the favorable vote of the electorate, the resolution would go into effect on the date specified in the resolution. O.R.C. 519.11.

3. Q. Must testimony at a public hearing that is required to be held by the board of township trustees, the zoning commission, or the township board of zoning appeals be recorded?

   A. No. There is no requirement in law that the testimony given at a public hearing in these instances be recorded. In Schlagheck v. Winterfeld, 108 Ohio App. 299, we find the following statement at page 306: "The term 'public hearing' to be held by a legislative body connotes the opportunity for interested persons to appear and express their views, pro and con, regarding proposed legislative action. Although a legislative body may take testimony, in the absence of a statutory requirement, it is not obliged to do so. Occasionally, a finding of necessity for a proposed enactment is provided in a preamble or in the body of the legislation itself, but there is ordinarily no requirement for incorporating conclusions of fact in such legislation or making same prior to its adoption. No provisions requiring the trustees to take testimony or make conclusions of fact are to be found...." (See, however, duty to record minutes: O.R.C. 519.05 and 519.15).

4 Q. Does the Ohio Revised Code grant authority to prepare and adopt plans for the unincorporated territory to the county, to the townships or to both entities?

   A. Both a county and township may prepare land use plans for the unincorporated territory of a township. OAG 2003-022.

I. TOWNSHIP ZONING (CONTINUED)

Zoning Commission

1. Q. When shall a zoning commission be appointed?

   A. O.R.C. 519.04, provides that any board of township trustees proceeding under O.R.C. 519.01 to 519.99, shall create and establish a township zoning commission which shall be composed of five members appointed by the board of township trustees. The terms of the members are to be of such length and so arranged that the term of one member will expire each year. Additionally, the board of township trustees may appoint two alternate members of the township zoning commission, for terms to be determined by the board of township trustees. An alternate member shall take the place of an absent regular member at any meeting of the township zoning commission, according to procedures prescribed by resolution by the board of township trustees. An alternate member shall meet the same appointment criteria as a regular member, and the alternate member may vote on any matter on which the absent member is authorized to vote.

2. Q. Must the members of the township zoning commission reside in the unincorporated area of the township?

   A. Yes. Per RC 519.04, members of the township zoning commission must reside in the unincorporated territory of the township and may reside in either a zoned area or an area that has not been zoned. OAG 2010-006.

3. Q. Is a member of the zoning commission entitled to be paid anything?

   A. O.R.C. 519.05 authorizes members of the zoning commission to "be allowed their expenses, or such compensation, or both, as the board of township trustees may approve and provide."

4. Q. May a township trustee be employed by the zoning commission of his township?

   A. No. O.R.C. 519.05 specifically prohibits such employment.

5. Q. Does the existing five man zoning board, appointed by the trustees, continue in existence after the zoning resolution is submitted to the electorate or should a new zoning board be appointed?

   A. Yes. Since the terms of the members of the zoning commissions are fixed, the zoning commission appointed prior to the adoption of the zoning resolution continues in operation after the election of the zoning resolution, if the vote is favorable.

6. Q. Must the zoning commission organize and adopt rules for the transaction of its business, and keep a record of its determinations?

   A. Yes. See O.R.C. 519.15.

7. Q. May the township fiscal officer be appointed secretary of the township zoning commission?

   A. Yes. The township fiscal officer may be appointed secretary of the township zoning commission, secretary of the township board of zoning appeals, and zoning inspector. Furthermore, the township fiscal officer may receive compensation for such services in addition to other compensation allowed by law. O.R.C. 519.16.

I. TOWNSHIP ZONING (CONTINUED)

Zoning Commission (Continued)

8. Q. May a member of the zoning commission receive a real estate commission for any service rendered by him personally in a zoning change or variance that is before the commission?

   A. No. See Ohio Ethics Comm. Adv. Op. at 79-003.

9. Q. May a Board of Education member serve as a township zoning commission chairman?

   A. Yes. OAG 81-090.

10. Q. Must the township zoning commission provide public notice of a proposed zoning resolution?

    A. Yes. O.R.C. 519.06 provides that before certifying its recommendations of a zoning plan to the township trustees, the township zoning commission shall hold at least one public hearing, notice of which shall be given by one publication in one or more newspapers of general circulation in the township at least 30 days before the date of the hearing. The notice shall state the place and time at which the text and maps of the proposed zoning resolution may be examined.

11. Q. May a township have more than one zoning commission?

    A. No. Under O.R.C. Chapter 519, a township is permitted to have only one zoning commission. The township zoning commission has authority over all the unincorporated territory of the township and may serve multiple separately-zoned areas within the township. OAG 2010-006.

Zoning Expenditures

1. Q. May township trustees contract with a consultant to prepare a zoning ordinance or is this the duty of the township zoning commission?

   A. No. The township trustees are not permitted on contract with a consultant to prepare a zoning ordinance. O.R.C. 519.05 specifically authorizes the township zoning commission, as the sole entity, with the authority to employ or contract with planning consultants.

2. Q. Should a separate zoning fund be established on the fiscal officer's books and cash journal? What is the appropriate fund to pull monies from to establish this separate zoning fund?

   A. The township fiscal officer should set up a separate zoning fund on his books. As is to be noted from the language in O.R.C. 519.05, the township trustees are to appropriate money for zoning purposes. Such money may be appropriated and transferred out of the general fund to the zoning fund.

3. Q. Must the township trustees establish a zoning fund?

   A. No. Zoning fees collected under O.R.C. 519.12 by the township zoning commission should be paid into the general fund unless, pursuant to O.R.C. 5705.12, a special fund has been established for the deposit of such fees, in which case the fees should be paid into such special fund.

I. TOWNSHIP ZONING (CONTINUED)

The Zoning Resolution

1. Q. What is the nature of the zoning power vested in the township trustees by chapter 519 of the Ohio Revised Code?

   A. The zoning power is solely a police power delegated to the township trustees by the legislature. Under this power, it is recognized by numerous authorities that the right of private property and its full enjoyment, which is guaranteed by the fourteenth amendment to the Constitution of the United States, and recognized by the several states, is not absolute, but must yield to a certain extent to the superior interests of the public. It has been held that zoning laws enacted in the proper exercise of the police power which are reasonably necessary for the preservation of the public health, safety and morals, even though they result in the impairment of the full use of the property of the owner, do not constitute a "taking of property" within the due process clause of the Constitution of the United States and the several states. See annotations to O.R.C. 519.02 for potential constitutional challenges to zoning power.

2. Q. What may the township trustees control by zoning?

   A. O.R.C. 519.02 provides that the township zoning resolution may regulate the location, height, bulk, number of stories, and size of buildings and other structures, including tents, cabins, and trailer coaches, percentage of lot areas, which may be occupied, set back building lines, sizes of yards, courts, and other open spaces, density of population, and uses of buildings and other structures, including tents, cabins and trailer coaches, and the uses of land for trade, industry, residence, recreation or other purposes.

3. Q. Do township zoning regulations apply to the territory of the township within which a municipality is located?

   A. No. O.R.C. 519.02 limited the power of the township trustees to the unincorporated territory of the township.

4. Q. If a township is served by a public water system, owned and operated by a municipal corporation, who has the authority to establish zoning requirements to protect the ground water resources that serve as a source of drinking water for the public water system, and are located entirely inside the unincorporated territory of the township?

   A. Pursuant to O.R.C. 3750.11(G), a municipal corporation that owns and operates a public water system, as defined in O.R.C. 6109.01(A), and a township that is served by that public water system have coextensive authority to establish and enforce requirements in their respective zoning regulations to protect ground water resources that serve as a source of drinking water for the public water system and that are located within scientifically derived wellhead protection areas situated entirely in the unincorporated territory of the township. OAG 2002-038.

5. Q. May the zoning resolution lawfully prohibit the use of land for the purpose of oil or natural gas well drilling or production facilities?

   A. No. O.R.C. 519.211 provides that the Revised Code does not confer any power on the township zoning commission, board of township trustees, or board of zoning appeals to prohibit the use of any land owned or leased by an industrial firm for the conduct of oil or natural gas well drilling or production activities when such oil or natural gas obtained by the industrial firm is used for the operation of its own plants.

I. TOWNSHIP ZONING (CONTINUED)

The Zoning Resolution (Continued)

6. Q. May the lawful use of any dwelling, building or structure and of any land or premises, as existing and lawful at the time of the enactment of a zoning resolution, be continued, although such use does not conform with the township resolution?

   A. Yes. O.R.C. 519.19, so provides. However, if any nonconforming use is voluntarily discontinued for two years or more, the future use must conform with the township resolution.

7. Q. May the zoning resolution prohibit the use of land for agricultural purposes?

   A. Yes. O.R.C. 519.21(B), provides that a township zoning commission, by resolution, may regulate in any platted subdivision approved under O.R.C. 711.05, 711.09, or 711.10, or in any area consisting of fifteen or more lots approved under O.R.C. 711.131 that are contiguous to one another, or some of which are contiguous to one another adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road the following: (1) agriculture on lots or one acre or less; (2) buildings or structures incident to the use of land for agricultural purposes on lots greater that one acre but not greater than five acres by: set back building lines; height; and size; (3) dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres..... O.R.C. 519.21(B) confers no power on any township zoning commission, board of township trustees, or board of zoning appeals to regulate agriculture, buildings or structures, and dairying and animal and poultry husbandry on lots greater than five acres. O.R.C. 519.21 (B) does not prohibit the board of trustees of a non-home rule township from using its zoning powers under O.R.C. Chapter 519 to regulate the construction and use of buildings and structures on lots greater than five acres when the buildings and structures are not incident to the use for agricultural purposes of the land on which the buildings and structures are located. OAG 2010-009.

8. Q. Does the holding of banquets, receptions, parties at which entertainment is provided, theatrical shows, music festivals, clambakes, pig roasts, and other entertainment and special events constitute the use of land for the marketing of agricultural products in conjunction with, and secondary to, the production of grapes or wine for purposes of the definition of "agriculture" set forth in O.R.C. 519.01?

   A. The holding of a banquet, reception, party at which entertainment is provided, theatrical show, music festival, clambake, pig roast, or other entertainment or special event constitutes the "marketing of agricultural products" for purposes of the definition of "agriculture" in O.R.C. 519.01 when the event is held to promote or merchandise the sale of grapes or wine and when the event occurs together with, and is of lesser importance or value than, the production of grapes or wine. Whether an event is being held to promote or merchandise the sale of grapes or wine and whether it occurs together with, and is of lesser importance or value than, the production of grapes or wine are questions of fact that must be answered on a case-by-case basis by township zoning officials. OAG 2002-029.

9. Q. What, if any, factors should be considered in determining whether an activity constitutes the marketing of agricultural products in conjunction with, and secondary to, the production of grapes or wine for purposes of the definition of "agriculture" set forth in O.R.C. 519.01.

   A. Township zoning officials may consider any factors they deem necessary and relevant in order to determine in a reasonable manner whether an activity constitutes the marketing of agricultural products in conjunction with, and secondary to, the production of grapes or wine for purposes of the definition of "agriculture" in O.R.C. 519.01. OAG 2002-029.

I. TOWNSHIP ZONING (CONTINUED)

The Zoning Resolution (Continued)

10. Q. Does the farm market exemption set forth in O.R.C. 519.21(C) exempt from township regulations the use of land for a farm market that conducts banquets, receptions, parties at which entertainment is provided, theatrical shows, music festivals, clambakes, pig roasts, and other entertainment and special events?

    A. The farm market exemption set forth in O.R.C. 519.21(C) exempts from township zoning regulations the use of land for a farm market that conducts banquets, receptions, parties at which entertainment is provided, theatrical shows, music festivals, clambakes, pig roasts, and other entertainment and special events where fifty percent of more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. OAG 2002-029.

11. Q. Must the zoning regulations be in accordance with a comprehensive zoning plan?

    A. Yes, in accordance with O.R.C. 519.02.

12. Q. Is regulation of lot sizes by a township zoning resolution authorized?

    A. Yes. In accordance with O.R.C. 519.02, the percentage of lot areas may be regulated, as long as it serves the purpose of promoting public health and safety.

13. Q. May the township zoning resolution lawfully divide the township into a residential area, an agricultural area, or an area for retail business, thus excluding industrial and manufacturing plants from the township?

    A. Yes, in accordance with O.R.C. 519.02.

14. Q. May the township zoning resolution prohibit the establishment of a trailer park or camp within the limits of the township?

    A. Yes, in accordance with O.R.C. 519.02.

15. Q. What is the validity of a zoning amendment that is consistent with a land use plan that is adopted by a township but is inconsistent with a plan adopted by a county regional planning commission?

    A. An amendment to a township zoning resolution that is adopted in accordance with the provisions of O.R.C. 519 is valid, even though a regional planning commission does not prepare land use plans before the township proceeds to amend its zoning resolution or the amendment is inconsistent with land use plans previously prepared by the regional planning commission. OAG 2003-022.

16. Q. Can the township zoning commission impose a temporary moratorium on the construction of residential units?

    A. Yes. The zoning commission has the authority to slow residential growth until its infrastructure is improved. OAG 2003-024.

I. TOWNSHIP ZONING (CONTINUED)

The Zoning Resolution (Continued)

17. Q What authority do townships have regarding the operation of adult entertainment establishments within the township?

    A. All townships may exercise all powers of local self-government regarding the operation of adult entertainment establishments within the township and may adopt and enforce any local police, sanitary and similar regulations within the township regarding the operation of adult entertainment establishments that are not in conflict with general laws. Those regulations may include, but are not limited to, antinudity restrictions, limitations on hours of operation, interior configuration requirements, and requirements that adult entertainment establishments and an establishment's employees obtain licenses or permits to operate as or to be employed by an adult entertainment establishment. The authority granted under this division shall be exercised by the adoption of resolutions and may include the adoption of resolutions that create one or more criminal offenses and impose criminal penalties related to the operation of adult entertainment establishments or may provide for civil sanction for violations of regulations established under the resolutions. Those regulations must not be in conflict with the Liquor Permit Law, or with any rule adopted by the Division of Liquor Control pursuant to that Law, that regulate establishments that hold a liquor permit. O.R.C. 503.52(A). **For township specific information, it is recommended that a township board of trustees consult its legal counsel.

18. Q. Can township trustees be held liable for enforcement of regulations adopted under O.R.C. 503.52?

    A. No. O.R.C. 503.52(F) states:

> Except as otherwise provided in this division, the state shall indemnify a township and its trustees from liability incurred in the enforcement of a resolution that is authorized by this section, that was drafted in accordance with legal guidance provided by the attorney general as described in division (B)(2) of this section, and that a court finds to be unconstitutional or otherwise legally defective by paying any judgment in, or amount negotiated in settlement of, any civil action arising from the enforcement of the resolution. The state shall not indemnify a township until all appeals have been exhausted or the action has otherwise been finally resolved.
>
> The state shall not indemnify a township or its trustees for any of the following or to the extent that any of the following apply:
>
> (1) Any part of the judgment or settlement that represents damages that are covered by a policy of insurance for civil liability;
> (2) Any part of the judgment or settlement that is based upon an officer or employee of the township acting manifestly outside the scope of the officer's or employee's employment or official responsibilities, with malicious purpose, in bad faith, or in a wanton or reckless manner;
> (3) Any part of the judgment that is for punitive damages;
> (4) Any part of a consent judgment or settlement that the attorney general determines is unreasonable.

I. TOWNSHIP ZONING (CONTINUED)

The Zoning Resolution (Continued)

19. Q. May township officials regulate a free-standing outdoor sign used for agricultural purposes?

    A. No. Pursuant to O.R.C. 519.21(A), officials of a township that has not adopted a limited home rule government under O.R.C. Chapter 504 may not regulate the location, height, bulk, or size of a free-standing outdoor sign that is located on a lot greater than five acres and deemed to be a structure when the use of the sign relates directly and immediately to the use for agricultural purposes of the lot on which the sign is located. OAG 2009-041.

Zoning Permits

1. Q. Do the township trustees have authority to provide in the zoning resolution, that a fee shall be charged for the inspection of buildings proposed to be erected or altered and to require permits for such erection or alteration?

   A. Yes. OAG No. 56-7111.

2. Q. If the township zoning resolution does not provide for the imposition of a fee for inspection of buildings proposed to be erected or altered in a zoned area, but the township trustees have at various times by resolution established fees to be paid by applicants for zoning permits, do township trustees have authority to charge a fee for a zoning permit?

   A. No. OAG No. 56-7111; OAG 97-022.

3. Q. If the zoning resolution fails to provide for a system of zoning permits, may the zoning resolution be amended to provide for such?

   A. Yes. The procedure for amendment would have to follow that set forth in O.R.C. 519.12.

4. Q. May the zoning resolution require that a fee accompany an application made to the zoning inspector for a zoning variance or a special exception to cover the cost of processing such application?

   A. Yes. Some inspection of plans or sites would be necessary before the application could reasonably be acted upon and a certificate of variance or special exception either granted or denied. As in the case of any other zoning permit, a fee for the granting of a certificate of variance or special exception may legally be charged only if the zoning resolution requires that a fee be charged.

5. Q. May application be made to the zoning inspector for a conditional zoning certificate for the use of land, buildings, or other structures if such certificates for specific uses are provided for in the zoning resolution, or does the board of zoning appeals have original jurisdiction in the granting of conditional zoning certificates in view of O.R.C. 519.14(C)?

   A. Yes. An application for a conditional zoning certificate for a specific use enumerated in the zoning resolution should be made to the zoning inspector. A board of zoning appeals does not possess original jurisdiction in the granting of such an application, but a board of zoning appeals may grant a conditional zoning certificate only as a part of its appellate function. O.R.C. 519.14(C).

6. Q. May application be made to the zoning inspectors for a conditional zoning certificate for the use of land, buildings, or other structures if a certificate for such specific use is not provided for in the zoning resolution?

   A. No. O.R.C. 519.14(C).

I. TOWNSHIP ZONING (CONTINUED)

Zoning Permits (Continued)

7. Q. May a board of education be required to secure a zoning permit for the erection of a public school building?

   A. No. The state is sovereign and a regulation adopted by any political subdivision or by any board or commission thereof can have no effect to control the action of the state in the location or erection of buildings by the state, in the absence of a statute expressly conferring such power on the township. A school partakes on the sovereign powers of the state and similarly would not be subject to a regulation adopted by a township in the absence of a statute conferring express power on the township to control the location of school buildings. At the present time, no statute authorizes the township trustees to regulate the location of the type of building, etc., that a school may erect. OAG No. 56-7111; Niehaus v. State, 111 Ohio St. 47 (1924).

Zoning Inspector

1. Q. Are the township trustees authorized to establish and fill the position of township zoning inspector, together with such assistants as the board deems necessary?

   A. Yes. This action is authorized by O.R.C. 519.16.

2. Q. What is the compensation to which a zoning inspector is entitled?

   A. O.R.C. 519.16, states that the board of township trustees fixes the compensation for the position of zoning inspector.

3. Q. May the township fiscal officer be appointed zoning inspector?

   A. Yes. O.R.C. 519.16, authorizes that a township fiscal officer may be appointed zoning inspector.

4. Q. May a member of the township zoning commission serve as a zoning inspector?

   A. No, in accordance with OAG 85-052.

5. Q. In what amount must the zoning inspector give bond?

   A. The township zoning inspector shall give bond "in the sum of not less than one thousand or more than five thousand dollars as fixed by the board of township trustees." (See O.R.C. 519.161).

6. Q. May the township trustees pay for the zoning inspector's bond if purchased from a bonding company?

   A. Yes. O.R.C. 519.161 requires a zoning inspector to be bonded. O.R.C. 3929.17 provides that the premium for bonds required by an official of a subdivision may be paid out of the general fund of such subdivision. Under authority for these two sections the township trustees would be authorized to pay the premium on the zoning inspector's bond purchased from a bonding company.

I. TOWNSHIP ZONING (CONTINUED)

Zoning Board of Appeals

1. Q. May members of the township zoning commission also serve on the township board of zoning appeals?

   A. No. OAG No. 66-034.

2. Q. May a board of township trustees or township board of zoning appeals require the person appealing to pay the reasonable and necessary cost of postage and advertising related to such appeal or a deposit as security for the payment of such costs?

   A. No. OAG 86-079.

3. Q. Who should bear the cost of a stenographic record made of a hearing conducted by a township board of zoning appeals?

   A. The cost of the record should be borne by the party who ordered the record to be made. OAG No. 60-1625.

4. Q. May a board of township trustees employ special counsel to appeal a decision of a township board of zoning appeals?

   A. The hiring of special counsel would be authorized only if the township is a party to the proceedings before the township board of zoning appeals. OAG No. 64-810.

Amendment or Repeal of the Zoning Resolution

1. Q. May a township board of zoning appeals grant conditional zoning certificates when such certificates for specific uses are not provided for in the original resolution, but instead the zoning resolution authorized the appeals board to grant conditional zoning certificates on the basis of merit in each individual case and to impose regulations tailored to such case?

   A. No. O.R.C. 519.14(C), authorized the board of zoning appeals on appeal to grant conditional zoning certificates "if such certificates for specific uses are provided for in the zoning resolution." The conditional use in each case must, therefore, be expressly provided for in the zoning resolution. It remains for the board of zoning appeals to determine that such specified facts, circumstances and conditions exist. The board has no authority to substitute for, nor to change, nor even vary what the resolution has said shall constitute a conditional use.

2. Q. Does a zoning board of appeals have original jurisdiction in the granting of a variance or a conditional zoning certificate?

   A. No. Any action by the board of zoning appeals must be considered to be taken as a part of an appellate function. O.R.C. 519.14(A).

3. Q. May the township zoning resolution be amended or supplemented?

   A. Yes. O.R.C. 519.12, sets forth the procedure for amendment.

I. TOWNSHIP ZONING (CONTINUED)

Amendment or Repeal of the Zoning Resolution (Continued)

4. Q. May the board of township trustees require that the owner or lessee of property filing an application to amend or supplement the zoning resolution pay a fee therefore to defray the cost of advertising, mailing, and other expenses?

   A. Yes. O.R.C. 519.12 (A), provides that the trustees may require such fees. However, such fees must be required generally, for each application.

5. Q. May the township zoning resolution be repealed?

   A. Yes. O.R.C. 519.25, sets forth the procedure.

6. Q. When a portion of a township is annexed to an existing municipality, do the township zoning regulations still apply to the annexed portion of the township?

   A. O.R.C. 519.18, states in part: "Upon annexation of township territory to an existing municipal corporation the zoning regulations then in effect shall remain in full force and shall be enforced by the township officials until the legislative authority of said municipal corporation shall either officially adopt the existing zoning regulations or new regulations for such territory."

7. Q. How long do township zoning regulations apply where township territory, subject to such regulations, is incorporated?

   A. Such regulations apply in the newly incorporated territory and shall be enforced by township officials until the election and qualification of officers for the newly incorporated territory; not to exceed ninety days. O.R.C. 519.18.

8. Q. If the people of the township or any part thereof have approved county rural zoning plan prior to the adoption of a zoning resolution by the board of township trustees, and the township plan includes an area covered by the county rural zoning plan, which plan takes precedence?

   A. The zoning resolution adopted by the board of county commissioners takes precedence over zoning resolutions adopted by trustees unless a majority of the voters in the zoned area of the township have voted to have the county rural zoning plan replaced with the township plan of zoning. O.R.C. 519.22.

Noise Control

1. Q. What authority does the board of township trustees have to regulate noise levels within the township?

   A. O.R.C. 505.17 and O.R.C. 505.172 explain that a board of township trustees may adopt regulations and orders that are necessary to control passenger car, motorcycle, and internal combustion engine noise, as permitted under O.R.C. 4513.221 regulations and orders that are necessary to control noise within the unincorporated territory of the township that is generated at any premises to which a D permit has been issued by the division of liquor control or that is generated within any areas zoned for residential use.

I. TOWNSHIP ZONING (CONTINUED)

Noise Control (Continued)

2. Q. What recourse does the board of trustees have against violators?

   A. O.R.C. 505.172(F) authorizes a board of township trustees that adopts a noise control regulation or order to seek an injunction against each person that commits an act or practice that violates the regulation or order. In this injunction action, the court also may award the prevailing party reasonable attorney's fees for work performed.

3. Q. What authority does a township law enforcement officer have in enforcing noise regulations for D liquor permit premises?

   A. A law enforcement officer with jurisdiction in a township having a noise control regulation or order can issue a cease and desist order to a D liquor permit premises when the officer has reasonable cause to believe that the premises has violated the regulation or order and, as a result of the violation, has caused, is causing, or is about to cause substantial and material harm. O.R.C. 505.172(G). **For specific information about noise regulation, the board of township trustees should contact its legal counsel.**

Sexually Oriented or Child-Victim Oriented Offenders

1. Q. What authority does the board of township trustees have to regulate the residency of sexually oriented or child-victim oriented offenders?

   A. O.R.C. 503.60 states:

   (A) Townships have authority to exercise all powers of local self-government within their limits regarding the residency of a person who has been convicted of or pleaded guilty to either a sexually oriented offense or a child-victim oriented offense and to adopt and enforce within their limits any local police, sanitary, and similar regulations regarding the residency of such persons that are not in conflict with general laws. The authority granted under this division shall be exercised by the adoption of resolutions. Townships have the same rights, powers, and duties pursuant to the authority granted under this division as municipal corporations have under Section 3 of Article XVIII, Ohio Constitution relative to their authority to exercise posers of local self-government and to adopt and enforce within their legal limits local police, sanitary, and similar regulations, except to the extent that the rights, powers, and duties that the municipal corporation have by their nature clearly are inapplicable to townships and to the exercise by townships of their authority granted under this division

   (C) As used in this section, "child-victim oriented offense" and "sexually oriented offense" have the same meanings as in section 2950.01 of the Ohio Revised Code.

Junk Motor Vehicles

1. Q. Does a board of township trustees have the authority to remove junk vehicles from public and private property?

   A. Yes. O.R.C. 505.871 authorizes townships to remove and dispose of junk motor vehicles from public and private property. O.R.C. 505.871 also authorizes a board of township trustees to borrow money to pay for the removal of junk motor vehicles from private property when the cost exceeds $500.

II. REGIONAL PLANNING COMMISSION

1. Q. May a board of township trustees cooperate in the creation of a regional planning commission and participate in the financing of a regional planning commission?

   A. Yes. O.R.C. 713.21, authorizes townships to participate.

2. Q. How shall a township be represented and how such shall it contribute?

   A. The members of a regional planning commission, their method of appointment and the proportion of the costs of such regional planning to be borne by the various municipal corporations, townships, and counties in the region shall be such as is determined by the planning commissions and boards. O.R.C .713.21.

III. BOUNDARIES

1. Q. Who is charged with the authority to alter township boundaries?

   A. O.R.C. 503.02 provides that the authority is vested in the board of county commissioners.

2. Q. Under what circumstances may a change in the township boundaries be ordered?

   A. This may occur at the petition of a majority of householders within the township, or upon petition of a municipality. Alteration may also result from the mediation of a boundary dispute between two townships by the county commissioners. O.R.C. 503.02.

3. Q. When may a municipality petition for the alteration of township boundaries?

   A. Per O.R.C. 503.07, when the limits of a municipal corporation do not comprise the whole of the township in which it is situated, or if by change of the limits of such corporation include territory lying in more than one township, the legislative authority of such municipal corporation, by a vote of the majority of the members of such legislative authority, may petition the board of county commissioners for a change of township lines in order to make them identical, in whole or in part, with the limits of the municipal corporation, or to erect a new township out of the portion of such township included within the limits of such municipal corporation. The board, on presentation of such petition, with the proceedings of the legislative authority authenticated, at a regular or adjourned session, shall upon the petition of a city change the boundaries of the township or erect such new township, and may upon the petition of a village change the boundaries of the township or erect such new township. A municipal corporation is subject to no time limits and may proceed at any time to seek to change all or any part of such boundaries. 2002 Att'y Gen. No. 2002-023.

4. Q. When a municipality petitions to have a township boundary changed pursuant to O.R.C. 503.07, when that township boundary extends into a different county, and when that adjustment results in the extension of a township with the same name as a township that already exists in the county, can the new territory continue to use its old name? What effect does this have on the board of election and voters from the preexisting township?

   A. The provisions of O.R.C. 503.04 and O.R.C. 503.08 prohibiting the incorporation or existence in a single county of two townships with the same name do not prevent a change in township boundaries pursuant to O.R.C. 503.07 for the purpose of attaching land from one county to a township in another county when that township bears the same name as a township in the first county; however, the board of county commissioners of the first county must adopt a designation that is sufficient to distinguish the two townships for purposes of elections, taxation, and other governmental functions. 2002 Att'y Gen. No. 2002-023.

5. Q. What is the effect of alteration as to township liabilities and assets?

   A. Both assets and liabilities run with the land. All previously incurred liabilities still lie, and all assets must be apportioned. O.R.C. 503.17.

IV. ANNEXATION

1. Q. What is the role of the township in the annexation procedure?

   A. The township has no direct, active role in the annexation procedure. However, it is significantly affected by a proposed annexation and the township interests may be represented by an attorney at the annexation hearing provided for in O.R.C. 505.62.

2. Q. Isn't territory which is annexed to a municipality automatically severed from the township?

   A. No. Following an annexation, if the annexing municipality does not initiate proceedings pursuant to O.R.C. 503.07 to make the boundary lines of annexed township territory identical with the limits of the municipal corporation, and if the electors of the unincorporated area of the township do not take action pursuant to O.R.C. 503.09 to exclude the annexed territory from being located in any township, then the annexed territory remains part of the township, with the township boundaries unchanged. Inhabitants residing in the annexed territory are residents of both the municipal corporation and the township, and, unless a statute provides a specific exclusion, those residents are obligated to pay both taxes levied by the municipal corporation and taxes levied by the township, and are entitled to vote on both municipal and township officers, issues, and tax levies. OAG 2005-024.** See also OAG 2011-002.

3. Q. May the township trustees expend funds to oppose a proposed annexation of territory from the township?

   A. Yes. O.R.C. 505.62 provides a board of township trustees may enter into a contract with, and appropriate monies for, the services of an attorney to represent the township in hearings before the board of county commissioners and in appeals of the board's decision. The amended statute specifically confers standing to the board of township trustees to appeal a decision.

4. Q. What happens when the annexation causes the municipality to become co-extensive with the township?

   A. All township offices are abolished, and their duties are assumed by the corresponding municipal officials. O.R.C. 703.22.

**OAG 2005-024 addresses mergers as well as annexations. For specific land use matters, a township board of trustees should consult with its legal counsel.

V. INCORPORATION

1. Q. What are the effects of incorporation?

   A. The territory incorporated is vested with the full authority of a municipal corporation under Ohio law. A proper division of the funds and real and personal property of the township is determined and ordered transferred to the village or city treasurer. The transfer is effected by an application of the village or city treasurer to the probate court. O.R.C. 707.28.

VI. MINERAL LEASES

1. Q. Under what terms may mineral leases be entered?

   A. When, in its opinion, the township would be benefited, the board of township trustees may execute and deliver contracts or leases to mine iron ore, stone, coal, petroleum, gas, shale, and other minerals upon lands owned by the township, to any person complying with the terms prescribed by the board as to consideration, rights of way, and occupancy of ground for necessary purposes. All other matters of contract shall be such as the board considers most advantageous to the township. The contracts or leases shall be forfeited to the township for noncompliance with any of the terms set forth in the contracts or leases, and shall not operate as a conveyance of the fee to any part of the realty. No contract or lease for the drilling or operation of a petroleum or gas well shall be valid for a longer term than forty years from the date of the contract or lease, and no contract or lease for the mining of iron ore, stone, coal, salt, or other minerals shall be valid for a term longer than fifteen years from that date. The consideration for the contracts and leases shall be rental or royalty as is prescribed by the board, and shall be payable, as prescribed in the contract or lease, at least once a year to the township fiscal officer, who shall give receipt for the amount and deposit in the township general fund. O.R.C. 505.11. If a township park district, as opposed to the board of township trustees, sells or leases mineral rights to a park within the district, O.R.C. 511.261 requires that any royalties or other moneys resulting from the sale or lease be deposited into a special fund established by the board of park commissioners. The statute requires that such fund shall be used exclusively for maintenance of parks within the district and for the acquisition of new park lands.

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SECTION C

TOWNSHIP LIABILITY

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1. Q. To what extent is the township liable for the negligent acts of its officers and employees?

   A. O.R.C. 2744.01 et. seq. was revised in 1997. The revised version sets forth the general liabilities and defenses of a political subdivision. The law in this area is quite complicated and liability can only be determined on a case by case basis. See O.R.C. 2744.01 et. seq.

2. Q. How does the statute operate in determining liability issues?

   A. Speaking very generally, the law establishes as a general rule the principle that a township is not liable for injury (including injury, death or loss to persons or property) to individuals arising out of acts or omissions of the township or of a township officer or employee with respect to either governmental or proprietary functions.

3. Q. If this is the case, how can the township or its officers and employees be found liable?

   A. This is the general rule. A number of exceptions set forth in the statute provide for liability under specific circumstances. These provide for liability where:

      A. The cause of the injury is the negligent operation of a motor vehicle on public roads, highways, and streets within the scope of an employee's employment and authority. However, there are a number of defenses in this Rule. See O.R.C. 2744.02 (B)(1)(a), (b), and (c);

      B. The cause of the injury is negligent actions with respect to the performance of proprietary functions;

      C. The cause of the injury is a failure to keep public roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, or public grounds open, in repair, and free of nuisance, except in case of a bridge within a municipal corporation and the municipal corporation is not responsible for maintaining the bridge;

      D. The cause of the injury is negligence within or on the grounds of buildings used in connection with the performance of a governmental function;

      E. Liability is specifically imposed upon the township by the Ohio Revised Code.

      F. In addition to the circumstances described in O.R.C. 2744.02, division (B) (1) to (4) of this section, a political subdivision is liable for injury, death, or loss to persons or property when liability is expressly imposed upon the political subdivision by a section of the Ohio Revised Code. Liability shall not be construed to exist under another section of the Ohio Revised Code merely because a responsibility is imposed upon a political subdivision or because of a general authorization that a political subdivision may sue and be sued.

4. Q. What is the difference between "proprietary" and "governmental" functions?

   A. As a general rule, "proprietary" functions are customarily engaged in by private parties. As an example, the operation of a hospital may be performed by the government or by private parties on either a profit or not-for-profit basis. Accordingly, the operation of a hospital is generally considered to be a "proprietary" function. "Governmental" functions are those functions commonly limited to the governmental area, such as police and fire protection. The distinction is often confusing. The legislation to clarify this issue sets forth a general definition of "governmental" functions in O.R.C. 2744.01(C)(1), and also enumerates specific functions deemed to be "governmental" in O.R.C. 2744.01(C)(2). It also sets out a general definition of "proprietary" functions in O.R.C. 2744.01(G)(1), and enumerates specific functions deemed to be "proprietary" functions in O.R.C. 2744.01(G)(2).

5. Q. Why is this distinction in treatment made in the legislation?

   A. This distinction is apparently based upon the idea that the township, to the extent that it is engaging in proprietary function, is competing with private industry, and should not enjoy any distinctive benefits in the areas of liability. In the areas of governmental functions, however, the township has no choice in whether to provide the services, and should be protected to a greater extent.

6. Q. What functions of a township are deemed to be governmental in nature?

   A. A "governmental function" includes, but is not limited to, the following [O.R.C. 2744.01 (C)(1)]:

      a. The provision or nonprovision of police, fire, emergency medical, ambulance, and rescue services or protection;

      b. The power to preserve the peace; to prevent and suppress riots, disturbances, and disorderly assemblages; to prevent, mitigate, and clean up releases of oil and hazardous and extremely hazardous substances as defined in O.R.C. 3750.01; and to protect persons and property;

      c. The provision of a system of public education;

      d. The provision of a free public library system;

      e. The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, and public grounds;

      f. Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;

      g. The construction, reconstruction, repair, renovation, maintenance, and operation of buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses;

      h. The design, construction, reconstruction, renovation, repair, maintenance, and operation of jails, places of juvenile detention, workhouses, or any other detention facility, as defined in O.R.C. 2921.01;

i. The enforcement or nonperformance of any law;

j. The regulation of traffic, and the erection or nonerection of traffic signs, signals, or control devices;

k. The collection and disposal of solid wastes, as that term is defined in O.R.C. 3734.01, including, but not limited to, the operation of solid waste disposal facilities, as "facilities" is defined in that section and the collection and management of hazardous waste generated by household;

l. The provision or nonprovision, planning or design, construction, or reconstruction of a public improvement, including, but not limited to, a sewer system;

m. The operation of a human services department or agency, including, but not limited to, the provision of assistance to aged and infirm persons and to persons who are indigent;

n. The operation of a health board, department, or agency, including, but not limited to, any statutorily required or permissive program for the provision of immunizations or other inoculations to all or some members of the public, provided that a "governmental function" does not include the supply, manufacture, distribution, or development of any drug or vaccine employed in any such immunization or inoculation program by any supplier, manufacturer, distributor, or developer of the drug or vaccine;

o. The operation of mental health facilities, mental retardation or developmental disabilities facilities, alcohol treatment and control centers, and children's homes or agencies;

p. The provision or nonprovision of inspection services of all types, including, but not limited to, inspections in connection with building, zoning, sanitation, fire, plumbing, and electrical codes, and the taking of actions in connection with those types of codes, including, but not limited to, the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in connection with buildings or structures;

q. Urban renewal projects and the elimination of slum conditions, including the performance of any activity that a county land reutilization corporation is authorized to perform under Chapter 1724 or 5722 of the Revised Code;

r. Flood control measures;

s. The design, construction, reconstruction, renovation, operation, care, repair, and maintenance of a township cemetery;

t. The issuance of revenue obligations under O.R.C. 140.06.

u. The design, construction, reconstruction, renovation, repair, maintenance, and operation of any park, playground, playfield, indoor recreational facility, zoo, zoological park, bath, or swimming pool or pond, water park, wading pool, wave pool, water slide, other types of aquatic facility, or golf course;

v. The provision of public defender services by a county or joint county defender's office pursuant to chapter 120 of the Ohio Revised Code.

x. A function that the general assembly mandates a political subdivision to perform.

7. Q. What functions, then, are considered to be proprietary with respect to a township?

   A. A "proprietary function" includes, but is not limited to, the following [O.R.C. 2744.01 (G)(1)]:

      a. The operation of a hospital by one or more political subdivisions;

      b. The design, construction, reconstruction, renovation, repair, maintenance, and operation of a public cemetery other than a township cemetery;

      c. The establishment, maintenance, and operation of a utility, including, but not limited to, a light, gas, power, or heat plant, a railroad, a busline or other transit company, an airport, and a municipal corporation water supply system;

      d. The maintenance, destruction, operation and upkeep of a sewer system;

      e. The operation and control of a public stadium, auditorium, civic or social center, exhibition hall, arts and crafts center, band orchestra, or off-street parking facility.

8. Q. Isn't the liability of the township and the township officers and employees rather broad under this statute?

   A. The liability is certainly broader than it was under sovereign immunity, but it is also narrower than it was before the legislation was enacted. The legislation also provides various defenses and immunities to the township and officers and employees which, if properly asserted, may establish nonliability. These defenses and immunities include:

      A. Liability for the operation of a motor vehicle may be avoided if;

         1. A police officer is responding to an emergency call and his operation of the motor vehicle did not constitute "willful or wanton misconduct";

         2. A firefighter is engaged in duty at a fire, proceeding toward a place where a fire is in progress or is believed to be in progress, or is answering any other emergency alarm and his operation of the motor vehicle did not constitute "willful or wanton misconduct";

         3. A member of an emergency medical service owned or operated by the township is responding to or completing a call for emergency medical care and:

            a. He holds a valid commercial operator's license;

            b. The operation of the motor vehicle did not constitute "willful or wanton misconduct"; and

            c. The operation complies with the requirements of O.R.C. 4511.03. See O.R.C. 2744.02.

8. (cont.) B. The township is immune if:

1. The employee (including officers and employees, whether full or part time, compensated or uncompensated) was engaged in the performance of a judicial, quasi-judicial, prosecutorial, legislative, or quasi-legislative function;

2 . The conduct of the employee, other than negligent conduct, giving rise to the claim was required by law, or was necessary or essential to the exercise of powers of the political subdivision, or employee;

3. The act or failure to act on the part of the employee was within the discretion of the employee with respect to policy making, planning, or enforcement powers by virtue of the duties or responsibilities of the office or position of the employee;

4. The act or failure to act by the township or by the township employee resulted in injury or death to a person who had been convicted of or pleaded guilty to a criminal offense and was serving a portion of his sentence by performing community service work for or in the township;

5. The act or failure to act by the township or by the township employee resulted in injury or death to a child who had been found to be a delinquent child and was performing community service work in or for the township in accordance with the order of a juvenile court pursuant to O.R.C. 2151.355, and was covered for the purposes of Chapter 4123, O.R.C., in connection with the community service work for or in the township; and

6. The injury resulted from the exercise of judgment of discretion in determining how to use equipment, supplies, materials, personnel, facilities, and other resources, unless the judgment or discretion was exercised with malicious purpose, in bad faith, or in a wanton or reckless manner. See O.R.C. 2744.03.

9. Q. May the township purchase liability coverage to protect against liability for such claims?

   A. Yes. O.R.C. 2744.08 authorizes the purchase of liability insurance by a township with respect to both the employee's and the township's potential liability. The limits, circumstances, and terms and conditions of the insurance policies are determined at the discretion of the township. Such insurance policies normally provide for a legal defense of the insured by the insurer, thus fulfilling the obligation of the township to the employees.

10. Q. The statutes seem incredibly complex. How may the board of township trustees obtain assistance in applying the statute?

   A. Your legal counsel, either the county prosecuting attorney or private counsel employed pursuant to O.R.C. 309.09, may be able to give you valuable advice as to the construction of the statute. You may also be able to obtain information from your insurance agent or, if you wish, from an independent insurance consultant or broker employed pursuant to O.R.C. 9.36.

SECTION D

ADMINISTRATION AND FINANCE

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I. BOARD MEETINGS

Procedure

1. Q. Are the township trustees required to meet once a month?

   A. No. The law with reference to township trustees does not require that township meetings be held at any particular time and they may meet at such times and at such places as they themselves may determine.

2. Q. Does the board of township trustees have authority to adopt rules of order to be followed in the conduct of its meetings?

   A. Yes. Any deliberative body, in order that the will of a majority of its members may be ascertained and registered in an orderly way, must be governed by rules of procedure to which each member thereof must conform. See O.R.C. 505.09.

3. Q. What procedure is to be followed in the absence of the adoption of special rules of procedure?

   A. It is a well-established principle that if any deliberative body does not adopt special rules of procedure, its procedure is governed by general parliamentary law.

4. Q. May the president of a board of township trustees enforce a limit on the amount of time allotted for public participation at a regular meeting of the board, including time limits for individual speakers, and, if so, may the president waive the time limits?

   A. The president of a board of township trustees may enforce a time limit on the amount of time allotted for public participation at a regular meeting of the board, including time limits for individual speakers, provided the president exercises such authority in accordance with the board's rules for meeting procedure.

   The president of a board of township trustees may waive the limit on the amount of time allotted for public participation at a regular meeting of the board or for a member of the public to speak during the public participation portion of the meeting, provided the president exercises such authority in accordance with the board's rules for meeting procedure. OAG 2007-019

5. Q. May the president of a board of township trustees prohibit a member of the public from speaking at a regular meeting of the board about a matter that is not within the purview of the board's legislative authority or that is unrelated to township government or an item on the meeting's agenda?

   A. The president of a board of township trustees may prohibit a member of the public from speaking at a regular meeting of the board about a matter that is not within the purview of the board's legislative authority or that is unrelated to township government or an item on the meeting's agenda, provided the president exercises such authority in accordance with the board's rules for meeting procedure. OAG 2007-019

I. BOARD MEETINGS (CONTINUED)

Procedure (Continued)

6. Q May a board of township trustees limit public participation at a regular meeting and request members of the public to speak at the board's next regular meeting or submit correspondence to the board when time constraints or exigent circumstances require such action by the board?

   A. When a board of township trustees deems it necessary because of time constraints or exigent circumstances, the board may curtail public participation at a regular meeting and request members of the public to speak at the board's next regular meeting or submit correspondence to the board. OAG 2007-019

7. Q. May the word "constable," as used in O.R.C. 505.09, be fairly read to include a county deputy sheriff appointed under O.R.C. 311.04?

   A. The word "constable," as used in O.R.C. 505.09, refers to a police constable appointed under O.R.C. 509.01 and may not reasonably be read as referring to a county deputy sheriff appointed under O.R.C. 311.04. OAG 2007-019

8. Q. Is a board of township trustees required to prepare and distribute to the public or media a written agenda for a regular meeting?

   A. A board of township trustees is not required by statute to prepare and distribute to the public or media a written agenda for a regular meeting. OAG 2007-019.

9 Q. Do townships have the right, during the declaration of an emergency, such as pandemic, to hold meetings by teleconference or some other means which would prohibit or limit the public from attending in person?

   A. In summary, O.R.C. 5502.24(B) provides an avenue by which townships may establish alternate meeting places for their public bodies to meet in the case of an emergency, and it thus makes it possible for a board of township trustees to meet in person in order to lawfully satisfy a township's financial obligations. O.R.C. 5502.24(B) does not provide an exception to the "in person" requirement of O.R.C. 121.22(C) and thus does not permit a public body to meet or conduct its township business by teleconference. OAG 2009-034.

10. Q. Do townships have the right to limit public attendance at meetings during a pandemic?

   A. A public body may not expressly limit public attendance at its meetings. The provisions of law pertaining to the authority of a township to limit public attendance at meetings of a public body are not repealed or otherwise affected as a result of whether a federal, state, or local governmental official declares a state of emergency in a township or as a result of the type of emergency a township is confronting. OAG 2009-034

Organization of Board

1. Q. Should a township board organize by electing either a president or chairman?

   A. Yes, electing either a president or chairman is advisable, but not a legal requirement

I. BOARD MEETINGS (CONTINUED)

Organization of Board (Continued)

2. Q. May the president or chairman make a motion or second a motion, or vote on a motion the same as any other member?

   A. Yes. Such person is a constituent member of the board who attains membership on the board in the same manner as any other member and his election as president or chairman does not deprive him of the privilege of casting a vote, or making a motion the same as any other member of the board.

3. Q. May a trustee vote for himself as chairman or president?

   A. Yes.

Action by a Majority of Board

1. Q. Are there any instances where a majority vote of the trustees is not enough to effect a particular action, and unanimous approval is required?

   A. Yes. An example where unanimous approval is required is when declaring a real and present emergency in connection with the administration of township services or the execution of duties assigned by law to any officer of a township. After a unanimous vote, the board of township trustees may, by resolution, enter into a contract without bidding or advertising for the purchase of services, materials, equipment, or supplies needed to meet the emergency if the estimated cost of the contract is less than $50,000. O.R.C. 505.08. Additionally, unanimous approval is needed if the board of trustees, without presentation of a petition, plan to take the necessary steps to construct, reconstruct, resurface, or improve a public road or part thereof if the necessity arises. O.R.C. 5571.15. Further, unanimous approval is required, if acting without a petition, when the board of trustees has determined that any road shall be constructed, reconstructed, resurfaced or improved, O.R.C. 5573.01. Unanimous approval is required only if the statutes so indicate. For other examples, see O.R.C. 505.24, 505.262, 505.28, 505.82, and 5575.06.

2. Q. Where there is a vacancy in the board of township trustees, do two trustees constitute a quorum to transact such business?

   A. Yes. O.R.C. 504.09 provides in part that: "...A majority of the members of the board constitutes a quorum."

3. Q. May the fiscal officer vote on the adoption of any motion or resolution?

   A. No. The fiscal officer is not authorized to participate in the legislative function of the board by casting a vote on any proposal because the board of township trustees is the sole legislative authority. OAG No. 65-70.

I. BOARD MEETINGS (CONTINUED)

Minutes of Meeting

1. Q. Is there any requirement that the township keep minutes of its meetings?

   A. Yes. O.R.C. 507.04 provides that the fiscal officer shall keep an accurate record of the proceedings of the board of township trustees at all its meetings. O.R.C. 121.22, also provides that the minutes of a regular or special meeting of a township "shall be promptly prepared, filed, and maintained and such records shall be open to public inspection."

2. Q. If two of the trustees decide (in advance) to meet at a local restaurant to officially discuss township business, is this considered a meeting?

   A. Yes. O.R.C. 121.22 defines a meeting as ". . . any prearranged discussion of the public business of the public body by a majority of its members." This section was revised effective March 9, 1999, to include committees and subcommittees as subject to this section of law. Such meetings would be "public meetings" and must be open to the public with minutes prepared and filed.

3. Q. Must the fiscal officer have the minutes of the previous meeting of the trustees ready at the regular meeting so that the minute book can be signed?

   A. Yes. It is the duty of the fiscal officer to have the minutes of the previous meetings properly completed so that the minute book can be approved at the meeting of the trustees.

4. Q. Must the township trustees permit the general public to attend its meetings?

   A. Yes. O.R.C. 121.22 specifically provides that all meetings of the board of township trustees are public meetings open to the public at all times.

5. Q. Is it necessary to permit a reporter to examine the record book containing the minutes of the township trustees and, if he wishes, permit him to compile the same for publication in the local newspaper?

   A. Yes. A reporter must be permitted access to this record because township records are public records, subject to inspection by any interested person at all reasonable times. O.R.C. 149.43 (B).

6. Q. What right does a trustee have to delete information from the minute record which sets forth actual business? O.R.C. 121.22.

   A. None. When the minutes of the meeting have been recorded by the fiscal officer in a minute book, no trustee has any authority to delete the same. The minutes of the meeting must be presented at the next regular meeting of the board for corrections after the previous minutes have been read by the fiscal officer of the board. The board chairman should call for any omission or correction and, if no objections are raised, they should stand as read. If, on the other hand, there is an objection, the objection, as stated, must be voted upon by the board and, if the objection is well-taken, correction should be made and the minutes then should be approved as corrected. It is important to note that the minutes are to be an accurate reflection of what was discussed at the public meeting. Thus, unless items contained in the minutes are inaccurate, a trustee cannot delete the information from the minute book, even if the trustee does not like how that discussion is worded.

I. BOARD MEETINGS (CONTINUED)

Minutes of Meeting (Continued)

7. Q. May the township trustees require that the fiscal officer refrain from reading the minutes of the previous meeting at each meeting?

   A. Yes. Although the fiscal officer is required to take and keep minutes of each meeting, it is not mandatory that they be read at the successive meeting. However, it is suggested that it is better public policy to have the minutes so read to permit corrections. See response to question 6 above.

8. Q. May a township trustee vote to approve the minutes of a regular meeting of the board of township trustees when the trustee was absent from the meeting?

   A. Neither the Ohio Revised Code nor generally accepted rules of parliamentary procedure require a board of township trustees to conduct a vote to approve the minutes of its regular meetings. A board of township trustees may be required by a formal motion of a trustee of the board's rules for meeting procedure to conduct a vote to approve the minutes of a regular meeting. When a board of township trustees is required to conduct a vote to approve the minutes of a regular meeting, the vote must be conducted in accordance with the board's rules for meeting procedure. A board of township trustees' rules for meeting procedure should state whether a township trustee may vote to approve the minutes of a regular meeting of the board of township trustees when the trustee was absent from the meeting. OAG 2007-019.

Special Meetings

1. Q. What is a special meeting?

   A. At the beginning of the year, most townships establish a regular meeting time, such as the first and third Monday of each month. A special meeting is a meeting held any time other than the regular meeting date established at the beginning of the year.

2. Q. How often may a special meeting be called?

   A. A special meeting may be called at any time that the trustees so desire.

3. Q. How is a board of township trustees to be notified of a special meeting?

   A. Each of the three trustees must have notification of the time and place of a special meeting. Notice should be in writing. However, in order to assure that there can be no question that a member of a board of township trustees has had notice of the time and place of a special meeting, the board of township trustees may wish to send a registered letter to each one of the township trustees. Notification by registered letter will eliminate any possible doubt as to whether or not a trustee has proper notice of the meeting. The importance of notification arises from the fact that if a township trustee has not been notified of the time and place of the special meeting, the meeting would not be validly called and any business transacted at the meeting would be of no force and effect.

I. BOARD MEETINGS (CONTINUED)

Special Meetings (Continued)

4. Q. For what purpose may a special meeting be called?

   A. The special meeting may be called for the purpose of transacting any township business which the board of township trustees may wish to transact.

5. Q. If the special meeting is called to transact one particular item of business, may any other township business be transacted at a special meeting?

   A. Only if the business to be transacted is included within the purpose of the special meeting, O.R.C. 121.22 and OAG No. 88-029.

6. Q. Is a special meeting open to the public and must there be a public announcement of a special meeting?

   A. A special meeting is open to the public. O.R.C. 121.22 states that the board of trustees must establish a reasonable method whereby any person may determine the time, place and purpose of all special meetings. Furthermore, the board must give at least 24 hours advance notice of all special meetings to all news media that have requested such notification. The only exception to this procedure is an emergency requiring immediate official action. If such an emergency arises, the news media that have requested notification must be notified immediately.

7. Q. May the township fiscal officer be paid for being present at a special meeting?

   A. No. A township fiscal officer is required to be present at all meetings, whether such meetings are held at the regular meeting date or at some other time, since the minutes of all meetings must be reported. The fiscal officer is, therefore, not entitled to any additional compensation for attending a special meeting, since the fiscal officer is not compensated on the basis of the number of meetings attended, but, rather is compensated based upon the budget of the township.

Executive Session

1. Q. Are there any exemptions to the statutory requirement that township meetings be open to the public?

   A. Yes. Township officials may privately meet with audit officials during an audit conference. They may also conduct an Executive Session during a township meeting to discuss certain topics identified in O.R.C. 121.22(G).

I. BOARD MEETINGS (CONTINUED)

Executive Session (Continued)

2. Q. Is it necessary to convene a regular or special meeting of the board of township trustees, before the board may meet in executive session?

   A. Yes. O.R.C. 121.22(G) provides that the township trustees may hold executive sessions only at a regular or special meeting. After a roll call vote is taken, the motion to hold the executive session must state which reason pursuant to O.R.C. 121.22 (G)(1) to (8) is being discussed. Therefore, it is necessary to convene the regular or special session, recess into executive session for an approved purpose, terminate the executive session, then return to public meeting status, and, then, adjourn the regular or special meeting.

3. Q. Is the board of township trustees required to keep minutes of the discussions had in executive session?

   A. No. O.R.C. 121.22(C) provides the minutes need only reflect the general subject matter of the discussions, but not any details of what was said. In addition, it is important to be aware that any minutes that are taken during an executive session are considered public records which must be released to the public upon request.

4. Q. May the board of township trustees take formal action while in executive session?

   A. No. Any formal action taken must be taken at an open meeting. Any formal action taken, other than in an open meeting, that results from deliberations in executive session not specifically authorized for discussion in executive sessions, is void. O.R.C. 121.22(H).

II. RECORDS

Keeping Records

1. Q. How long should a township keep and maintain employee records?

   A. A record of the name, address, occupation, pay rate, hours worked for each day worked and each amount paid an employee for a period of not less than three years following the last date the employee was employed must be kept by the township. Article II, Section 34a, Ohio Constitution.

2. Q. How long should paid bills, canceled checks, warrant stubs, minute books, reports and various other township documents be preserved?

   A. All such records should be permanently preserved, regardless of their age, unless their destruction is authorized under Section 149.381. (See next section for further information.)

3. Q. May a township fiscal officer maintain a computerized accounting system and/or other computerized system?

   A. Yes. O.R.C. 9.01 permits different methods of record keeping. Also, O.R.C. 117.101 authorizes the Uniform Accounting System for townships.

Authority for Destruction or Disposal of Township Records

1. Q. Is there any progress being made toward alleviating the increasing problem of storing long outdated township records?

   A. Yes. O.R.C. 149.42 O.R.C. 149.381 provides for a process whereby old records may be destroyed where the provisions of that section are met.

2. Q. Who is required to act on the question of destruction of old township records?

   A. O.R.C. 149.42 creates a township records commission in each township. The commission reviews applications for one-time disposal of obsolete records and creates schedules of how long records need to be maintained in each township office. Upon following these schedules, the commission then seeks approval for disposal from the Ohio history connection pursuant to O.R.C. 149.381.

3. Q. What persons compose the township records commission?

   A. The commission is composed of the chairman of the board of township trustees and the fiscal officer of the township.

4. Q. What records may the township destroy on their own initiative without going through the township records commission?

   A. Townships are not authorized to destroy any records without approval of the Ohio Historical Society.

II. RECORDS (CONTINUED)

Authority for Destruction or Disposal of Township Records (Continued)

5. Q. How is a record defined?

   A. O.R.C. 149.011(G) defines "records" as including "Any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revied Code, created or received by or coming under the jurisdiction of any public office of the State or its political subdivisions which serves to document the organization, function, policies, decisions, procedures, operations, or other activities of the office." Any record which is transferred to an archival institution because of historical information contained therein shall be deemed to be an archive within the meaning of these sections.

6. Q. The township has microfilmed vouchers of payments and disbursements for the last ten years. May the township officials, on their own initiative, destroy the originals of the microfilmed records or must they clear this through the township records commission?

   A. Destruction of the originals or township records which have been copied or reproduced in accordance with O.R.C. 9.01 is authorized only with the approval of the township records commission and approval from the Ohio history connection. O.R.C. 149.381, 149.42.

Procedure for Destruction or Disposal

1. Q. At the last meeting of the board of township trustees, the trustees culminated their two months' discussion on the question of what township records they would like to destroy. Trustee Johnson moved that the question of the destruction of the list of records, which he then enumerated, be presented to the township records commission. Does the township fiscal officer have a role in this process?

   A. Yes. The township fiscal officer shall submit the request to the township records commission in the form of a disposal list. Each list shall contain those records which have been microfilmed or no longer have administrative, legal or fiscal value.

2. Q. If the township trustees do not wish to destroy certain old records of the township but, instead, wish to give them to the Hockinghana Society to display permanently in a glass case in a public shelter built to commemorate a historical meeting between the Native Americans and the first white settlers in that community, must the township fiscal officer present a formal written application for written approval from the township records commission?

   A. Yes. The authority to "dispose of records, by destruction or otherwise," is vested solely in the commission, subject to approval by the Ohio Historical Society.

3. Q. The township is microfilming its records by a method which will comply with the provisions set forth in O.R.C. 9.01, but does not at this time wish to destroy or otherwise dispose of the originals. Must application be made to the township records commission?

   A. No. It is not necessary to make application to the township records commission until such time as the township wishes to destroy or otherwise dispose of the originals.

II. RECORDS (CONTINUED)

Procedure for Destruction or Disposal (Continued)

4. Q. What procedure must the township records commission follow before disposing of township records?

   A. When a records commission has approved an application for one-time disposal of obsolete records or any schedule of records retention and disposition, the records commission shall send that application or schedule to the Ohio history connection for its review. The Ohio history connection shall review the application or schedule within a period of not more than sixty days after its receipt of it. During the sixty-day review period, the Ohio history connection may select for its custody from the application for onetime disposal of obsolete records any records it considers to be of continuing historical value, and shall denote upon any schedule of records retention and disposition the records for which the Ohio history connection will require a certificate of records disposal prior to their disposal. O.R.C. 149.381.

5. Q. If the vouchers for payments and disbursements are copied or reproduced in the manner provided by O.R.C. 9.01, must the fiscal officer, nevertheless, make written application to the township records commission for a written order for destruction?

   A. Yes.

Public Records Law

1. Q. What is a public record?

   A. O.R.C. 149.43(A)(1) states:

   "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" **does not** mean any of the following (*emphasis added*):

   (a) Medical records;

   (b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;

   (c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

   (d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;

   (e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

II. RECORDS (CONTINUED)

Public Records Law (Continued)

(f) Records specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;

(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;

(m) Intellectual property records;

(n) Donor profile records;

(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;

(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;

II. RECORDS (CONTINUED)

Public Records Law (Continued)

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;
(v) Records the release of which is prohibited by state or federal law;
(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(y) Records listed in section 5101.29 of the Revised Code;

(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;

(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;

(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code ;

(dd) Personal information, as defined in section 149.45 of the Revised Code ;

(ee) The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code, including the contents of any application for absent voter's ballots, absent voter's ballot identification envelope statement of voter, or provisional ballot affirmation completed by a program participant who has a confidential voter registration record, and records or portions of records pertaining to that program that identify the number of program participants that reside within a precinct, ward, township, municipal corporation, county, or any other geographic area smaller than the state. As used in this division, "confidential address" and "program participant" have the meaning defined in section 111.41 of the Revised Code.

(ff) Orders for active military service of an individual serving or with previous service in the armed forces of the United States, including a reserve component, or the Ohio organized militia, except that, such order becomes a public record on the day that is fifteen years after the published date or effective date of the call to order.

II. RECORDS (CONTINUED)

Public Records Law (Continued)

2. Q. Must the board of township trustees adopt a public records policy?

   A. Yes. O.R.C. 149.43(E)(1).

3. Q. What should be included in the township's public records policy?

   A. O.R.C. 149.43 (E)(1) says in adopting a public records policy under this division, a township may obtain guidance from the model public records policy developed and provided to the township by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the township will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

   A sample public records policy can be found in Appendix II of this handbook, and on the attorney general's website at: http://www.ag.state.oh.us/publicrecords/modelpolicy.asp.

4. Q. Once a board of township trustees has established a public records policy, how is the policy to be distributed?

   A. O.R.C. 149.43(E)(2) says the township shall distribute the public records policy adopted by the township under O.R.C . 149.43 (E)(1) to the employee of the township (township fiscal officer) who is the records custodian or records manager or otherwise has custody of the records of that office. The township shall require that employee to acknowledge receipt of the copy of the public records policy. The township shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the township's public office and in all locations where the township has branch offices. The township may post its public records policy on the internet web site of the township if the township maintains an internet web site. A township that has established a manual or handbook of its general policies and procedures for all employees of the township shall include the public records policy of the township in the manual or handbook.

II. RECORDS (CONTINUED)

Public Records Law (Continued)

5. Q. When a township receives a public records request, how should they proceed?

   A. Upon request and subject to O.R.C. 149.43 (B) (8), all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to O.R.C. 149.43 (B) (8), upon request, a township shall make copies of the requested public record available at cost and within a reasonable period of time. O.R.C. 149.43(B)(1)

6. Q. If a requested public record contains information not deemed to be a public record under O.R.C. 149(A)(1)(a) through O.R.C. 149(A)(1)(y), how should a township respond to the request?

   A. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the township or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the township or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction. O.R.C. 149.43(B)(1)

7. Q. What is the definition of “redaction?”

   A. "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Ohio Revised Code. O.R.C. 149.43(A)(11)

8. Q. How shall public records be organized and maintained?

   A. To facilitate broader access to public records, a township or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with O.R.C. 149.43 (B). A township also shall have available a copy of its current records retention schedule at a location readily available to the public. O.R.C. 149.43(B)(2).

9. Q. If a person makes an overly broad request, or a request where the township cannot reasonably identify what records are being requested, can the township deny the request?

   A. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the township or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the township or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the township and accessed in the ordinary course of the township's or person's duties. O.R.C. 149.43(B)(2).

II. RECORDS (CONTINUED)

Public Records Law (Continued

10. Q. If a township ultimately denies a public records request, either in part or in whole, is the township required to provide an explanation to the requester?

    A. O.R.C. 149.43(B)(3) says if a request is ultimately denied, in part or in whole, the township or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The explanation shall not preclude the township or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under O.R.C. 149.43(C).

11. Q. Must the requester disclose their identity or the intended use of the requested public records?

    A. No. Unless specifically required or authorized by state or federal law or in accordance with O.R.C. 149.43(B), no township or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requestor's identity or the intended use of the requested public record constitutes a denial of the request. O.R.C. 149.43(B)(4).

12. Q. May a township require public records requests to be written requests?

    A. No. A township or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the township or person responsible for public records to identify, locate, or deliver the public records sought by the requester. O.R.C. 149.43(B)(5).

13. Q. Can a township require that a person requesting a copy of a public record pay the cost involved with providing the copy in advance?

    A. Yes. If any person chooses to obtain a copy of a public record in accordance with O.R.C. 149.43(B) of this section, the township or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under O.R.C. 149.43(B). O.R.C. 149.43(B)(6).

14. Q. Is a township required to allow a person seeking a copy of a public record make the copy themselves?

    A. No. Nothing in this O.R.C. 149.43 requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record. O.R.C. 149.43(B)(6).

II. RECORDS (CONTINUED)

Public Records Law (Continued

15. Q. If a person who is requesting a public record feels that a township fails to provide records in accordance with the Ohio Public Records Act, what recourse do they have?

A. If a person allegedly is aggrieved by the failure of a township or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with O.R.C. 149.43(B) or by any other failure of a township or the person responsible for public records to comply with an obligation in accordance with O.R.C. 149.43(B), the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the township or the person responsible for the public record to comply with O.R.C. 149.43(B), that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under O.R.C. 149.43(C)(1). The mandamus action may be commenced in the court of common pleas of the county in which O.R.C. 149.43(B) allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which O.R.C. 149.43(B) allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

If a requestor transmits a written request by hand delivery or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the township or person responsible for the requested public records, except as otherwise provided in this section, the requestor shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that the township or the person responsible for public records failed to comply with an obligation in accordance with O.R.C. 149.43(B). O.R.C. 149.43(C)(1)

Additionally, under O.R.C. 2743.75, an allegedly aggrieved person may file a complaint in the Ohio Court of Claims under a fast-track, less expensive program. The Public Records Claims Program streamlines public records claim resolutions by using required mediation between the parties, a simplified complaint form, and shorter timelines for decisions by the parties and the court.

16. Q. What are the statutory damages as provided for in the Ohio Revised Code?

A. The amount of statutory damages shall be fixed at one hundred dollars for each business day during which the township or person responsible for the requested public records failed to comply with an obligation in accordance with O.R.C. 149.43(B), beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the township or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with O.R.C. 149.43(B) and that was the basis of the mandamus action, a well-informed township or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the township or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with O.R.C. 149.43(B);

II. RECORDS (CONTINUED)

Public Records Law (Continued)

(b) That a well-informed township or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the township or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct. O.R.C. 149.43(C)(1).

17. Q. Are the minutes of township meetings open to public inspection?

A. Yes. O.R.C. 121.22(C) provides that: "The minutes of the regular or special meeting of any public body shall be promptly prepared, filed, and maintained shall be open to public inspection." This section specifically includes a township under the operation of its provisions and further requires that all meetings of boards of township trustees shall be public meetings, open to the public at all times. No resolution, rule, regulation or similar action of any kind shall be adopted at any executive session of any such board.

18. Q. Does an audio tape recording of a meeting of a board of township trustees, created by a township fiscal officer for the purpose of taking notes constitute a public record?

A. Yes. An audio tape recording of a meeting of a board of township trustees that is created by the township fiscal officer for the purpose of taking notes to create an accurate record of the meeting, as required by O.R.C. 507.04(A), is a public record for the purposes of O.R.C. 149.43. The audio tape recording must be made available for public inspection and copying, and retained in accordance with the terms of the township records retention schedule for such a record. OAG 2008-019,

III. TOWNHALL

Providing the Townhall

1. Q. May the township use general fund money to purchase, construct, improve, repair or remove or maintain a townhall?

   A. To answer this question, it is necessary to differentiate a "townhall" and a "town office building." The attorney general has ruled that the two are subject to two different sections of the revised code. If the building on which an expenditure is contemplated is a "townhall" -- that is, a large hall for public assemblies, it is subject to the provisions of O.R.C. 511.01. General fund money may be used if the cost will not exceed $50,000; however, it is necessary to obtain the approval of the electorate. Should the building be an office building for the township, or a building for which the greater portion of the cost is devoted to office space for the township, O.R.C. 505.26, applies, and general fund monies may be used without approval of the electorate, if sufficient funds are available in the township treasury. If such funds are not available from the township treasury, O.R.C. 511.01 applies, and the approval of the electorate is necessary for expenditures in excess of $50,000.

2. Q. May a township lease office space?

   A. Yes. O.R.C. 505.26 provides that: "If sufficient space for township offices is not available, the board of township trustees may purchase, lease or construct, and furnish, equip, and maintain office space," if sufficient funds are available in the treasury.

3. Q. May the trustees lease a site upon which to construct a building to be used for township offices?

   A. Yes. O.R.C. 505.26 provides that when township offices are to be provided by construction: "A site upon which to erect such office may be acquired by purchase, leased for twenty-five years or longer or otherwise." The cost of providing such office space shall be paid out of funds in the township treasury.

4. Q. What procedures must the township trustees follow in the construction or repair of a town hall?

   A. If, in a township, a town hall is to be built, improved, enlarged, or removed at a cost greater than fifty thousand dollars, the board of township trustees must first certify a resolution to the board of elections and submit the question to the electors of the township. Only upon approval by voters may the township proceed with the project.

5. Q. May the township pay a fee to the Department of Industrial Relations, Division of Factory and Building Inspection, when plans for the remodeling of the townhall are submitted to such department?

   A. Yes. Township trustees are required to pay such a fee for the processing of the plans and specifications for the building.

III. TOWNHALL (CONTINUED)

Providing the Townhall (Continued)

6. Q. A village has completed steps to detach itself from the township within which it was originally located. The townhall of the township from which the village detached itself is located within the village and, thus, the meeting place of the township is no longer within the limits of the township. May the township trustees, nevertheless, continue to meet in the townhall now located outside the limits of the township and within the limits of the detached village?

   A. Yes. There is no statute which specifically provides that the townhall must be located within the limits of the township, although, for convenience, the better practice would be for the townhall to be located within the limits of the township. Since there is no statute which specifically prohibits the board of township trustees from conducting its meetings outside the geographical boundaries of the township, it must be concluded that the board of township trustees would be authorized to continue to hold its meetings at the location outside the township, provided the meetings are open to the public.

7. Q. May a telephone be installed in the home of the township fiscal officer for the use and benefit of the township?

   A. Yes. Provided that the township does not have any other townhall or place in which to conduct the business of the township and the home of the township fiscal officer is used as the official office, the township may properly pay the expense of providing such a telephone, provided the phone shall be in the name of the township.

8. Q. If the trustees put a telephone in the fiscal officer's home, must the telephone be listed as the township telephone? If it must be listed as a township telephone, it would cost four dollars a month more because it will be a rural business telephone.

   A. It is generally conceded that a telephone is an essential part of a township office, and it has been determined that if no office is being provided by the township in a township hall or otherwise but, instead, the home of the fiscal officer is used as the official office, a telephone may be installed in the home of the township fiscal officer. However, in spite of the fact that the listing of the telephone in the township name will increase the cost, the telephone should be so listed. This conclusion is based on the fact that the fiscal officer needs the telephone not only to make outgoing calls, but also to receive calls from township citizens who may wish to contact the fiscal officer on township business.

Free Use of Townhall

1. Q. May the township trustees permit the public to make free use of the townhall for public meetings, dances and entertainment?

   A. Yes. O.R.C. 3313.76 provides that: "Upon application of any responsible organization, or of a group of at least seven citizens, school premises, as that term is defined in section 3313.77 of the Revised Code, as well as all other buildings under the supervision and control of the state, or buildings maintained by taxation under the laws of this state, shall be available for use as social centers for the entertainment and education of the people, including the adult and youthful population, and for the discussion of all topics tending to the development of personal character and of civil welfare, and for religious exercises." A township hall would fall within the category of a building "maintained by taxation under the laws of this state."

III. TOWNHALL (CONTINUED)

Free Use of Townhall (Continued)

2. Q. Who has the authority to make the determination whether or not the purposes of the organization making application for free use of the townhall fall within the uses authorized by O.R.C. 3313.76?

   A. The board of township trustees, in the reasonable exercise of their discretion, may make the determination.

3. Q. If an organization is one whose purposes are such that it would be entitled to make free use of the townhall, may the board of township trustees, nevertheless, charge such organization a fee for use of the townhall?

   A. Yes. O.R.C. 3313.79 provides that: "Any organization or group of citizens permitted to use the property specified in O.R.C. 3313.76 shall be responsible for any damage done over and above the ordinary wear, and shall, if required, pay the actual expenses incurred for the janitor service, light and heat."

4. Q. If the purposes of the organization making application for free use of the townhall are such that they would fall within the purposes for which free use of the townhall may be made, may the board of township trustees, nevertheless, deny such organization to the right to use the townhall on the evening that it requests if the board of township trustees is holding a meeting in the townhall that evening and there is no other place in the townhall for the group to hold its meeting?

   A. Yes. O.R.C. 3313.76 provides that: "Such occupation should not seriously infringe upon the original and necessary uses of such property. The public officials in charge of such buildings shall prescribe such rules and regulations for their occupancy and use, as well as secure a fair, reasonable, and impartial use of the same."

5. Q. If a board of township trustees has purchased a vacant former school building from a school district and the board of township trustees has not yet determined whether the building is fit for public use, has not yet decided whether to keep or remove the building, and has not yet begun to use the building for any township purpose, must the board of township trustees allow a citizen group or nonprofit organization use the building?

   A. No. O.R.C. 3313.76 does not require the board of township trustees to allow use of the building. OAG. 2004-002.

Leasing Townhall

1. Q. May private enterprise organizations make free use of the townhall?

   A. If the organization's purposes do not qualify under O.R.C. 3313.76, the townhall may not be used free of charge. However, the township trustees may rent the townhall or any portion not needed for township purposes.

2. Q. May the trustees give preference to any group wishing to rent the townhall?

   A. Yes. To residents of or organizations that are headquartered in the township or to charitable or fraternal organizations, provided that all similarly situated persons or organizations are treated alike without regard to race, color, religion, national origin, sex or political affiliation. O.R.C. 511.03.

III. TOWNHALL (CONTINUED)

Leasing Townhall (Continued)

3. Q. May the trustees lease a portion of a township building for a term of 99 years?

   A. Yes. O.R.C. 511.03 provides that the hall or any portion thereof may be leased "under terms the board considers proper."

4. Q. If the townhall is leased, how must the rent be paid?

   A. O.R.C. 511.03 so provides in part: "The board shall have control of any town hall belonging to the township, and it may rent or lease all or part of any hall, lodge, or recreational facility belonging to the township, to any person or organization under terms the board considers proper, for which all rent shall be paid in advance or fully secured."

5. Q. For what purpose should the rents from the townhall be used?

   A. Such money should be used for the repair and improvement of the townhall and any balance may be used for general township purposes.

Liability

1. Q. Is it permissible for a township to carry liability insurance on a townhall and the surrounding premises?

   A. Yes. O.R.C. 2744.08 authorizes the purchase of liability insurance.

2. Q. Since the township trustees permit citizen groups such as the Boy Scouts, the 4-H Club, and the Flower Club to use the townhall as a meeting room, may the township trustees purchase liability insurance to protect the township in the event that a person attending one of such meetings is injured while on the township premises?

   A. Yes. O.R.C. 2744.08.

3. Q. The township rents out a portion of the townhall to an organization which charges admission to its events. May the township trustees purchase liability insurance to protect the township in the event that one of the persons paying such admission fee is injured while on the premises?

   A. Yes. O.R.C. 2744.08.

Joint Public Building

1. Q. May a township join with a village located within the township in the construction of a public building?

   A. Yes. O.R.C. 511.05 authorizes the township to unite with a village in the enlargement, improvement, or erection of a public building. However, action to join with a village in the construction of a public building must be commenced by the filing of an application with the board of township trustees, signed by not less than 25 resident freeholders (persons having title to property) of the township who are not residents of the village, and a similar application must be addressed to the mayor of the village, signed by not less than 25 resident freeholders of the village.

III. TOWNHALL (CONTINUED)

Joint Public Building (Continued)

2. Q. If it will be necessary to levy a tax to cover the township's portion of the cost of enlarging, improving, or erecting a public building jointly with a municipality, will it be necessary to submit both the question of enlargement, improvement, or erection of the public building and the question of levying a tax for such enlargement, improvement or erection?

   A. Yes. Two separate questions must be submitted. O.R.C. 511.05, 511.06. O.R.C. 511.07 states that a vote must be had on the question of whether or not such a joint building shall be enlarged, improved or erected. Two-thirds of the electors of the township and of the village voting must vote in favor of such improvement.

3. Q. A township and a village located within the township have determined to construct a joint building, but the township does not have sufficient funds in its treasury to meet its portion of the cost. Instead, the township wishes to issue bonds to cover its portion of the cost. The village finds that it also will have to issue bonds to cover its portion of the cost. Should the bond issue as a whole be submitted to the voters of both the village and the township or, if the bond issue is divided, should the voters of the village be permitted to vote on the township's as well as the portion to be assumed by the village?

   A. Where bonds are to be issued for the construction of a joint town hall, under O.R.C. 511.05, the village and township must agree upon their proportionate shares of the cost, and the question of issuing bonds for such shares must be submitted to the electors of the subdivisions; in voting upon the township's share all the electors of the township may participate, including those residing within the village limits. 1928 OAG No. 2462 at page 1950.

4. Q. May a township join with a city in the construction of a public building pursuant to O.R.C. 511.05?

   A. No. The agreement authorized by O.R.C. 511.05 may be between a village and a township. This would exclude the application of the statute to a proposed arrangement between a township and a city located within the township. 1916 OAG No. 1814 at page 1293.

5. Q. May a joint public building be purchased pursuant to the procedures set forth in O.R.C. 511.05 through 511.07?

   A. No. These sections provide only for the joint "enlargement, improvement or erection of a public building."

6. Q. May the joint public building constructed pursuant to O.R.C. 511.05 through 511.07, be a building to house road machinery?

   A. Yes. Housing for road machinery would be considered a public building. 1946 OAG No. 1190.

III. TOWNHALL (CONTINUED)

Joint Public Building (Continued)

7. Q. If the public building which the township proposes to construct jointly with a municipality is a firehouse, is it necessary that action for such building be commenced by the filing of petitions as indicated in question 6 above, and is a vote on the question of enlargement, improvement, or erection of such a building necessary?

   A. No. The provisions of O.R.C. 511.05, et seq., do not control in such an instance. Instead, the provisions of O.R.C. 505.37 authorize a township to join with a municipality in the joint purchase or acquisition of a firehouse. Any action to join with a municipality in the joint construction, maintenance, or improvement of a firehouse may be commenced merely by the board of township trustees adopting a resolution. Furthermore, O.R.C. 505.37 does not require that the question be submitted to the electorate.

Sale of Property – Real and Personal

1. Q. If the township trustees wish to sell the old townhall and the premises upon which the townhall is located, is it necessary to submit to the electorate the question of the sale of the old townhall and the premises?

   A. No. There is no statute which specifically requires the township trustees to submit to a vote of the people the question of disposing of the old townhall. Therefore, there is no requirement that the question be submitted to the electorate.

2. Q. If the township has a townhall which is outmoded and no longer useful for township purposes, what procedure must it use if it wishes to sell the property?

   A. O.R.C. 505.10 would control in such an instance and the sale of such property must be by public auction or sealed bid to the highest bidder unless the value of the property is less than $2,500, or the township conveys the property to any other political subdivision of the state. If a township conveys the property to another political subdivision of the state, no public auction is necessary, and the townhall may be conveyed to either of these parties upon such terms as are agreed to between the board of township trustees and legislative authority of the government. If the board conducts the sale of property by sealed bid, the form of the bid shall be as prescribed by the board, and each bid shall contain the name of the person submitting the bid. Bids shall be opened and tabulated at the time stated in a published and posted notice. The property shall be sold to the hightes bidder, but the board may reject all bids and hold another sale by public auction or sealed bid. O.R.C. 505.10 applies to the sale of real estate so as to necessitate competitive bidding.

3. Q. If the township conveys to another political subdivision of the state real property which the township does not need, may the agreement provide that a certain portion of the purchase price shall be paid at the time of purchase, with the balance of the purchase price to be paid in equal installments at specified periods of time?

   A. Yes. O.R.C. 505.10 provides that such a transfer may be upon such terms as are agreed to between the board of township trustees and the political subdivision

4. Q. The township trustees are remodeling the townhall and would like to dispose of the old desks, cabinets, and miscellaneous other equipment, since it is outmoded and no longer useful. May they convey such property to another political subdivision of the state without going through the procedure of public auction provided for in O.R.C. 505.10?

   A. Yes. O.R.C. 505.101 provides that the board of township trustees of any township may, by resolution, enter into a contract, without advertising bidding, for the purchase or sale of materials, equipment, supplies, or services from or to any department, agency, or political subdivision of the State.

III. TOWNHALL (CONTINUED)

Sale of Property – Real and Personal (Continued)

5. Q. If the township trustees have agreed to convey the desks, cabinets, or miscellaneous other equipment to another political subdivision of the state, what detail should be included in the resolution?

   A. O.R.C. 505.101 speaks in terms of purchases when it describes the required specificity of the resolution, which requires that the resolution: (a) Set forth the maximum amount to be paid as the purchase price for the materials, equipment, supplies, or services; (b) Describe the type of materials, equipment, supplies, or services that are to be purchased; and (c) Appropriate sufficient funds to pay the purchase price for the materials, equipment, supplies, or services, except where funds have already been appropriated for that purpose and remain unencumbered.

6. Q. The township trustees are remodeling the townhall. They would like to replace the worn out desks and filing cabinets with new desks and filing cabinets. May they trade in the old desks and filing cabinets on the purchase of new desks and filing cabinets?

   A. Yes. O.R.C. 505.10 provides that when the township has motor vehicles, road machinery, equipment, or tools which are not needed or are unfit for public use and the board desires to sell such to the person or firm from which it proposes to purchase other motor vehicles, road machinery, equipment or tools, the board may offer to sell such to such person or firm and to have such selling price credited to the person or firm against the purchase price of other motor vehicles, road machinery, equipment or tools.

7. Q. The township has an old cemetery mower that probably is not worth more than twenty dollars. Must the sale of such unneeded equipment be by public auction?

   A. No. O.R.C. 505.10 states "if the fair market value of the property to be sold is, in the opinion of the board, $2,500 or less, the board may sell the property by private sale, without advertisement or public notification." The only exception to this would be if a township official is planning to buy the property, Ohio Ethics laws would require a public sale, whether by auction or sealed bid.

8. Q. If property belonging to the township is sold at public auction, does the board have the right to reject all bids if none is satisfactory?

   A. Yes. Such would be authorized if the notice of the advertisement provides that the township trustees shall have the right to reject all bids or if at the time of the auction those attending the auction are advised prior to the commencement of the auction

9. Q. If the township has equipment, supplies, or any other thing which it does not need, must it conduct a public auction at which to dispose of it?

   A. No. O.R.C. 505.10 provides that if the township has property, including motor vehicles, road machinery, equipment and tools, which the board of trustees finds it does not need, if the board wishes to sell it, the sale ***may*** be by public auction or by sealed bid, duly advertised; unless the sale is to be to a department, agency, or political subdivision of the state pursuant to O.R.C. 505.101 where the township is trading-in motor vehicles, road machinery, equipment or tools or like kind merchandise pursuant to O.R.C. 505.10; or if the fair market value of the property is $2,500 or less.

** Emphasis added

IV. FISCAL TRANSACTIONS

The Budget

Preparation of the Budget

1. Q. What are the two main purposes that the preparation of the budget serves?

   A. The budget submitted by the township trustees to the county auditor is (1) for the purpose of furnishing information to the county budget commission in adjusting tax levies to conform to the limitations of law, and (2) for the additional purpose of fixing the limitations of appropriations and expenditures by the various political subdivisions and taxing units, including townships, during the ensuing fiscal year.

2. Q. What kinds of information should the budget present?

   A. The budget should include (1) a statement of the financial needs of the township, for all purposes during the ensuing fiscal year, and (2) a statement of the resources from which such needs may be met.

3. Q. What specific information shall be included in the tax budget?

   A. In accordance with O.R.C. 5705.29, the information should include, among other things, (1) a statement of the necessary current operating expenses for the ensuing fiscal year for each department and division of the township, classified as to personal services and other expenditures, and the fund from which such expenditures are to be made; (2) a statement of the expenditures for the ensuing fiscal year necessary for permanent improvements, exclusive of any expense to be paid from bond issues, classified as to the improvements contemplated by the subdivision and the fund from which such expenditures are to be made; (3) the amounts required for payment of final judgments; (4) a statement of expenditures for the ensuing fiscal year necessary for any purpose for which a special levy is authorized, and the fund from which such expenditures are made; (5) comparative statements, so far as possible, in parallel columns of corresponding items of expenditures for the current fiscal year and the two preceding years; (6) an estimate of receipts from sources other than the general property tax during the ensuing fiscal year, which shall include an estimate of unencumbered balances at the end of the current fiscal year, and the funds to which such estimated receipts are credited; (7) the amount each fund requires from the general property tax which shall be the difference between the contemplated expenditure from the fund and the estimated receipts, as provided in this section. The section of the Revised Code under which the tax is authorized shall be set forth; (8) comparative statements as far as possible, in parallel columns of taxes and other revenues for the current fiscal year and the two preceding fiscal years; (9) the amount required for debt charges; (10) the estimated receipts from sources other than the tax levy for payment of such debt of charges, including the proceeds of refunding bonds to be issued to refund bonds maturing in the next succeeding fiscal year; (11) the net amount for which a tax levy shall be made, classified as to bonds authorized and issued prior to January 1, 1922, and those authorized and issued thereafter, and as to what portion of the levy will be within and what in excess of the ten-mill limitation; and (12) an estimate of amounts from taxes authorized to be levied in excess of the ten-mill limitation on the tax rate, and the fund to which such amounts will be credited, together with the Ohio Revised Code Section which exempts the limitation on tax rate.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Budget (Continued)
Preparation of the Budget (Continued)

4. Q. If the township establishes a "rainy day" reserve balance account in accordance with O.R.C. 5705.13, how much revenue should be reserved?

   A. If the township has a "rainy day" reserve balance account, O.R.C. 5705.13 provides that the township trustees may reserve the greater of 5 percent of the revenue credited in the preceding fiscal year to the fund in which the account is established or one-sixth of the expenditures made in the preceding fiscal year from the fund in which the reserve balance account is established. (HB 225 129th GA Effective March 22, 2012).

5. Q. If the township has established a reserve balance account pursuant to O.R.C. 5705.13 or O.R.C. 5705.132, should the amount of the account be included in the tax budget?

   A. Yes. O.R.C. 5705.29(G) states that the budget commission "shall not consider the amount in a reserve balance account of a township, county, or municipal corporation as an unencumbered balance or as revenue for the purposes of division (E)(3) or (4) of section 5747.51 of the Revised Code." The county budget commission may require documentation of the reasonableness of the reserve balance held in any reserve balance account. The commission shall consider any amount in a reserve balance account that it determines to be unreasonable as unencumbered and as revenue for the purposes of O.R.C. 5747.51 and may take such amounts into consideration when determining whether to reduce the taxing authority of a subdivision.

6. Q. What shall the township show as sources of revenue?

   A. O.R.C. 5705.29 requires the furnishing of "(B)(1) An estimate of receipts from other sources than the general property tax during the ensuing fiscal year, which shall include an estimate of unencumbered balances at the end of the current year, and the funds to which such estimated receipts are credited. (B)(2) The amount such fund requires from the general property tax, which shall be the difference between the contemplated expenditures from the fund and the estimated receipts, (B)(3) Comparative statements, so far as possible, in parallel columns of taxes and other revenues for the current fiscal year and the two preceding fiscal years. (C)(1) The amount required for debt charges; (C)(2) The estimated receipts from sources other than the tax levy for payment of debt charges, including the proceeds of refunding bonds to be issued to refund bonds maturing in the next succeeding fiscal year; (C)(3) The net amount for which a tax levy shall be made, classified as to bonds authorized and issued prior to January 1, 1922, and those authorized and issued subsequent to such date, and as to what portion of the levy will be within and what in excess of the ten-mill limitation. (D) An estimate of amounts from taxes authorized to be levied in excess of the ten-mill limitation on the tax rate, and the fund to which such amounts will be credited...."

7. Q. Under what circumstances would the township not need to prepare a budget which includes all of the information contained in Question 3.

   A. O.R.C. 5705.281 allows the County Budget Commission to waive the requirement that the township file a tax budget. An affirmative vote of a majority of the commission, including an affirmative vote by the county auditor, is still required to enact a waiver. The taxing authority of the subdivision will still be required to provide the commission with the information it needs to fulfill its responsibilities under Chapter 5705, including setting tax rates. Other statutes within Chapter 5705 that refer to or rely on the data in the tax budget were also amended to include as an alternative source for the data the information submitted under O.R.C. 5705.281.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Budget (Continued)

Preparation of the Budget (Continued)

8. Q. What information needs to be presented to the County Budget Commission in the alternative if the tax budget requirement is waived?

   A. If the tax budget requirement is waived, then the township must provide all information the County Budget Commission requires in order to apportion those funds under the alternative method or formula.

Adoption of the Budget

1. Q. When shall the township adopt its budget?

   A. O.R.C. 5705.28 directs the township trustees, as the taxing authority of the township, to adopt a tax budget for the next succeeding fiscal year on or before July 15th of each year except as provided in O.R.C. 5705.281. O.R.C. 5705.281 provides that for any fiscal year, the commission, by an affirmative vote of a majority of the commission including an affirmative vote by the county auditor, may waive the requirement that the taxing authority of a subdivision or other taxing unit entitled to a share of such fund adopt a budget under O.R.C. 5709.28, or may permit such a taxing authority to adopt a tax budget containing only such information as may be required by the commission to apportion these funds under alternative method or formula, notwithstanding any provision for a tax budget in the resolution approving the alternative method or formula.

2. Q. If, through inadvertence, the township trustees fail to adopt their budget on or before the 15th of July, do they have authority to adopt the budget for the township on July 20, provided the requisite public hearing is held on the budget and the residents of the township are permitted to examine the budget prior to its adoption as required by O.R.C. 5705.30?

   A. Yes. The provision in O.R.C. 5705.28, designating the 15th day of July as the date on or before which the township shall adopt the budget for the next succeeding fiscal year is directory, not mandatory. An exception to this is when a township would not need to adopt a tax budget because the County Budget Commission has waived the requirement pursuant to O.R.C. 5705.281.

3. Q. Is it necessary that the township hold a public hearing on the tax budget before final adoption by the board of township trustees?

   A. Yes. Unless the tax budget requirement has been waived pursuant to O.R.C. 5705.281. O.R.C. 5705.30 requires the township trustees to hold at least one public hearing on the budget. Notice of the public hearing must be given by the township by at least one publication not less than ten days prior to the date of hearing in the official publication of the township or in a newspaper having general circulation in the township.

4. Q. Is the general public entitled to inspect the township budget before the township adopts its budget formally on or before July 15th of each year?

   A. Yes. O.R.C. 5705.30 provides that at least two copies of the budget shall be filed with the township fiscal officer as fiscal officer of the township not less than ten days before its adoption by the board of township trustees.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Budget (Continued)

Presentation to the County Auditor

1. Q. When shall the township budget be presented to the County Auditor?

   A. Unless the tax budget requirement has been waived pursuant to O.R.C. 5705.281, O.R.C. 5705.30 provides that the adopted budget shall be submitted to the County Auditor on or before the 20th day of July, or at such later time as is prescribed by the tax commissioner. O.R.C. 5705.30 does not apply to a township for which the county budget commission has waived the requirement to adopt a tax budget under O.R.C. 5705.281.

2. Q. What if the township files the tax budget late?

   A. O.R.C. 5705.30 provides, in part: "Any subdivision that fails to submit its budget to the county auditor on or before the date prescribed by this section or a later date prescribed by the commissioner shall not receive an apportionment from the undivided local government fund distribution for the ensuing calendar year unless the commissioner determines that the budget was adopted by the subdivision on or before the fifth day before the date prescribed by this section for submitting the budget, but was not submitted by the date so prescribed or the later time prescribed by the commissioner because of ministerial error by the subdivision or its officers, employees, or other representatives."

3. Q. What does the county auditor do with the budget?

   A. O.R.C. 5705.31 provides that the county auditor shall present to the county budget commission the annual tax budgets submitted to him under O.R.C. 5705.01 to 5705.47. He must also present to the budget commission information on any state levy, the rate of any school tax levy as previously determined, the tax commissioner's estimate of the amount to be received in the county library and local government support fund, and other such other information as the commission requests or the tax commissioner prescribes.

Action by the County Budget Commission

1. Q. What action does the budget commission take on the township budget?

   A. The budget commission is required to examine the township budget together with the budgets of all the subdivisions in the county and ascertain the total amount proposed to be raised in the entire county for the purpose of the township and every other subdivision and other taxing units therein have been properly authorized. O.R.C. 5705.31 in addition, provides that the budget commission shall, among other things, ascertain that the levies enumerated in O.R.C. 5705.31 including tax levies in excess of the ten-mill limitation and the minimum levy within the ten-mill limitation for current expenses and debt service are properly authorized. If so, the budget commission has a mandatory duty to approve the levies without modification. (But see questions 19 and 20). If any debt charge is omitted from the budget, the commission shall include it. Finally, O.R.C. 5705.32 requires the budget commission to adjust the estimated amounts required from the general property tax for each fund as shown by the budget so as to bring the tax levies required within the limitations specified in O.R.C. 5705.01 to 5705.47. However, no levy may be reduced below a minimum fixed by law. The budget commission may also revise and adjust the estimate of balances and receipts from all sources for each fund and determine the total appropriations that may be made from each fund.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Budget (Continued)

Action by the County Budget Commission (Continued)

2. Q. Should the budget commission add overdrafts, either anticipated or existing as of January 1st, to the amounts requested for the operation of the township for the next fiscal year in determining and fixing tax rates?

   A. If, at the time of the adoption of the budget and its submission to the county auditor, an overdraft is noted in the budget, the budget commission may take it into consideration in fixing and adjusting tax levies for the township, if the overdraft has been incurred in such a way that a legal obligation has been created against the township for which a judgment might be procured, or there is reasonable certainty that it will exist at the end of the current year. (See the "Certification of Funds" section for information as to when a legal obligation may be said to have been incurred).

3. Q. May monies which will become available during a fiscal year as a result of a contractual obligation entered into by the township be considered as, and included as, a resource by the budget commission in the making of the certificate of estimated resources required by O.R.C. 5705.35?

   A. Yes. A contractual obligation owning to the township, the existence of which is reasonably certain to result in bringing funds into the township treasury during the fiscal year, may be taken into consideration for the purpose of making the certificate of estimated resources. All the law requires as a basis for an estimate of available resources is that it is reasonably certain in the natural course of events that the resources as estimated will be available during the year of the tax budget. This is true of taxes that are levied, as well as any other estimated resources. It is not necessary that the actual cash be on hand to authorize the budget commission to certify that the resources are available for appropriation purposes.

4. Q. Is it necessary to include in the budget resources receipts from motor vehicle fuel and license tax? The township does not know the exact amount that will be received in the ensuing year.

   A. Yes. Although the exact amount the township will receive is not known, it is reasonably certain that the township will receive such revenues in the coming fiscal year. Therefore, an educated estimate should be made, and such amount should be included. The gasoline and license tax money would be considered as receipts "from other sources than the general property tax" within the meaning of O.R.C. 5705.29.

5. Q. May the budget commission reduce or eliminate a tax levy requested by the township within the ten-mill limitation if the proceeds of the levy, when added to the estimated receipts from all other sources, would produce revenues in excess of the amount requested or the expenditures for the next fiscal year shown in the budget?

   A. Yes. The budget commission is not authorized to approve a levy at a rate which, when added to contemplated receipts from other sources, and estimated balances will produce more than the township shows by its contemplated expenditures to be necessary. In making its determination in this matter, the budget commission is not authorized to consider any contemplated expenditures of the township not set forth in its budget or any balance in a reserve balance account established under O.R.C. 5705.13 or O.R.C. 5705.132, or any principal in a nonexpendable trust fund established under O.R.C. 5705.131. (although this fund description is still used in state statute, for recording and reporting purposes, a nonexpendable trust fund is classified as a private purpose trust fund or a permanent fund.)

IV. FISCAL TRANSACTIONS (CONTINUED)

The Budget (Continued)

Action by the County Budget Commission (Continued)

6. Q. If a tax levy is a voted levy, and it appears that the township will have receipts in excess of intended expenditures, may the budget commission reduce the voted levy?

   A. Yes. As a general rule, the budget commission may reduce a voted levy where it appears that the township will have receipts in excess of intended expenditures. Exceptions include reserve balance accounts as provided for in O.R.C. 5705.13 and 5705.132, and any principal in a nonexpendable trust fund established under O.R.C. 5705.131. (although this fund description is still used in state statute, for recording and reporting purposes, a nonexpendable trust fund is classified as a private purpose trust fund or permanent fund.) See question 5 above and the discussion on reserve balance accounts in Appendix II under Ohio Budgetary Law.

7. Q. If prior to September 15, 1999, the board of township trustees certified to the board of elections for approval by the electorate at the general election in 1999, a copy of a resolution adopted as authorized by O.R.C. 5705.19 declaring the necessity of levying a five-tenths mill tax outside the ten-mill limitation for fire protection, which resolution, as authorized by O.R.C. 5705.26, specified that the additional tax should be placed upon the tax list for the current year, is the budget commission required in the event the levy is approved by the electorate, to reconsider and revise its action on the budget of the township?

   A. Yes. O.R.C. 5705.34 provides that the budget commission shall reconsider and revise its action on the budget of the township after the returns of such election are fully canvassed. O.R.C. 5705.25 provides that the township trustees shall forthwith make the necessary levy and certify it to the county auditor, who shall extend it on the tax list for collection. After the first year, the tax levy shall be included in the annual tax budget that is certified to the county budget commission.

8. Q. If the fact situation were the same as that in the above question except for the fact that the resolution of necessity did not specify that the additional tax should be placed upon the tax list for the current year, is the budget commission required to reconsider and revise its action on the township budget so that the township trustees can adopt a resolution to levy the tax during the current year for distribution at the February and August settlements in 2000?

   A. No. O.R.C. 5705.34 states that “if the levying of the tax to be placed on the tax duplicate of the current year is approved by the electors…, the budget commission shall reconsider and revise its action on the budget of the subdivision.”

IV. FISCAL TRANSACTIONS (CONTINUED)

The Budget (Continued)

Action by the County Budget Commission (Continued)

9. Q. Does the township have any right to contact the budget commission before the budget commission completes its action on the township budget?

   A. Yes. O.R.C. 5705.32 provides that: "Before the final determination of the amount allotted to each subdivision from any source, the commission shall permit representatives of each subdivision....to appear before it to explain its financial needs."

10. Q. When shall the budget commission complete its work on the township budget?

    A. O.R.C. 5705.27 provides that the budget commission shall meet annually at the office of the county auditor in each county on the first Monday in February and the first Monday in August and shall complete its work on or before September 1, unless the tax commissioner extends the time for good cause.

11. Q. What shall the budget commission present to the township as its action on the township budget?

    A. The budget commission shall furnish to the township a certification and a summary which shall be known as the official certificate of estimated resources. O.R.C. 5705.35 provides that this certification shall be filed by the budget commission with the township on or before the first day of September in each year.

Appeal to the Board of Tax Appeals

1. Q. If the township is dissatisfied with the action of the budget commission, does it have any remedy?

   A. O.R.C. 5705.37 provides that the board of township trustees, through the township fiscal officer, may appeal to the board of tax appeals within thirty days after receipt of the official certificate or notice of such action by the budget commission.

2. Q. What things may the board of tax appeals consider when it reviews the township's budget?

   A. O.R.C. 5705.37 provides that the board of tax appeals may modify any action of the budget commission with reference to the budget, the estimate of revenues and balances, or the fixing of tax rates. In case of change, the finding of the board of tax appeals shall be substituted for the finding of the budget commission and shall be certified to the county auditor and the township.

3. Q. May the board of tax appeals place outside of the ten-mill limitation any tax levy authorized by law within the ten-mill limitation or reduce any levy below any minimum levied by law?

   A. No. O.R.C. 5705.37 specifically prohibits this.

4. Q. May the board of tax appeals consider additional contemplated expenditures of the township not set up in the original budget as adopted on or about July 15th?

   A. No. The board of tax appeals may consider only "matters presented to the budget commission."

IV. FISCAL TRANSACTIONS (CONTINUED)

The Budget (Continued)

Appeal to the Board of Tax Appeals (Continued)

5. Q. Does a taxpayer have any right to appeal to the board of tax appeals concerning the township's rate of taxation?

   A. Yes. O.R.C. 5705.341 authorizes any person required to pay taxes on real, public utility, or tangible personal property in any taxing district or other political subdivision of the state to appeal to the board of tax appeals from the action of the budget commission which relates to the necessity to be revalued by the taxing authority and which action has been certified by the county budget commission to the taxing authority of the political subdivision.

Levying the Taxes

1. Q. When shall the township levy any taxes necessary?

   A. O.R.C. 5705.34 provides that after the budget commission has certified its action to the township, together with the rate of each tax necessary to be levied, the township shall, by resolution, authorize the necessary tax levies and certify them to the county auditor before the first day of October, or at such later date as is approved by the commissioner of tax equalization.

2. Q. If in 1999 the electorate approved the levy of a tax within the township for five years for fire protection, will it be necessary for the trustees in 2001 to adopt a resolution levying the tax for collection in the current year and distribution at the February and August settlements of 2002?

   A. Yes. The approval by the electorate merely authorized the trustees to levy the tax. Taxes, whether within or outside the ten-mill limitation, are levied on an annual basis, as provided in O.R.C. 5705.34.

3. Q. If at the general election in 2015 the electorate approved the levy of a five-tenths mill tax for fire protection, and the resolution which the township trustees adopted to submit the question of this levy to the electorate provided that the tax should be placed on the tax list of the current year, will it be necessary for the township trustees to adopt a resolution to levy the tax in order for the auditor to place the tax on the current tax duplicate so that the proceeds may be distributed at the 2016 February and August settlements?

   A. Yes. O.R.C. 5705.25 provides: "If the additional tax is to be placed upon the tax list of the current year, as specified in the resolution providing for its submission, the result of the election shall be certified immediately after the canvass by the board of elections to the taxing authority, who shall forthwith make the necessary levy and certify it to the county auditor, who shall extend it on the tax list for collection. After the first year, the tax levy shall be included in the annual tax budget that is certified to the county budget commission."

IV. FISCAL TRANSACTIONS (CONTINUED)

The Budget (Continued)
Levying the Taxes (Continued)

4. Q. After receiving back from the budget commission the certification of funds may the township refuse to levy any of the taxes which the budget commission has found to be necessary, or may the township proceed to levy taxes at a lesser rate than that provided in the budget commission's certification of funds?

   A. No. It is the duty of the board of township trustees to authorize by resolution tax levies for the township at rates estimated by the county auditor and approved by the county budget commission as contained in the certification to the township by the county budget commission of its action in connection with the budget for the township as directed by the provisions of O.R.C. 5705.34.

5. Q. Is the county budget commission authorized to make the tax levies within the taxing subdivisions in the county wherein it functions?

   A. No. O.R.C. 5705.34 provides that the actual levies must be made by the "taxing authority" for the subdivision; in the case of the township, by the board of township trustees.

6. Q. If the township trustees, for any reason, fail to levy a tax as directed in O.R.C. 5705.34 until too late for the county auditor to extend the levy on the tax duplicate, may the township levy the tax at a later date?

   A. No. Even if the levy is outside the ten-mill limitation and has been authorized by a vote of the people, the township is without authority to make it at a later date.

7. Q. If the township adopts a resolution to levy a tax and certifies the resolution to the county auditor as provided in O.R.C. 5705.34, but the county auditor inadvertently fails to extend the tax on the duplicate, may the county auditor lawfully extend the levy for collection at the time of collecting the second half year's collection of taxes?

   A. Yes.

Official Certificate of Estimated Resources

1. Q. What shall the certification and the official certificate of estimated resources of the budget commission to the township contain?

   A. O.R.C. 5705.35 provides that the certification of the budget commission shall show the various funds of the township other than funds to be created by transfer. On the credit side of each fund shall be set forth the estimated unencumbered balances and receipts, and if a tax is to be levied for such fund, the estimated revenue to be derived from the tax, the rate of the levy, and what portion of the levy is within, and what portion is in excess of the ten-mill limitation. On the debit side of the fund shall be set forth the total appropriations that may be made from the fund. A summary, known as the official certificate of estimated resources, shall be attached, and shall state the total estimated resources of each fund of the township, other than funds to be created by transfer.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Budget (Continued)

Official Certificate of Estimated Resources (Continued)

2. Q. Is the township required to revise its budget in accordance with the official certificate of estimated resources?

   A. Yes. O.R.C. 5705.35 requires the township trustees, before the end of the year, to revise its tax budget so that the total contemplated expenditures from any fund during the ensuing year will not exceed the total appropriations that may be made from such fund as determined by the budget commission in the official certificate of estimated resources. The revised budget shall be the basis of the annual appropriation measure.

Amended Official Certificate of Estimated Resources

1. Q. Since O.R.C. 5705.35 provides that a township shall revise its budget in accordance with the official certificate of estimated resources and that such revised budget shall be the basis of the annual appropriation resolution, what provision is made by law whereby the official certificate may be changed in case the actual balances in township funds are greater than the estimated balance, or the township has funds available from other resources not included in the official certificate of estimated resources?

   A. O.R.C. 5705.36 provides that on or about the first day of each fiscal year, the township fiscal officer shall certify to the county auditor the total amount from all sources available for expenditures from each fund set up in the tax budget, with any balances that may exist at the end of the preceding year. The budget commission, taking into consideration the balance, revenues to be derived from taxation and from other sources, shall revise its estimate of the amounts that will be credited to each fund from such sources, and shall certify to the township the amended official certificate of estimated resources. This amended certificate shall serve as the basis of the annual appropriation resolution.

2. Q. In certifying to the county auditor the balances that exist at the end of the year, should the township fiscal officer first deduct from such balances any funds which have been encumbered for the payment of obligations which are unliquidated and outstanding?

   A. Yes. Such encumbered but unexpended funds shall not be included by the township or budget commission in estimating the balance available for the purpose of the next or any succeeding year, excluding any of the following: (a) Subject to O.R.C. 5705.29 (G), any reserve balance in an account established under O.R.C. 5705.13 or O.R.C. 5705.132; (b) the principal of a nonexpendable trust fund established under O.R.C. 5705.131 and any additions to principal arising from sources other than the reinvestment of investment earnings arising from that fund. (although this fund description is still used in state statute, for recording and reporting purposes, a nonexpendable trust fund is classified as a private purpose trust fund or a permanent fund.)

3. Q. If overdrafts exist in funds, should the fiscal officer advise the budget commission of such when he certifies to the county auditor the total amount from all sources available for expenditures from each fund with any balances that existed at the end of the preceding year as provided in O.R.C. 5705.36?

   A. Yes. It is necessary for the budget commission to take into consideration such "overdrafts" in making its official certificate of estimated resources for the township. In order for the budget commission to take into consideration such overdrafts, it is necessary that they be officially brought to the attention of the budget commission. OAG No. 33-974.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Budget (Continued)
Amended Official Certificate of Estimated Resources (Continued)

4. Q. If, on or about the first day of the fiscal year, the township finds that it has a new source of revenue, such as a contractual obligation, which is not included in the official certificate of estimated resources, may the township certify the amount of the contractual obligation to the county auditor so that the budget commission may include it as a resource in preparing the amended certificate of estimated resources which it certifies to the township?

   A. Yes. O.R.C. 5705.36 so provides.

5. Q. Should the amounts set aside in reserve balance accounts established pursuant to O.R.C. 5705.13 and O.R.C. 5705.132 be included as an unencumbered balance from the end of the preceding year when certifying amounts to the county auditor pursuant to O.R.C. 5705.36?

   A. No. O.R.C. 5705.36 states "the amount certified shall include any unencumbered balances that existed at the end of the preceding year, excluding....any reserve balance in an account established under section 5705.13 of the Revised Code for the purpose described in division (A)(1) of that section" and "the principal of a nonexpendable trust fund established under section 5705.131 of the Revised Code and any additions to principal arising from sources other than the reinvestment of investment earnings arising from that fund" and "the balance in a reserve balance account established under section 5705.132 of the Revised Code." Since only reserve balance accounts established under O.R.C. 5705.13(A)(1) and O.R.C. 5705.132 must be excluded, any amounts set aside for severance pay-outs pursuant to O.R.C. 5705.13(B) or capital projects pursuant to O.R.C. 5705.13(C) must be included in the unencumbered balance from the end of the previous year that is being certified. (although this fund description is still used in state statute, for recording and reporting purposes, a nonexpendable trust fund is classified as a private purpose trust fund or a permanent fund.)

The Annual Appropriation Resolution
Adoption of the Annual Appropriation Resolution

1. Q. When shall the township pass the annual appropriation resolution?

   A. O.R.C. 5705.38 provides that the township shall adopt its appropriation resolution on or about the first day of each year.

2. Q. When shall the annual appropriation resolution of the township become effective?

   A. O.R.C. 5705.39 provides that no appropriation measure shall become effective until there is filed with the township by the county auditor a certificate that the total appropriations from each fund, taken together with all other outstanding appropriations, do not exceed the official certificate of estimated resources or the amended official certificate of estimated resources. The county auditor is required to give the certificate forthwith to the township upon the auditor's receiving from the township a certified copy of the township's appropriation resolution, if the appropriation does not exceed the official estimate or an amended official estimate.

3. Q. May the township postpone the passage of the annual appropriation resolution until it receives the amended official certificate of estimated resources from the budget commission based on the actual balance?

   A. Yes. The adoption of the annual appropriation resolution may be delayed until not later than the first day of April of the current year. But if such is done, O.R.C. 5705.38 would require the township to adopt a temporary appropriation measure for meeting the ordinary expenses of the township.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Annual Appropriation Resolution (Continued)
Temporary Appropriation Measure

1. Q. Why is it necessary to pass a temporary appropriation resolution if the township does not immediately on or about January 1 pass an annual appropriation resolution?

   A. O.R.C. 5705.40 provides that: "At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriations; provided that funds unexpended at the end of the fiscal year previously appropriated for the payment of obligations unliquidated and outstanding, or previously appropriated pursuant to section 321.261 of the Revised Code for the collection of delinquent taxes, need not be reappropriated...." It is thus apparent under the provisions of O.R.C. 5705.40 that the appropriation of township funds automatically terminates at the end of the fiscal year and automatically reverts to the fund out of which it was appropriated. Furthermore, O.R.C. 5705.41(B) prohibits a township from making any expenditure of money unless it has been properly appropriated.

2. Q. How should the township adopt a temporary appropriation resolution if the permanent appropriation resolution was not adopted on or about January 1?

   A. O.R.C. 5705.38 provides, in part: "...it may pass a temporary appropriation measure for meeting the ordinary expenses of the taxing unit until no later than the first day of April… of the current year, and the appropriations made in the temporary measure shall be chargeable to the appropriations in the annual appropriation measure for that fiscal year when passed." The township should only appropriate those monies expected to be needed through the end of March in the temporary appropriation measure. When the permanent appropriation measure is passed, then the entire year should be included.

3. Q. The township does not wish to adopt its annual appropriation resolution until it receives from the budget commission its amended official certificate of estimated resources. Furthermore, it had not, as of January 31, gotten around to passing a temporary appropriation resolution. However, the township would like to contract with the XYZ Company to purchase fire hoses which it needs immediately for firefighting purposes since the old hose is completely worn out. The township has a special fire fund into which is paid receipts from a tax levied for fire protection. There is sufficient money in the special fire fund to pay for the fire hose. May the township contract to purchase the hose on January 31?

   A. No. Although there is sufficient money in the fire fund, the appropriations within the fire fund automatically reverted to the fire fund at the end of the year. Until the annual appropriation resolution has been adopted, or a temporary appropriation resolution has been passed as provided in O.R.C. 5705.38, it cannot be said that the money has been appropriated for the desired purpose. Any expenditure or contract for an expenditure from the unappropriated fund would be illegal, since O.R.C. 5705.41(B) provides that no township shall: "Make any expenditures of money unless it has been appropriated as provided in such section." Furthermore, O.R.C. 5705.41(D) prohibits a township from entering into a contract unless the fiscal officer can furnish a certificate that the amount required to meet the contract has been appropriated and is available.

4. Q. What is the effect if a temporary appropriation measure is passed by the township as provided in O.R.C. 5705.38 and the passage of the annual appropriation resolution is delayed past April 1 of the current year?

   A. No expenditures of any kind can be made and no lawful obligations can be incurred after the first day of April until the annual appropriation resolution is passed.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Annual Appropriation Resolution (Continued)
Funds Available for Appropriation

1. Q. Shall the township base its annual appropriation resolution on the tax budget forwarded to the county auditor on or before July 20 or the revised tax budget changed by the township before the end of the year to correspond with the official certificate of estimated resources prepared by the budget commission in accordance with O.R.C. 5705.35?

   A. Although O.R.C. 5705.35 provides that the revised budget shall be the basis of the annual appropriation resolution, O.R.C. 5705.36 provides that: "The total appropriations made during the fiscal year from any fund shall not exceed the amount set forth as available for expenditure from such fund in the official certificate of estimated resources or any amendment thereof." The last "amended official certificate of estimated resources" would, therefore, control, assuming that the amended official certificate of estimated resources changed the official certificate of estimated resources.

2. Q. What happens to unencumbered fund balances existing in the previous year's appropriation at the end of the previous year?

   A. O.R.C. 5705.40 provides that: "The unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriations."

3. Q. What happens to encumbered funds not expended at the end of the year?

   A. O.R.C. 5705.40 provides that funds unexpended at the end of the fiscal year previously appropriated for the payment of obligations unliquidated and outstanding need not be reappropriated, but such unexpended funds shall not be included by the budget commission in estimating the balance available for the purposes of the next succeeding year.

4. Q. If, at the end of 2015, encumbered appropriations exist and the monies to meet the encumbrances are actually on hand, but the obligation for which the encumbrance was made remains for some reason or other, unliquidated on the first day of January, must the township make an appropriation for the payment of such items on or after January 1, 2016?

   A. No. No additional appropriation is necessary to authorize payment. The 2016 encumbered appropriation will remain on the books until such time as claim is made for payment. However, such encumbered balances should have been subtracted from the actual balances shown on the township books at the end year, and should not have been considered by the budget commission in preparing its amended official certificate of estimated resources in accordance with O.R.C. 5705.36. See O.R.C. 5705.40.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Annual Appropriation Resolution (Continued)
Funds Available for Appropriation (Continued)

5. Q. Do balances in funds, such as a special fund into which are paid receipts from the sale of cemetery lots, the special fund into which have been paid the proceeds of a tax levied for fire protection, the motor vehicle fuel tax fund, and bequest funds, revert to the general fund?

   A. No. The appropriated item balances within each separate fund created in accordance with the provisions of O.R.C. 5705.09 revert to their respective funds, i.e., the appropriations "die," but the funds continue their separate lives if they are funds which are required to be established in accordance with O.R.C. 5705.09. Similarly, item appropriation balances within the general fund revert to the general fund. For example, if item appropriations in the preceding year were made for purposes such as fire protection, cemetery maintenance, or townhall maintenance, and there remains an unexpended balance in any such item appropriations, the unencumbered appropriations for each such purpose automatically ceases at the end of the year, and reverts to the general fund. Similarly, item appropriations within the motor vehicle fuel tax fund, such as the item for contracts, and the item for equipment, revert to the motor vehicle fuel tax fund and the money in the motor vehicle tax fund becomes free for new appropriation.

Overdrafts as Affecting Appropriations

1. Q. How could a valid overdraft occur?

   A. When appropriations are made according to law, and obligations against the funds created by these appropriations are incurred strictly according to law, monies will always be available to meet the obligations unless there is a failure (shortage) of anticipated revenues against which the appropriation is made or exists. A failure in revenue might result because of delinquencies in the collection of taxes or because a certain tax levy or bond issue is enjoined, or for other similar reasons.

2. Q. A township has an overdraft (deficit balance) in a given fund because of tax delinquencies which caused the shortage in the fund. The township fiscal officer had properly certified certain purchases for this fund in accordance with O.R.C. 5705.41. Is it necessary to reappropriate in the current fiscal year for the unpaid items which have been certified in the prior year?

   A. The unpaid items would fall within the definition of unliquidated and outstanding obligations within the meaning of O.R.C. 5705.41 and money would not need to be reappropriated. The previous year's appropriation will continue until the bill is paid.

3. Q. If the township fiscal officer issues a certificate to the effect that the amount required to meet a certain obligation or expenditure has been lawfully appropriated and is in the township treasury, or is in the process of collection, and there is either no appropriation for such an obligation or there are no funds in such appropriation, or no funds in process of collection, is the township bound to pay the obligation?

   A. Yes. O.R.C. 5705.41 provides that: "Any certificate of the fiscal officer attached to a contract shall be binding upon the political subdivision as to the facts set forth therein."

IV. FISCAL TRANSACTIONS (CONTINUED)

The Annual Appropriation Resolution (Continued)
Overdrafts as Affecting Appropriations (Continued)

4. Q. In the event there is an overdraft in a given fund arising as a result of the fiscal officer's giving a false certificate, is it necessary to reappropriate in the current fiscal year?

   A. No. The township is bound on the false certificate and the fund remains encumbered, though unexpended, and should not have been included by the budget commission in estimating the balance available for such fund for the current year.

5. Q. What liability does a township fiscal officer incur in issuing false certificates?

   A. Liability is fixed by O.R.C. 5705.45 which provides that the fiscal officer "shall be liable to the 'township' for the full amount paid from the funds to the 'township' on any such order, contract or obligation."

6. Q. Does it make any difference in a situation such as the one outlined above that the fiscal officer was ignorant of the law and thus allowed the overdraft to occur?

   A. No. Liability fixed under O.R.C. 5705.45 is not predicated upon knowledge or lack of knowledge of his duties. He is presumed to know his duties and the limitations thereof under the law.

7. Q. If the contract to which the fiscal officer's false certificate is attached is a contract which is, in addition, otherwise illegal, i.e., one which the township has no authority in law to enter into, such as a contract for expenditures to promote the adoption of annexation, may the township pay the bill?

   A. No. Since the township may not pay the bill, any money appropriated for its payment would, at the end of the year, revert to the fund out of which it was appropriated and be free for appropriation in the new year. The fiscal officer would include such amount as a part of the balance in the fund in certifying actual balances to the budget commission.

8. Q. The township has one unpaid bill in the amount of $500.00 at the end of the fiscal year, but the township fiscal officer has never certified that there were funds available for its payment. Should the fiscal officer have deducted the amount of the bill from the balance existing at the end of the year, treating the bill as an unexpended unliquidated obligation for which no new appropriation is necessary? Or should the fiscal officer not have deducted the amount of this bill from the balance existing at the end of the year, placing a duty upon the township to appropriate money for payment of the bill out of the current year's revenue?

   A. This bill can be paid if there were funds appropriated prior to year end to pay the bill and there are funds appropriated currently, sufficient to still pay the bill. Even though all unencumbered appropriations automatically revert to the fund out of which they are appropriated (O.R.C. 5705.40), as long as there was a sufficient amount appropriated prior to year end, the township fiscal officer can still prepare a certificate stating that at the time of the execution of such contract a sufficient sum was appropriated for the purpose of the contract and that at the time of the preparation of the certificate a sufficient sum had been appropriated for such purpose.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Annual Appropriation Resolution (Continued)
Limitation on Appropriations

1. Q. Is there any limitation on the appropriations that may be made from each fund?

   A. O.R.C. 5705.39 provides that: "Appropriations shall be made from each fund only for the purposes for which such fund is established."

2. Q. May the annual appropriation resolution, or supplement thereto, contain an appropriation for contingencies?

   A. Yes. The appropriation for contingencies may not exceed the amount authorized by section O.R.C. 5705.29. O.R.C. 5705.40.

3. Q. If the township does not have enough money to appropriate for all the expenditures it would like to make, what rule should it use in deciding the items it shall appropriate for?

   A. It is incumbent for the township trustees to provide, first of all, for those expenditures made imperative by the constitution and statutes, such as health, workmen's compensation, and public employees' retirement.

4. Q. May the township trustees appropriate in 2015 a sum to cover compensation earned by a trustee in 2011 but which the trustee was never paid?

   A. Yes. The compensation of both the fiscal officer and the township trustee is an obligation fixed by law, and, therefore, may be paid out of the current year's revenue, although the obligation was incurred in a prior year. OAG No. 52-1540.

Supplemental Appropriation Measures

1. Q. May the annual appropriation resolution be amended or supplemented?

   A. Yes. O.R.C. 5705.38 authorizes the township to pass "any supplemental appropriation measures as it finds necessary" after adoption of the original appropriation measure "based on the revised tax budget and the official certificate of estimated resources or amendments of the certificate."

2. Q. Are there any limitations placed upon the board of township trustees in amending or supplementing the annual appropriation resolution?

   A. O.R.C. 5705.40 provides that the amendment or supplement must comply with all provisions of law governing the township in making the original appropriation, which are set forth in O.R.C. 5705.38. Furthermore, no appropriation for any purpose may be reduced below an amount sufficient to cover all unliquidated and outstanding contracts or obligations certified from or against the appropriation.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Annual Appropriation Resolution (Continued)
Supplemental Appropriation Measures (Continued)

3. Q. If the fiscal officer has reason to believe that, because there is a drive on to collect delinquent taxes and receipts are running high, the actual balance in a fund will exceed those which the budget commission has certified in the amended official certificate of estimated resources, is the fiscal officer's belief a sufficient basis to require the budget commission to certify a new amended official certificate of estimated resources?

   A. No. By the use in O.R.C. 5705.36 of the terms "collects" and also "actual balances" and "receipts," it obviously intended that the actual revenues must be on hand. The mere prospect of receiving the revenues is not a sufficient basis to require the budget commission to furnish an amended certificate of estimated resources to include the projected possible balances. If and when the "actual balances" exceed those originally certified, a new amended official certificate of estimated resources may be obtained by the fiscal officer from the budget commission.

4. Q. On January 24, 2015, Eagle Township entered into a contract with Zane Township to furnish fire protection starting February 1, 2015 to Zane Township at the rate of $2,000 per annum, to be paid semi-annually by Zane Township to Eagle Township, on August 1 and on February 1, for a period of three years. The money that will be received by Eagle Township from the contract was not included by the budget commission when the budget commission made up the amended official certificate of estimated resources for the township, as provided in O.R.C. 5705.36. In order to perform the contract with Zane Township, Eagle Township will need to purchase a new fire truck. The fiscal officer will not be able to certify funds for the down payment on a contract to be paid for and delivered on August 1 unless the fiscal officer is able to persuade the budget commission to certify an amended official certificate of estimated resources to include the $1,000 due on August 1. May the budget commission furnish to the township fiscal officer an amended official certificate of estimated resources to include the $1,000?

   A. Yes. The $1,000 is in process of collection as a result of an existing contractual obligation, and would be considered as revenue available during the fiscal year, and the amended official certificate of estimated resources may be issued by the budget commission authorizing the township to amend its appropriation resolution before the time that the money is actually in the possession of the township. See O.R.C. 5705.36 and 5705.41.

5. Q. May the fiscal officer also request that the amended official certificate of estimated resources include the $1,000 due on February 1, 2016?

   A. No. The proceeds from the second semi-annual payment on the fire contract are not available for the purpose of the 2015 fiscal year.

6. Q. May an accounting mistake by a township fiscal officer in determining the December 31, 2015 balances be corrected, increasing the budget to a figure of over $30,000, thus entitling the township trustee to 200 days of per diem for the year 2016?

   A. Yes. Assuming that the actual balances in the fund are greater than indicated on the certificate, the fiscal officer may request a new amended official certificate of estimated resources. O.R.C. 5705.36 authorizes the township fiscal officer to certify to the county auditor the amount of the excess balances and receipts. The budget commission shall prepare a new amended official certificate of estimated resources. The new amended official certificate of estimated resources may then be made the basis of appropriation or supplemental appropriation.

IV. FISCAL TRANSACTIONS (CONTINUED)

The Annual Appropriation Resolution (Continued)
Supplemental Appropriation Measures (Continued)

7. Q. If the township sells the townhall February, 1999, and wishes to use the proceeds for the construction of a new townhall, must the fiscal officer certify to the county auditor the amount of the proceeds so that the budget commission may prepare an amended official certificate to include the proceeds so that the proceeds may be appropriated for the desired purpose?

   A. Yes.

Appropriation Transfers within a Fund

1. Q. How may transfers within a fund from one appropriation item to another appropriation item be effected?

   A. O.R.C. 5705.40 provides that: "Transfers may be made by resolution or ordinance from one appropriation item to another." Please note that these transfers are within one fund and are just transfers from one or more appropriation line items to one or more appropriation line items within that fund.

2. Q. Can the trustees delegate their authority to set appropriations?

   A. The township trustees may not delegate their authority to establish appropriations. The appropriation process is a function of the legislative authority that must be performed by those specific individuals elected to fulfill that responsibility. However, other officials of the local government may be given the authority to allocate or re-allocate funds within a legally adopted appropriation.

Certification of Funds
Necessity for Certification

1. Q. Is certification of funds by the fiscal officer necessary in every instance?

   A. Yes. O.R.C. 5705.43 eliminated the prior certification requirement in many instances to relieve smaller township undue paperwork burdens. Accordingly, all expenditures are required to be certified under O.R.C. 5705.41.

2. Q. What are the fiscal officers' duties regarding certification of funds?

   A. O.R.C. 5705.41(D) provides that a township shall not make any contract or give an order involving the expenditure of money unless there is attached thereto the fiscal officer's certificate stating that the amount required to meet the contract has been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund, free from any previous encumbrances. O.R.C. 5705.41(D) provides further: "Every such contract made without such a certificate shall be void and no warrant shall be issued in payment of any amount due thereon."

IV. FISCAL TRANSACTIONS (CONTINUED)

Certification of Funds (Continued)
Necessity for Certification (Continued)

3. Q. If the fiscal officer, at the time of the making of the contract, fails to certify that money for the purpose of the contract has been appropriated and is in the treasury or in process of collection to the credit of the appropriate fund, free from any previous encumbrances, may the fiscal officer at the time of billing for payment certify to the availability of funds, or is there no way that the bill may be paid?

   A. O.R.C. 5705.41 provides that if no certificate was furnished at the time that the contract was entered into, the fiscal officer may, nevertheless, prepare a certificate stating (1) that there was at the time of the making of the contract and (2) at the time of the execution of his certificate a sufficient sum appropriated for the purpose of the contract in question in the treasury or in process of collection to the credit of the appropriate fund, free from previous encumbrances. If such a certificate can be prepared by the fiscal officer, the board of township trustees may authorize the issuance of a warrant in payment of the amounts due upon the contract. However, the board of township trustees must adopt the resolution for payment within thirty days after the trustees receive the certificate from the fiscal officer, if the amount certified by the fiscal officer is greater than $3,000. Certification made in this manner is referred to as a "Then and Now Certificate."

4. Q. If the township entered into a contract but the fiscal officer does not certify funds at the time that the contract is entered into, is it mandatory that the township trustees sign the warrant for the payment of the bill, if the fiscal officer later certifies that there was at the time of the making of the contract and at the time of the later execution of the contract, a sufficient sum appropriated for the purpose of the contract, in the treasury or in process of collection, free from encumbrances?

   A. No. The legislature has not used the mandatory word "shall" but, instead, has used the discretionary word "may" in authorizing the township trustees to make payment. Although the township trustees in their discretion may authorize payment, they cannot be compelled to make payment by another governmental subdivision. Board of County Commissioners of Jefferson County v. Board of Township Trustees of Creek Township, 3 Ohio App.3d 366 (1981).

5. Q. If the township enters into a contract, but the fiscal officer does not certify the fund at the time that the contract is entered into, may the fiscal officer, when the bill comes in, prepare this certificate if there are currently no monies available in the appropriation line item?

   A. No. In order for the fiscal officer to prepare the certificate at time of payment, the fiscal officer must certify not only that (1) there was at the time of the making of the contract a sufficient sum appropriated for the purpose of the contract in question in the treasury or in the process of collection to the credit of the appropriate fund, free from previous encumbrances, but also (2) there is sufficient money at the time of the execution of the certificate.

6. Q. Since the person, firm, or corporation contracting with the township takes the risk of not receiving payment if the fiscal officer does not certify funds, may any person, firm, or corporation receiving an order or entering into a contract with the township require that the fiscal officer affix his certificate to the contract or order?

   A. Yes. O.R.C. 5705.41(D) makes it mandatory for the fiscal officer to affix his certificate to the order or contract.

IV. FISCAL TRANSACTIONS (CONTINUED)

Certification of Funds (Continued)
Necessity for Certification (Continued)

7. Q. If a firm enters into a contract with a township without having the fiscal officer affix his certificate, may the firm at some later date by mandamus compel the fiscal officer to affix its certificate?

   A. No. State ex rel. Welker v. Hart (1935), 20 OLA 621 (App.).

8. Q. Must the fiscal officer certify funds for current payrolls of regular employees and officers?

   A. No. O.R.C. 5705.41 states that: "'Contracts,' as used in this section, excludes current payrolls of regular employees and officers."

9. Q. In the case of a continuing contract to be performed in whole or in part, in an ensuing fiscal year, such as a contract for the township to receive fire protection for three years, must the fiscal officer, when the contract is entered into, certify funds for the entire three years?

   A. No. O.R.C. 5705.44 authorizes the fiscal officer to "make a certification for the amount required to meet the obligation of such contract or lease maturing in such fiscal year. The amount of the obligation under such a contract or lease remaining unfulfilled at the end of a fiscal year, and which will become payable the next fiscal year, shall be included in the annual appropriation measure for the next year as a fixed charge."

10. Q. Must the contract for extra work in connection with a road improvement project have the fiscal officer's certificate attached thereto?

    A. Yes.

Fiscal Officer's Liability for False Certification

1. Q. If the fiscal officer certifies that funds are available for the purchase of a road grader, but when the time comes to pay the bill there is no money because the tax receipts were considerably lower than was estimated, is the township required to pay the bill?

   A. Yes. O.R.C. 5705.41 provides that: "Any certificate of the fiscal officer attached to a contract shall be binding upon the political subdivision as to the facts set forth therein."

2. Q. If the fiscal officer certifies funds for the purchase of a fire engine, but funds were never appropriated for the purchase of the fire engine, or only half the amount was appropriated, or the money was appropriated but the fund was exhausted and no money was in process of collection to that fund, or funds appropriated for the fire engine had previously been encumbered for the purchase of a mechanical resuscitator, or the fiscal officer's certification otherwise violates O.R.C. 5705.41(D) must the township, nevertheless, pay the bill?

   A. Yes. The township is bound by the fiscal officer's certificate, whether the certificate is true or false, provided only the obligation is one which the township may validly incur if the correct procedures are followed.

IV. FISCAL TRANSACTIONS (CONTINUED)

Certification of Funds (Continued)
Fiscal Officer's Liability for False Certification (Continued)

3. Q. What liability does the township fiscal officer incur for issuing a false certificate?

   A. O.R.C. 5705.45 provides that: "Any officer, employee, or other person who issues any order contrary to section 5705.41 of the Revised Code, or who expends or authorizes the expenditure of any public funds, or who authorizes or executes any contract contrary to sections 5705.01 to 5705.47 of the Revised Code, unless payments thereon are subsequently ordered as provided in section 5705.41 of the Revised Code, or expends or authorizes the expenditure of any public funds on any such void contract, obligation, or order, unless subsequently approved as provided in that section, or issues a certificate under the provisions thereof which contains any false statements, shall be liable to the political subdivision for the full amount paid from the funds of the subdivision on any such order, contract, or obligation." The fiscal officer would be jointly and severally liable in person and upon any official bond he has given to the township, and the prosecuting attorney has the duty to recover the money for the township, or a taxpayer may institute the action if the prosecuting attorney fails to act.

4. Q. If the fiscal officer's certificate is validly issued but low tax receipts cause an overdraft on the fund, is the fiscal officer liable personally or on his official bond?

   A. No.

5. Q. Should an appropriation fail in whole or in part because of a shortage in estimated resources upon which the appropriation is based, and as a consequence thereof the contract cannot be met or the expenditure made from the current appropriation, if the fiscal officer's certificate is true, which of properly incurred overdrafts shall be paid first?

   A. The obligations bearing the earlier date would take precedence over those bearing a later date. OAG No. 33-974.

Blanket Certificate and Super Blanket Certificates

1. Q. What is a blanket certificate?

   A. The blanket certificate is authorized by the provisions of O.R.C. 5705.41(D)(3). Under the blanket purchase order system, the township fiscal officer certifies that a certain sum of money has been lawfully appropriated for a particular purpose and is in the treasury or in the process of collection to the credit of that fund, free from previous and then outstanding obligations or certificates. The amount of the purchase order may not exceed an amount established by resolution of the Township Trustees. Once this certificate has been prepared, various items may be charged against such blanket certificate up to the amount certified for a time period not extending beyond the end of the fiscal year. The person authorized to make expenditures against the blanket certificate shall render to the fiscal officer, before another such blanket certificate may be issued, an itemized statement of the obligations incurred and the expenditures made under such certificate.

2. Q. May more than one such blanket certificate be outstanding at one time?

   A. Only one blanket certificate may be outstanding at one particular time for any one particular item appropriation. However, any number of blanket purchase orders may be outstanding against various funds, so long as they are not for the same item. See O.R.C. 5705.41 OAG No. 27-1799.

IV. FISCAL TRANSACTIONS (CONTINUED)

Certification of Funds (Continued)

Blanket Certificate and Super Blanket Certificates (Continued)

3. Q. What is a "super blanket" certificate?

   A. A super blanket certificate is a term coined by the Auditor of State's Office to describe the certification set forth in O.R.C. 5705.41(D)(3). This section allows townships, in addition to using blanket certificates to also "make expenditures, issue orders for payment, and make contracts or obligations calling for or requiring the payment of money made and assumed for specified permitted purposes from a specific line-item appropriation account in a specified fund for a sum of money upon the certification by the fiscal officer of the subdivision that this sum of money has been lawfully appropriated, authorized, or directed for a permitted purpose and is in the treasury or in the process of collection to the credit of the specific line-item appropriation account in the specified fund free from previous and then-outstanding obligations or certifications; provided that the aggregate sum of money included in and called for by the expenditures, orders, and obligations shall not exceed the certified sum." However, "such a certification shall not extend beyond the end of the fiscal year."

Trustees' Authority to Incur Obligations

1. Q. For what purposes can a township use super blanket certificates?

   A. The purposes for which a township may lawfully appropriate, authorize, or issue a super blanket certificate according to O.R.C. 5705.41(D)(3) are "the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser by or on behalf of the subdivision or contracting authority; fuel oil, gasoline, food items, roadway materials, and utilities; and any purchases exempt from competitive bidding under O.R.C. 125.04 and any other specific expenditure that is a recurring and reasonably predictable operating expense."

2. Q. May more than one super blanket certificate be outstanding at one time?

   A. Yes. O.R.C. 5705.41(D)(3) provides, "such a certificate shall be signed by the fiscal officer and may, but need not, be limited to a specific vendor. An itemized statement of obligations incurred and expenditures made under such a certificate shall be rendered to the fiscal officer for each certificate issued. More than one such certificate may be outstanding at any time."

3. Q. Are only the trustees allowed to incur obligations on behalf of the township?

   A. No. O.R.C. 507.11 allows the board of trustees to pass a resolution to authorize township officers and/or employees to incur obligations.

4. Q. What procedure must be followed to create this authority?

   A. In order to authorize a township officer or employee to incur an obligation on behalf of the township, a formal resolution must be passed to that effect; the obligation must be for no more than $2,500, and, the obligation incurred must be subsequently approved by the adoption of a formal resolution of the board. O.R.C. 507.11(A).

IV. FISCAL TRANSACTIONS (CONTINUED)

Certification of Funds (Continued)
Trustees Authority to Incur Obligations (Continued)

5. Q. Must these obligations be certified by the fiscal officer?

   A. Yes, O.R.C. 5705.41 requires that all expenditures be certified by the fiscal officer.

6. Q. A vendor has an unresolved finding for recovery against them. May the township enter into a contract with this vendor to repair the townhall if part of the contract will be paid with state funds?

   A. No. O.R.C. 9.24, effective January 1, 2004, prohibits a state agency or political subdivision from awarding a contract for goods, services or construction, which is paid for in whole or in part with state funds, to a person against whom a finding for recovery has been issued by the Auditor of State, if the finding for recovery is unresolved. For further information, see Auditor of State Bulletin 2003-09, 2004-006, and OAG No. 2004-014. The Auditor of State maintains a finding for recovery database where the status of findings can be found. https://ohioauditor.gov/findings.html.

7. Q. Can township trustees incur obligations for equipment, materials, supplies, or services without competitive bidding?

   A. Yes. Acquisition by a township of equipment, material, supplies, or services, through participation in a contract of another political subdivision or participation in an association program is exempt from any competitive selection requirements otherwise required by law, if the contract in which it is participating was awarded pursuant to a publicly solicited request for a proposal or a competitive selection procedure of another political subdivision within this state or in another state. Acquisition by a township of equipment, materials, supplies, or services through participation in contract offerings from the federal government is exempt from any competitive selection requirements otherwise required by law. O.R.C. 9.48(B).

8. Q. If a township can purchase supplies or services from another party, instead of through a joint purchasing program, upon equivalent terms, conditions, and specifications but at a lower price, may it do so without competitive bidding?

   A. Yes, under O.R.C. 9.48(C). A township that makes any purchase under this provision must maintain sufficient information regarding the purchase to verify that the township satisfied the conditions for making a purchase under this provision.

9. Q. Can a board of township trustees enter into a contract without advertising or bidding for the purchase of services with a soil and water conservation district?

   A. Yes. O.R.C. 505.101

10. Q. Can a board of township trustees enter into a contract with an individual, business, association, estate, or trust if that individual, business, association, estate, or trust has donated to the campaign of the township's officers?

    A. Yes, if the aggregated cost for goods and/or services is less than $500 per year. If the aggregated cost is more than $500 per year, see guidelines in O.R.C. 3517.13, and/or consult the township's legal counsel.

IV. FISCAL TRANSACTIONS (CONTINUED)

Certification of Funds (Continued)
Trustees Authority to Incur Obligations (Continued)

11. Q. Can a township enter into an energy price risk management contract?

A. Yes. O.R.C. 9.835 authorizes a township to enter into an energy price risk management contract to mitigate the price volatility of energy sources, including natural gas, gasoline, oil, and diesel fuel. An energy risk management contract is not an investment for the purposes of O.R.C. 135.14.

Funds
Crediting of Funds – General

1. Q. Where may information be obtained as to what bills may be paid out of which funds?

A. Certain sections of the Ohio Revised Code should be read and reviewed to come to a better understanding on this subject. Specifically, O.R.C. 5705.09 sets forth the funds that each township is required to establish as the need arises. O.R.C. 5705.10 sets forth the manner in which money received from tax levies, proceeds from sale of bonds and proceeds from the sale of permanent improvements shall be distributed. Also relevant are O.R.C. 5705.14, 5705.15, 5705.16, which set forth the procedure to be followed in making certain transfers of funds. Numerous other sections under O.R.C. 5705 might also, in a particular instance, be relevant. The appropriation resolution should also be referred to.

2. Q. How are new funds established and what approvals are necessary?

A. All funds require an approving resolution by the respective board of township trustees. Funds established under O.R.C. 5705.09 do not require Auditor of State approval. Funds established under O.R.C. 5705.12 do require Auditor of State Fund approval. Please refer to Appendix II, Establishment of New Funds, for additional guidance. Requests for the establishment of new funds should be mailed to:

Dave Yost
Auditor of State
Attn: Local Government Services
88 East Broad Street
Columbus, Ohio 43216-1140
(614) 466-4717

Or requests may be FAXED to 866-882-0004

3. Q. If a township receives a gift or donation and the purpose for which donation is to be used is not designated, into what fund should the gift or donation be paid?

A. O.R.C. 5705.10 provides that money derived from sources other than the general property tax, unless its use for a particular purpose is prescribed by law, shall be paid into the general fund.

IV. FISCAL TRANSACTIONS (CONTINUED)

Funds (Continued)
Crediting of Funds – General (Continued)

4. Q. May funds derived from payments to cover the cost of heating, lighting, and janitor service by citizen groups such as the Boy Scouts, Farmers' Institute, 4-H, and similar organizations for use of the firehouse as provided in O.R.C. 3313.76, et. seq., be paid into a special fund for the acquisition of permanent improvements?

   A. No. O.R.C. 5705.10 provides that "all revenue derived from a source other than the general property tax, for which the law does not prescribe use for a particular purpose...shall be paid into the general fund."

5. Q. Into what fund should proceeds from a tax levied for a special purpose, such as construction of a townhall, be paid?

   A. A special fund should be established on the books and the proceeds of the special levy should be credited to the special fund so created, in accordance with the provisions of O.R.C. 5705.09(D).

6. Q. Must a special fund be established into which shall be paid proceeds arising from the sale of cemetery lots?

   A. Yes. O.R.C. 517.08. provides that the proceeds arising from the sale of cemetery lots under section 517.07 of the Revised Code shall be used in maintaining, improving, beautifying, and embellishing such grounds, and for maintaining and improving entombments, including mausoleums, columbariums, and other interment rights, except that upon unanimous consent of the board of township trustees, such proceeds may be used in the purchase or appropriation of additional land for cemetery purposes in accordance with sections 517.01 and 517.13 of the Revised Code; and the board of township trustees may build and maintain proper and secure fences around all such cemeteries, to be paid for from the township funds. Since O.R.C. 517.08 limits the use of the proceeds to the enumerated purposes, the proceeds would fall within the definition of a "class of revenues derived from a source other than the general property tax, which the law requires to be used for a particular purpose," and O.R.C. 5705.09(F) would, therefore, require the township to establish a special fund (i.e. cemetery fund) into which the proceeds should be paid, and expenditures from such special fund could be made only for the enumerated purposes.

7. Q. If the township received a bequest to be used to maintain Mr. X's burial lot, must a special fund be established for the bequest?

   A. Yes. O.R.C. 5705.09(H) requires the township to establish a "...trust fund for any amount received...in trust." Note, however, a township lacks authority to expend funds for the maintenance of a cemetery owned by a religious society. 1983 OAG No. 039.

8 Q. Into what fund should revenue derived from leases of real property or mineral rights of township property be reeipted?

   A. Amounts received for leases of real property or mineral rights are to be receipted into the general fund. O.R.C. 505.11

IV. FISCAL TRANSACTIONS (CONTINUED)

Funds (Continued)

Bonds, Notes, and Certificates of Indebtedness

1. Q. Pursuant to a vote of the people, the township issued bonds in the sum of $80,000 for the purchase of fire equipment. A tax was also levied pursuant to a vote of the people to retire the bonds. What disposition should be made of the proceeds from the bonds, the accrued interest and the premium, and the proceeds from the tax levied to retire the bonds?

   A. O.R.C. 5705.10 would require the proceeds from the bonds, as well as any interest earned by the proceeds, be paid into a special fire fund and used for the purchase of the equipment. The premium and accrued interest should be paid into the bond retirement fund. The proceeds from the tax levied to retire the bonds should be paid into the bond retirement fund for the purpose of retiring the bonds and paying the interest as the bonds become due.

Proceeds from Sale

1. Q. Into what fund should proceeds from the sale of fire equipment having an estimated life of less than five years be paid?

   A. Property having an estimated life of less than five years would be classified as property other than a permanent improvement. O.R.C. 5705.10 requires proceeds from the sale of property other than a permanent improvement to be paid into the fund from which such property was acquired, or is maintained, or, if there is no such fund, into the general fund.

2. Q. Into what fund should the proceeds from the sale of a townhall, used in part for storage of road equipment, be deposited?

   A. O.R.C. 5705.10(F) provides that: "Except as provided in division (G) of this section, if a permanent improvement of the subdivision is sold, the amount received from the sale shall be paid into the sinking fund, the bond retirement fund, or a special fund for the construction or acquisition of permanent improvements...." O.R.C. 5705.10(G) states “A township that has a population greater than fifteen thousand according to the most recent federal decennial census and that has declared one or more improvements in the township to be a public purpose under section 5709.73 of the Revised Code may pay proceeds from the sale of a permanent improvement of the township into its general fund if both of the following conditions are satisfied:

      1. The township fiscal officer determines that all foreseeable public infrastructure improvements, as defined in section 5709.40 of the Revised Code, to be made in the ten years immediately following the date the permanent improvement is sold will have been financed through resolutions adopted under section 5709.73 of the Revised Code on or before the date of the sale. The fiscal officer shall provide written certification of this determination for the township’s records.

      2. The permanent improvement being sold was financed entirely from moneys in the township’s general fund.”

IV. FISCAL TRANSACTIONS (CONTINUED)

Funds (Continued)
Proceeds from Sale (Continued)

3. Q. May the proceeds from the sale of the old townhall be used to retire bonds issued to construct a firehouse?

   A. Yes. The townhall would fall within the category of a permanent improvement within the definition of O.R.C. 5705.10. Except as provided in O.R.C. 5705.10(G), the proceeds from the sale should, therefore, be paid into the sinking fund, the bond retirement fund, a special fund for the construction or acquisition of permanent improvements. Proceeds from the sale of a permanent improvement, in accordance with O.R.C. 5705.10, may be used to pay any general tax bonds of the township which were issued for any authorized purpose.

4. Q. If the township sells a firehouse on which bonds are outstanding, must the proceeds from the sale of the firehouse be used to retire the outstanding bonds?

   A. No. Although it would be proper to use the proceeds to retire bonds, there is no requirement that the proceeds be so used. In the alternative, the proceeds may be paid into a permanent improvement fund.

5. Q. If the township sells the townhall and the township has general obligation bonds outstanding, must the proceeds from the sale of the townhall be applied to the retirement of the bonds or may the proceeds from the sale of the townhall, instead, be paid into a permanent improvement fund?

   A. There is no requirement that the proceeds be used to retire the general obligation bonds, although the proceeds may so be used. It is within the option of the board of township trustees to determine into which of the two authorized funds, the bond retirement or a permanent improvement fund the proceeds shall be paid. (See O.R.C. 5705.10)

6. Q. May money received from the State of Ohio in payment for an easement on the back section of the lots for highway purposes be paid into the general fund and used for current expenses of the fire department, or must the money be credited to the bond retirement fund?

   A. O.R.C. 5705.10 provides that: "If a permanent improvement of the subdivision is sold, the amount received for the same shall be paid into the....bond retirement fund, or into a special fund for the construction or acquisition of permanent improvements ..." It has been determined that the sale of land may be defined as the sale of a permanent improvement within the meaning of the above quoted provision.

7. Q. The township created a special building fund into which it paid the proceeds derived from the sale of the old townhall. The board also transferred some general fund money into this fund. May money in this fund be used to pay the rental for office space that the township is leasing until such time as the new townhall will be built?

   A. No. Payment of rent cannot be said to be "for the construction or acquisition of a permanent improvement."

IV. FISCAL TRANSACTIONS (CONTINUED)

Funds (Continued)

Interest

1. Q. In the absence of a statute on the subject, into what fund should interest deriving from public money be paid?

   A. All interest earned on the principal of any special fund, regardless of the source of purpose of the principal, must be paid into the general fund in the absence of any requirement to the contrary. O.R.C. 135.21, 135.351, and 5705.10. The following funds must receive the interest which they earn because there is an exception providing that the interest earned must be returned to the listed fund rather than the general fund:

   Motor Vehicle License Tax
   Gasoline Tax
   State/Federal Grants - if so required by the grant agreement
   Permissive Motor Vehicle License Tax
   Permanent Improvement - sale of bonds/notes if required by the bond resolution
   Funds held as a fiduciary
   Cemetery Trust Fund(s)

2. Q. If the township fiscal officer invests the township firemen's relief and pension fund or a portion thereof in interest-bearing bonds of the United States, how shall any interest which these funds may earn be distributed?

   A. O.R.C. 135.21 provides that interest from custodial funds, as well as from other funds belonging in the treasury of taxing, assessment, or other districts of which the fiscal officer is acting as ex officio treasurer, or which for any reason do not belong in the township treasury, "shall be credited to the general fund of the…township…to which the principal sum thereof belongs."

3. Q. Except as noted above, what fund does O.R.C. 135.21 provide that interest earned be credited?

   A. O.R.C. 135.21 provides that such interest shall be credited to the general fund of the township.

4. Q. If a township has general fund money, gasoline tax money, and motor vehicle license tax money on deposit, is it necessary to prorate the interest which is earned by such funds in proportion to the amount of each particular fund on deposit?

   A. Yes. It is important to remember that interest earned on money invested or deposited will, in most instances, be credited to the general fund rather than to the fund to which the principal belongs. See O.R.C. 135.21, 135.31, and 5705.10. However, the source of funds in this instance creates an exception to the general rule. Ohio Const. art. XII, Sec. 5a requires that interest earned on monies derived from fees, excises and taxes relating to the use, operation or registration of motor vehicles or to fuels propelling such vehicles be credited to the special fund to which the principal belongs. Thus, in this case, there is clearly a conflict between the legislation and the constitution. In such conflicts, the constitution must control. Accordingly, in this situation, the interest must be prorated because some of the funds in question derive from motor vehicle use, operation and registration. See also 82 OAG No. 031.

IV. FISCAL TRANSACTIONS (CONTINUED)

Funds (Continued)
Interest (Continued)

5. Q. Into which fund does O.R.C. 5705.10 provide that premium and accrued interest received from the sale of a bond, note, or certificate of indebtedness issue shall be paid?

   A. This section provides that the premium and accrued interest received from such fund shall be paid into the bond retirement fund of the township.

6. Q. Into what fund does O.R.C. 5705.10 provide that interest earned on money in a special fund derived from the proceeds from the sale of a bond, note, or certificate of indebtedness issue shall be paid?

   A. This section states that: “Any interest earned on money in such special fund may be used for the purposes for which the indebtedness was authorized or may be credited to the general fund or other fund or account as the [township trustees] authorize and used for the purposes of that fund or account.”

7. Q. Due to a delay in undertaking the project because the land on which to construct the firehouse was not immediately available, the township created an inactive depository and placed in it $50,000 from the firehouse construction fund from the bonds issued for the project. While such funds were on deposit, they earned a total of $3,000 in interest. Should the $3,000 thus earned be paid into the general fund in accordance with O.R.C. 135.21?

   A. No. O.R.C. 5705.10 provides that as to the proceeds from the sale of a bond, note, or certificate of indebtedness issue, "any interest earned on money in such special fund shall be used for the purposes for which the indebtedness was authorized." Hence, the interest should be paid into the special firehouse construction fund into which the proceeds of the bond issue were paid and both the interest and proceeds of the issue should be expended for the construction of the firehouse.

8. Q. The township is accumulating the proceeds from a tax levied to construct a firehouse until such time as there shall be enough money in the firehouse fund to construct the firehouse. Into what fund or funds should interest earned from the deposit of the tax proceeds be paid?

   A. All interest should be paid into the general fund, pursuant to O.R.C. 135.21 and 5705.10. However, interest which is earned on monies included in a permanent improvement fund and which is credited to the general fund may, pursuant to O.R.C. 5705.14(E) be transferred to the permanent improvement fund. 1984 OAG 089.

IV. FISCAL TRANSACTIONS (CONTINUED)

Funds (Continued)
Transfer of Funds

1. Q. If a tax were levied but no bonds were issued for the purpose of acquiring a site and erection of a firehouse and after the firehouse was constructed there remained a balance in such fund, may the balance be transferred to the general fund?

   A. O.R.C. 5705.14(B) provides that: "The unexpended balance in any specific permanent improvement fund, other than a bond fund, after the payment of all obligations incurred in the acquisition of such improvements, shall be transferred to the....bond retirement fund of the subdivision; provided that if such money is not required to meet the obligations payable from such funds, it may be transferred to a special fund for the acquisition of permanent improvements, or, with the approval of the court of common pleas of the county in which such subdivision is located, to the general fund of the subdivision." Since no bonds were issued, the disposition of the surplus in this specific permanent improvement fund must be transferred by simple resolution of the board of township trustees to a special fund for the acquisition of permanent improvements. In the alternative, if the balance is not needed for the bond fund, with the approval of the court of common pleas, the balance may be transferred to the general fund of the township.

2. Q. Pursuant to a vote of the people, bonds were issued for construction of a firehouse, and the proceeds from the sale of the bonds were paid into a special fund. When the firehouse is completed, may the surplus in the fund be used to maintain the township fire equipment?

   A. No. O.R.C. 5705.14(C) provides that any part of the proceeds of a bond issue not used or necessary for the purpose for which the fund was created must be transferred to the sinking fund or bond retirement fund from which the bonds are payable. This transfer may be made by two-thirds resolution of the board of township trustees. If there is no sinking fund or bond retirement fund, then the surplus can be transferred to another fund after receiving approval from the Common Pleas Court.

3. Q. If all the bonds issued for the purchase of fire equipment have been retired, and there remains a balance in the bond retirement fund, what disposition may be made of the balance in the bond retirement fund?

   A. The township trustees are authorized to transfer the unused balance in the bond retirement fund, if the balance is not needed for the bond fund, such transfer may be made to any other fund of the township; however, the transfer may only be made "with the approval of the court of common pleas."

4. Q. If a tax were levied for the improvement of all the roads and bridges in the township, may any part of such funds be transferred by resolution of the board of township trustees to the bond retirement fund?

   A. No. This is not a specific permanent improvement fund and, therefore, the provisions of O.R.C. 5705.14(B) would not control. Instead, the provisions of O.R.C. 5705.14(D) would be applicable. Transfers of the unexpended balance, by resolution of the board of township trustees, to the bond retirement fund are authorized only after the termination of the activity service or other undertaking for which such special fund exists, and only after the payment of all obligations incurred and payable from the special fund. Transfer by resolution of the board would not be authorized in this instance since there will always be roads and bridges within the township which will be in need of improvement.

IV. FISCAL TRANSACTIONS (CONTINUED)

Funds (Continued)

Transfer of Funds (Continued)

5. Q. May any of the proceeds of a tax levied for the maintenance and repair of highways and bridges be transferred to the bond retirement fund by resolution of the board of township trustees?

   A. No. So long as there remain highways and bridges in such county which may be in need of repair, the transfer may not be made by resolution of the board of township trustees.

6. Q. May general fund money be transferred from the general fund to the road and bridge fund by resolution of the board of township trustees?

   A. Yes. O.R.C. 5705.14(E) permits transfers from the general fund to any other fund, by simple resolution of the board of trustees.

7. Q. How may transfers be made from the township road and bridge fund to the general fund of the township?

   A. Funds may be transferred from the township road and bridge fund only upon the order of the court of common pleas as provided in O.R.C. 5705.15 and 5750.16. However, if the road and bridge fund is made up in part or entirely of motor vehicle license tax money or gasoline tax funds, O.R.C. 5705.15 would prohibit the transfer by court order or otherwise, since O.R.C. 5705.15 prohibits the transfer by court order or otherwise of the proceeds or balance of funds "derived from any excise tax levied by law for a specified purpose, and the proceeds or balances of any license fees imposed by law for a specified purpose."

Charging of Funds

1. Q. If a lawful claim is presented to the township and there is no designation, legal or factual, as to what fund should be charged, out of what fund should payment be made?

   A. The general fund should be charged, as denoted by O.R.C. 5705.05.

2. Q. May any portion of the township's portion of the workmen's compensation contribution be charged against the road and bridge fund?

   A. Yes. O.R.C. 4123.41(C) provides that “The legislative body of any county, district, district activity, or institution may reimburse the fund from which the workers' compensation payments are made by transferring to the fund from any other fund of the county, district, district activity, or institution, the proportionate amount of the payments that should be chargeable to the fund, whether the fund is derived from taxation or otherwise. The proportionate amount of the payments chargeable to the fund may be based on payroll, relative exposure, relative loss experience, or any combination of these factors, as determined by the legislative body."

3. Q. May any portion of the deductions which the county auditor makes for the township's portion of the general health district expense be paid from the road and bridge fund?

   A. No. This deduction is a general fund charge.

4. Q. May any portion of the deductions which the county auditor makes for election expenses be paid from the road and bridge fund?

   A. No. This is a general fund expense.

IV. FISCAL TRANSACTIONS (CONTINUED)

Funds (Continued)

Charging of Funds (Continued)

5. Q. Must the township's contribution to the public employees retirement system be charged to the general fund?

   A. No. O.R.C. 145.12 provides that "The....board of township....may reimburse the fund from which such appropriation is made by transferring to such fund from any other fund of such subdivision the proportionate amount of such appropriation that should be chargeable to such fund whether such fund is derived from taxation or otherwise." Such payment may be made directly out of any funds, whether derived from taxation or otherwise, from which the salaries or compensation of employees, on account of whom such payments are to be made, are payable.

6. Q. May any portion of the cost of the audit by the Auditor of State be charged to the road and bridge fund?

   A. Yes. O.R.C. 117.13 provides, in part: "...At the conclusion of each audit, or analysis and report made pursuant to O.R.C. 117.24, the auditor of state shall furnish the fiscal officer of the local public office audited a statement showing the total cost of the audit, or of the audit and the analysis and report, and the percentage of the total cost chargeable to each fund audited. The fiscal officer may distribute such total cost to each fund audited in accordance with its percentage of the total cost..."

Borrowing Advances

1. Q. When is a township authorized to receive an advance from the county treasury?

   A. Since a township is a subdivision which, within the definition of O.R.C. 321.34 has funds derived from taxes or other sources payable by law to the county treasury, the board of township trustees may by resolution request the county auditor to draw a draft on the county treasury to the township fiscal officer for any money that may be in the county treasury to the account of the township "lawfully applicable to the purpose of the current fiscal year in which such request is made." The auditor and treasurer are, however, required to "retain any amounts needed to make such payments or obligations of local political subdivisions or taxing districts as are required by law to be paid directly by the county authorities."

2. Q. May an advance be received if the township has no money in its account in the county treasury?

   A. No.

3. Q. May the township trustees, after the August settlement, but before January 1, demand an advance on township funds for taxes collected to the credit of the township on the delinquent list?

   A. No. Taxes collected on the delinquent tax list are carried into the February settlement and advances are therefore made from the February settlement. Therefore, they may not be advanced before January 1. O.R.C. 321.34 permits the advance to be made only if it is lawfully applicable to the purposes of the current fiscal year in which such request is made. OAG No. 27-2404.

IV. FISCAL TRANSACTIONS (CONTINUED)

Funds (Continued)

Borrowing Advances (Continued)

4. Q. The county auditor hopes to have the real estate and public utility taxes collected by December, 2015. However, other than such proceeds, the township has no money to its credit in the county treasury. May the township in December of 2015 receive an advance disbursement of the real estate and public utility taxes as collected?

   A. No. Such real estate and public utility taxes collected in December, 2015, will not be applicable to the purpose of the current fiscal year 2015. Therefore, no advance disbursement of such funds may be received until on or after January 1, 2016.

Charitable Organizations

1. Q. May a township donate public monies to charitable organizations?

   A. A township may donate public money to a charity, community group, nonprofit corporation, community social event, or community cultural event only if the township has statutory authority, either express or necessarily implied, to make such a donation. Any such donation must be made in compliance with applicable law. (O.R.C. 505.707, 505.70 (A)(B), 505.80) OAG 2002-031.

2. Q. May a township contract with charitable organizations for services?

   A. A township may contract with a charity, community group, or nonprofit corporation for the provision of services by the charity, community group, or nonprofit corporation only if the township has statutory authority, either express or necessarily implied, to enter into such a contract. Any such contract must be made in compliance with applicable law. OAG 2002-031.

3. Q. May a township donate property to charitable organizations?

   A. A township may dispose of unneeded, unfit-for-use, or obsolete personal property, if it has an estimated fair market value of $2,500 or less, by donating it to a "501(c)(3)" nonprofit organization that is exempt from income taxation under federal law and that is located in Ohio, only after adopting a resolution creating a program for these donation purposes.

4. Q. What are the requirements of the resolution for the creation of a program to donate personal property to 501(c)(3) organizations?

   A. To create a donation program for unneeded, unfit-for-use, or obsolete personal property valued at $2,500 or less, a board of township trustees must adopt a resolution that contains the following (O.R.C. 505.10(A)(2)(b)):

      (1) A statement of its intention to make the property available to 501(c) organizations.
      (2) Guidelines and procedures necessary to implement the program
      (3) An indication of whether the program will be conducted by the township or by a representative under contract with the township
      (4) If such a representative is known when the resolution is adopted, contact information for that representative
      (5) A requirement that any non profit organization desiring to obtain donated property submit a written notice to the relevant board or its representative that includes evidence that it is a 501(c)(3) nonprofit organization that is exempt from income taxation under federal law and that is located in Ohio, a description of its primary purpose, a description of the types of property it needs, and contact information for its designated program agent.

IV. FISCAL TRANSACTIONS (CONTINUED)

Funds (Continued)
Charitable Organizations (Continued)

5. Q. After the donation program resolution is adopted, how does the township board proceed?

A. Once the donation program resolution is adopted, the board must publish at least twice in a newspaper of general circulation notice of its intent to donate unneeded, unfit-for-use, or obsolete property to 501(c)(3) organizations; the notice must summarize the resolution's contents. A similar notice must be posted continually at the office of the board of township trustees. If the township maintains an Internet web site, the notice also must be posted continually on that web site. The board of township trustees must maintain (1) a list of all eligible 501(c)(3) organizations that submit a written notice as described above and (2) a list of all personal property that qualifies for the program. The list of qualifying property must be continually posted at the same locations at which the resolution creating the program must be posted. A board may include in a separate and distinct resolution a list of eligible 501(c)(3) organizations that are to be given priority for an item's donation. The list must specify the reasons for giving the organizations this priority. The board may choose to give priority based on a direct relationship between the purposes of the 501(c)(3) organization and specific public purposes of a township. An item of property on the property list mentioned above must be donated to the 501(c)(3) organization on the eligible organization list mentioned above that first declares its desire to obtain the item, unless the program includes a list of eligible 501(c)(3) organizations that are to be given priority for a particular item as explained above. A board of township trustees must consult with the Ohio Ethics Commission and must comply with the Ethics Law and the Criminal Code's Offenses against Justice and Public Administration Law, when donating to a 501(c)(3) organization of which a board member, any family member of a board member, or any business associate of a board member is a trustee, officer, board member, or employee. O.R.C. 505.10(A) to 505.10(C).

Public Contracting

1. Q. Are there other requirements for contracts between the township and private entities greater than $25,000, other than any bidding or certification requirements?

A. Yes, O.R.C. Sections 9.23 through 9.239 include specific requirements for contracts between public offices and private entities, in excess of $25,000. These include specific requirements that must be addressed in these contracts, such as the minimum percentage of money that must be expended on direct costs, records that must be maintained, reporting requirements of the private entities, and access to records relating to such contracts. **Specific questions regarding these requirements should be addressed to the township's legal counsel.**

2. Q. What are the reporting and audit requirements of private entities receiving public monies?

A. Annual audits or financial reviews are required, depending on the amount of money received by the private entity, to be conducted by independent public accounting firms. See O.R.C. 9.234(B). It is the responsibility of the public office to identify the contractors to whom this applies and to ensure that the annual audits or financial reviews are completed. It should be noted that O.R.C. 9.234 includes language which clarifies that these audit and financial review requirements do not limit the authority of the Auditor of State to conduct audits authorized elsewhere in the Revised Code. Further, if the contracted private entity receives an audit conducted in accordance with generally accepted auditing standards or if the audit is conducted pursuant to the federal "Single Audit Act of 1984," the private entity is not required to undergo either the financial review or the annual audit. *(cont. on next page)*

IV. FISCAL TRANSACTIONS (CONTINUED)

Public Contracting (Continued)

Relative to these requirements, O.R.C. 9.238 requires the Auditor of State to prescribe a single form independent accountants must use for the financial reviews required of private entities receiving between $100,000 and $500,000 of public money. In compliance with this requirement, the Auditor of State has developed a financial review form, which is attached to this Bulletin and which shall be used to comply with O.R.C. 9.234(B). The financial review form may also be obtained from the Auditor of State website at https://ohioauditor.gov/.

The contracted private entity must provide the public agency with the completed financial review or audit report for each year in which it meets the thresholds described in O.R.C. 9.234. Please note that copies do not need to be submitted to the Auditor of State's Office.

Payment of Township Obligations

1. Q. How should money be paid out of township funds?

   A. Money should be paid out on order (check) signed by at least two of the township trustees, and countersigned by the township fiscal officer. O.R.C. 507.11.

2. Q. May township trustees use signature stamps on township warrants and checks?

   A. Yes. O.R.C. 9.11 authorizes the use of facsimile signatures on township warrants and checks, but the bank must authorize the use of such in writing, and certain types of facsimile signatures, such as rubber stamps, are not permitted. See O.R.C. 9.10.

3. Q. How should bills for materials and payrolls of employees be paid?

   A. Bills for material and payrolls of employees should be presented to the board of trustees, and be allowed and paid to persons furnishing material or performing labor. No voucher should be made in the name of a single trustee or a road superintendent except for payment of per diem, unless otherwise authorized by resolution of the board.

Direct Deposits

1. Q. If the township decides to process its payroll by way of direct deposit, how would this process differ from that of issuing a voucher to each officer or employee?

   A. The township officials may make by direct deposit of funds by electronic transfer, if the payee provides a written authorization designating a financial institution and an account number to which the payment is to be credited, any payment such public official is permitted or required by law in the performance of official duties to make by issuing a check or warrant. The board of trustees may contract with a financial institution for the services necessary to make direct deposits and draw lump-sum checks or warrants payable to that institution in the amount of the payments to be transferred. Before making any direct deposit as authorized under O.R.C. section 9.37, the board of trustees and the fiscal officer shall ascertain that the account from which the payment is to be made contains sufficient funds to cover the amount of the payment. If the issuance of checks and warrants by the township fiscal officer requires authorization by the township trustees, the township fiscal officer may only make direct deposits and contracts under O.R.C. section 9.37 pursuant to a resolution of authorization duly adopted by the township board of trustees. (O.R.C. 9.37)

IV. FISCAL TRANSACTIONS (CONTINUED)

Direct Deposits (Continued)

2. Q. Is the board of trustees required to have a written policy regarding direct deposits?

A. The township board of trustees may adopt a direct deposit payroll policy under which all township employees provide a written authorization designating a financial institution and an account number to which payment of the employee's compensation shall be credited under the township's direct deposit payroll policy. The direct deposit payroll policy adopted by the board of township trustees may exempt from the direct deposit requirement those township employees who cannot provide an account number, or for other reasons specified in the policy. The written authorization is not a public record under section 149.43 of the Revised Code. (O.R.C. 9.37(G) effective March 22, 2012.)

Capital Leases

1 Q. A township wants to acquire a new fire truck through a lease. How should that transaction be recorded?

A. The activity is to be recorded as a memo transaction. The proceeds are to be recorded as an "other financing source," and the expenditure is to be recorded as capital outlay for the purchase.

Township Use of Credit Cards

1. Q. May a board of township trustees use a credit card to purchase supplies, materials, machinery, tools, parts, or equipment pursuant?

A. Yes. A board of township trustees may use a bank credit card to purchase supplies, materials, machinery, tools, parts, or equipment pursuant to O.R.C. 505.37, O.R.C. 5549.04, or O.R.C. 5549.21 so long as the board duly authorizes such expenditure pursuant to O.R.C. 507.11, the township fiscal officer certifies the existence of sufficient unencumbered funds to pay for such expenditure where such certificate is required under O.R.C. 5705.41(D), and the expenditure otherwise conforms with law. OAG 1984-050.

2. Q. Who may use a credit card held by the board of trustees?

A. The board of township trustees may authorize an officer, employee, or appointee of the township to use a credit card held by the board of township trustees to pay for work-related expenses. The debt incurred as a result of the use of a credit card pursuant to this section shall be paid from moneys appropriated by the board of township trustees for such expenses. O.R.C. 505.64(A).

3. Q. May the board of township trustees use a credit card to defer all or part of the purchase price, or to create an installment payment plan for purchases?

A. No. A board of township trustees may not use a credit card to defer all or part of the purchase price or create an installment payment plan for the purchase of supplies, materials, machinery, tools, parts, or equipment purchased pursuant to O.R.C. 505.37, O.R.C. 5549.04, or O.R.C. 5549.21. OAG 1984-050.

IV. FISCAL TRANSACTIONS (CONTINUED)

Township Use of Credit Cards (Continued)

4. Q. May an authorized township credit card user make cash withdrawals against a township credit card?

   A. Credit card cash withdrawals are NOT specifically authorized by Ohio law. If the board of township trustees determines that cash withdrawals are necessarily implied from its other powers, that determination should be memorialized by specific legislative action. The action should explicitly authorize the cash withdrawals and reference the township's credit card policy. AOS Bulletin 2016-004

5. Q. What should be contained in a township's credit card policy?

   A. The policy should include, at a minimum, the following provisions:

   - Designation of the person or persons who are empowered to authorize and approve credit card transactions;
   - The names and job titles of officers and employees who are authorized to use cards;
   - Limits on the total dollar amount each authorized card user may incur as part of any individual transaction;
   - A clear indication that the credit card may be used only for official business and for the benefit of the township;
   - The disciplinary action or range of disciplinary actions which may be taken in the instances in which the credit card is utilized for other than a proper public expenditure/purpose or in violation of the township's policies and procedures;
   - If cash withdrawals are to be permitted, a comprehensive indication of the circumstances under which they are to be permitted and limits as to amounts of such withdrawals;
   - A thorough listing of the documents which are to be created or secured, and maintained so as to create and to preserve an appropriate audit trail; and,
   - A statement signed by each potential card user acknowledging the he/she has read the credit card policy, understands it, and agrees to abide by it.

   AOS Bulletin 2016-004

Casino Revenue

1. Q. Will townships receive casino revenue?

   A. Townships will not receive revenue from the casinos. Money that is set aside for "local governments pursuant to the constitutional amendment go ONLY to the 88 counties, casino host cities, and the largest city in each county only if the city has at least 80,000 people (or the big 8 cities). (Ohio Constitution Art. XV Sec. 6(C)(3))

Reverse Auctions

1. Q. Can a township use the reverse auction method to acquire supplies and/or services?

   A. Townships are prohibited from using Internet reverse auctions to buy supplies and/or services if the contract concerns the design, construction, alteration, repair, reconstruction or demolition of a building, highway, road, street, alley, drainage system, water system, waterworks, ditch, sewer, sewage-disposal plant, or any other structure or works of any kind. O.R.C. 9.314(B)(2) and O.R.C. 9.317.

Tax Increment Financing

1. Q. What is Tax Increment Financing (TIF)?

   A. Tax Increment Financing (TIF) is an economic development mechanism available to local governments in Ohio to finance public infrastructure improvements and, in certain circumstances, residential rehabilitation. A TIF works by locking in the taxable worth of real property at the value it holds at the time the authorizing legislation was approved. Payments derived from the increased assessed value of any improvement to real property beyond that amount are directed towards a separate fund to finance the construction of public infrastructure defined within the TIF legislation.

2. Q. May a board of township trustees use TIFs to finance public infrastructure or certain other assets or services benefitting a township?

   A. Yes. Pursuant to O.R.C. Chapter 5709, a township may use TIFs to finance public infrastructure or certain other assets or services benefitting the township. AOS Bulletin 2010-003.

   For further information regarding Tax Increment Financing, see Auditor of State Bulletin 2010-003 or contact legal counsel.

Alcoholic Beverages Purchased for Resale at Public Events

1. Q. May a board of township trustees purchase alcohol with township funds for resale at a public event?

   A. A board of township trustees may purchase alcohol for resale at a public event, provided all of the following conditions are met:

   - The township obtained a valid permit from the Ohio Division of Liquor Control;
   - The township complied with the terms of the issued permit;
   - The township purchased the alcoholic beverages solely for resale to the public, e.g. at special events;
   - The expenditure is reasonable
   - The proceeds are applied as required by any applicable township resolution

   AOS Bulletin 2014-003

Telephone Town hall Meetings

1. Q. May a township board of trustees use public funds to conduct a telephone town hall meeting?

   A. A board of township trustees may expend public funds to conduct a telephone town hall meeting, as long as the expenditure constitutes a proper public purpose. Township trustees should be aware that promoting partisan politics is not a proper public purpose. For more information regarding telephone town hall meetings, see Auditor of State Bulletin 2014-004, Ohio Attorney General Opinion 2014-005, or contact the township's legal counsel.

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SECTION E

NOTES AND BONDS*

PLEASE NOTE THAT PORTIONS OF THIS SECTION WOULD NOT APPLY TO TOWNSHIPS WHICH HAVE ADOPTED A LIMITED HOME RULE GOVERNMENT UNDER CHAPTER 504 OF THE REVISED CODE.

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I. FISCAL TRANSACTIONS

Issuing Notes in Anticipation of the Collection of Current Revenues; O.R.C. 133.10

1. Q. May the trustees borrow money and issue notes in anticipation of the collection of current revenues?

   A. Yes. See O.R.C. 133.10.

2. Q. How much money may the trustees borrow in anticipation of proceeds of taxes levied by the township?

   A. The loans shall not exceed one-half of the amount estimated to be received from the next ensuing settlement of taxes for such fiscal year as estimated by the budget commission, other than taxes to be received for the payment of debt charges and all advances.

3. Q. In determining the amount of money which a township may borrow by reason of the provisions of O.R.C. 133.10, what is the meaning of the phrase "not to exceed one-half of the amount estimated to be received from the next ensuing settlement of taxes?"

   A. In 1932 O.A.G. No. 4093, it is stated that, originally, there were only two semi-annual settlements of taxes. However, now there are two separate and distinct sets of semi-annual settlements, one set of half-yearly settlements on the fifteenth day of February and the tenth day of August and the other on the tenth day of May and the tenth day of October. “Since the budget commission makes its estimate and prepares its official certificate of estimated resources on an annual basis and includes all these taxes in its estimate, it is evident that the intent was to regard the yearly tax estimated by the budget commission as the unit.” By the use of the language, one-half of the amount estimated to be received from the next ensuing semi-annual settlement of taxes of such fiscal year as estimated by the budget commission was meant one-half of the half-yearly taxes received and accounted for by the county treasurer to the county auditor; whether a partial accounting was made on the fifteenth day of February and the tenth day of May, or on the tenth day of August and the tenth day of October in each year.

4. Q. Under what circumstances may more than one-half of the estimated proceeds of taxes be anticipated under O.R.C. 133.10?

   A. If a partial, semi-annual, or final tax settlement is delayed, money may be borrowed in anticipation of the receipt of taxes for debt charges to the extent necessary to meet such debt charges. However this amount cannot exceed such estimated receipts, less all advances.

I. FISCAL TRANSACTIONS (CONTINUED)

Issuing Notes in Anticipation of the Collection of Current Revenues; O.R.C. 133.10 (Continued)

5. Q. What is the meaning of the phrase "year of such tax receipts"?

   A. This phrase refers to the fiscal year in which such revenues are received by the subdivision. In 1955 O.A.G. No. 4754 at page 56, it is stated that: "The manifest purpose of O.R.C. 133.10, is to permit a subdivision to borrow money in a fiscal year in anticipation of the receipt of tax revenues in the same fiscal year. Thus by borrowing, it may obtain money to pay its budgeted expenses even though it has not received the tax revenues from the collecting officer. The purpose is not to permit a subdivision to borrow money to pay expenses in one fiscal year in anticipation of the receipt of tax revenues listed in its tax budget as available for the following fiscal year."

6. Q. May the township in October of 2015 borrow money in anticipation of the real estate and public utility taxes to be collected in December and distributed in February of 2016?

   A. No. The real estate and public utility taxes to be collected in December is for the 2015 tax year. Therefore, money may not be borrowed from the bank in anticipation of such tax receipts before January of 2016.

7. Q. How much money may the trustees borrow in anticipation of the collection of current revenues other than the proceeds of taxes levied on the township duplicate?

   A. The aggregate of the loans shall not exceed one half of the amount estimated to be received from such sources during such fiscal year, less any advances thereon.

8. Q. May notes be issued under O.R.C. 133.10 in anticipation of the receipts of motor vehicle license and gasoline tax funds?

   A. Yes.

9. Q. If the general fund is low, may notes be issued in anticipation of the receipts of auto license and gasoline tax money, and the proceeds of the notes applied to the payment of general fund obligations?

   A. No. The proceeds may be used only for the purposes for which the anticipated taxes were levied, collected, distributed and appropriated, and for financing costs related to those securities. O.R.C. 133.10(E)(3).

10. Q. When must notes issued under O.R.C. 133.10 be paid off?

    A. Securities issued in anticipation of the collection of current property tax revenues shall mature not later than the last day of the sixth month following the month in which the securities are issued and in any case not later than the last day of the fiscal year in which they are issued. Also, except as otherwise provided in divisions (A) and (D) of section 133.10 of the Revised Code, all other securities issued pursuant to O.R.C. 133.10 must “mature not later than the last day of the fiscal year for which the revenues are anticipated.”

I. FISCAL TRANSACTIONS (CONTINUED)

Issuing Notes in Anticipation of Collection of Current Revenues; O.R.C. 133.10 (Continued)

11. Q. Must the notes issued in anticipation of the collection of current property tax revenues be paid immediately upon receipt of the money from the tax collection if the notes are not yet due?

    A. No. O.R.C. 133.10 does not limit the due date of such instruments to the date of the semi-annual tax settlement, but, on the contrary, specifically limits the due date to not more than six months after the date of issuance. Authority is thereby granted the township to issue such notes for any specified length of time up to six months irrespective of the semi-annual settlement date. See answer to question 10 above for specifics.

12. Q. Must the notes issued pursuant to O.R.C. 133.10(A) be paid off within the fiscal year in which they were issued?

    A. Yes. O.R.C. 133.10 provides that securities shall mature not later than six months and in any case not later than the last day of the fiscal year.

13. Q. When a board of township trustees has borrowed money in anticipation of a tax settlement as provided in O.R.C. 133.10(A) but before maturity date of the notes issued in evidence of such borrowing and before the date for the semi-annual settlement, the county makes an advance payment of taxes to the board of township trustees which does not reduce the unpaid balance of such anticipated receipts from the next semi-annual settlement of taxes below twice the aggregate amount of anticipated notes, debt charges, and other advances, is there a mandatory duty on such township trustees to anticipate the maturity of such notes from such advance payment?

    A. No. OAG No. 33-711.

14. Q. Where a township has issued notes in anticipation of tax collections and the tax collections are delinquent to the extent that it will require a large portion of the collections to retire the notes, must the notes be paid out of such collection, leaving the township without sufficient operating funds, or can the banks holding the notes legally continue to hold them and have the notes paid out of subsequent tax collections other than the collections made during the year in which the notes were issued?

    A. The sums so anticipated shall be deemed appropriated for the payment of such notes at maturity. Therefore, in spite of the delinquencies in tax collections, the amount anticipated must nevertheless be applied to the payment of the notes and there is no authority to delay payment to a subsequent tax settlement. OAG No. 32-4782.

I. FISCAL TRANSACTIONS (CONTINUED)

Issuing Notes in Anticipation of the Collection of Current Revenues; O.R.C. 133.10 (Continued)

15. Q. If such notes are permitted to run past the maturity date without collection, and the appropriated funds are expended, may the trustees at the later date appropriate money with which to pay the notes?

A. No. Funds for the payment of such anticipatory notes are appropriated as a matter of law are expended otherwise, and the time of payment of the notes has passed, there is no authority in law provided for their collection.

Issuing Notes in Anticipation of the Collection of O.R.C. 5705.191 Tax Proceeds

1. Q. If the trustees have utilized the provisions of O.R.C. 5705.19 in levying a tax for any of the purposes set forth in O.R.C. 5705.19 how much money may the trustees borrow in anticipation of the tax receipts?

A. O.R.C. 5705.191 provides that: "After the approval of such a levy by the electors, the taxing authority of the subdivision may anticipate a fraction of the proceeds of such levy and issue anticipation notes. In the case of a continuing levy that is not levied for the purpose of current expenses, notes may be issued at any time after approval of the levy in an amount not more than fifty per cent of the total estimated proceeds of the levy for the succeeding ten years, less an amount equal to the fraction of the proceeds of the levy previously anticipated by the issuance of anticipation notes. In the case of a levy for a fixed period that is not for the purpose of current expenses, notes may be issued at any time after approval of the levy in an amount not more than fifty per cent of the total estimated proceeds of the levy throughout the remaining life of the levy, less an amount equal to the fraction of the proceeds of the levy previously anticipated by the issuance of anticipation notes. In the case of a levy for current expenses, notes may be issued after the approval of the levy by the electors and prior to the time when the first tax collection from the levy can be made. Such notes may be issued in an amount not more than fifty per cent of the total estimated proceeds of the levy throughout the term of the levy in the case of a levy for a fixed period, or fifty per cent of the total estimated proceeds for the first ten years of the levy in the case of a continuing levy."

2. Q. Do the provisions of O.R.C. 133.30 limit the maturity of notes issued under O.R.C. 5705.191 to six months after date of issue?

A. No. O.R.C. 5705.191 provides that "notes shall be issued as provided in O.R.C. 133.24."

3. Q. When notes are issued by a township in anticipation of current revenues, from what fund are such notes to be repaid?

A. All notes are to be repaid from the bond retirement fund. O.R.C. 5705.09

4. Q. If a township forecasts a cash flow deficit for the current fiscal period, may it use funds to meet current operating expenses that are allocated for the retirement of note indebtedness?

A. No. Ohio Const. Art. XII, Section 11, imposes a mandatory duty upon the townships to pay the interest and principal of their indebtedness before provisions are made for current operating expenses that are allocated for the retirement of note indebtedness.

I. FISCAL TRANSACTIONS (CONTINUED)

Retirement of Note Indebtedness

1. Q. Does the retirement of note indebtedness require a county auditor to issue separate warrants?

   A. Yes. Whenever a county auditor makes a distribution of funds to a township, a separate warrant payable to the bond retirement fund must be issued for debt service. This warrant must be sufficient to ensure the prompt repayment of any outstanding notes. OAG No. 84-005.

2. Q. Has a uniform procedure for the retirement of note indebtedness been established?

   A. Yes. The Auditor of State has developed a method of procedure. This was necessary not only for accounting purposes, but also because many local governmental units were in the habit of repaying notes from the funds which received the proceeds of the notes. Thus, the following procedure must be utilized: (a) When a township issues notes, the financial officer of the township shall notify the county auditor that such notes have been sold, specifying the principal amount, interest rate, amount of interest to be paid, the date of issuance and the maturity date. (b) Using this information, the county auditor will allocate a portion of any advancement or settlement to the bond retirement fund to insure repayment of the note. (c) At the time the notes are issued, the township should request from the county auditor an amended certificate of estimated resources, containing an increase in the estimate of bond retirement fund receipts equal to the amount which will be allocated to that fund for the repayment of the notes, including interest.

Issuance of Bonds Debt Limitation

1. Q. Is there any limit on the indebtedness which a township may incur either with or without a vote of the people?

   A. Yes. O.R.C. 133.09 provides that: "In calculating the net indebtedness of any township, no obligation incurred under division (B) of section 513.17 or under section 505.261, 505.264, 505.265, 505.267, or 505.37 of the Revised Code, or in connection with a project undertaken pursuant to Section 515.03 of H.B. 66 of the 126th general assembly, Section 555.10 of H.B. 67 of the 127th general assembly, or Section 755.20 of H.B. 153 of the 129th general assembly shall be considered." "

Necessity of Submitting Question to Electorate

1. Q. In order for a township to issue bonds for most purposes, is it necessary to submit the question of the issuance of bonds to the electorate?

   A. Yes. O.R.C. 133.09 provides that the only purposes for which a township may issue bonds without a vote of the people are those set forth in O.R.C. 505.262. O.R.C. 505.262 deals with notes to finance purchases and construction. This section states "the board of township trustees of any township, by unanimous vote, may adopt a resolution allowing the township to contract for the purchase of equipment, buildings, and sites, or for the construction of buildings, for any lawful township purpose."

I. FISCAL TRANSACTIONS (CONTINUED)

Necessity of Submitting Question to Electorate (Continued)

2. Q. Are bonds for township roads subject to the five percent limitation and must the question of issuing such bonds be submitted to the electorate even if the five percent limitation is not exceeded?

   A. Yes.

3. Q. Must an election be held on the question of issuing (1) notes pursuant to O.R.C. 505.37 for fire equipment, building and sites, or (2) notes pursuant to O.R.C. 505.53 for police equipment, building and sites for a police district?

   A. No. All of the enumerated sections state that the notes pursuant thereto "shall not be subject to Chapter 133 of the Ohio Revised Code." Therefore, no election is necessary.

4. Q. The township trustees will need to issue only ten thousand dollars in bonds in order to add a small addition to a building to house road equipment. Must they submit the question of issuing bonds for such purpose to the electors?

   A. Yes. With the exceptions noted above, O.R.C. 133.09 would prohibit township trustees from issuing bonds except pursuant to a vote of the electorate. Since this is an addition rather than construction of a new building, it would not fall within the reasons given in O.R.C. 505.262 for passage of a unanimous vote of the trustees instead of a vote of the people.

5. Q. May the question of issuing general obligation road bonds be submitted at a special election?

   A. Yes. O.R.C. 133.18 allows submission at any election.

Purpose for Which Bonds May be Issued

1. Q. For what purposes may a township issue bonds?

   A. O.R.C. 133.18 provides that: "The taxing authority of a subdivision may by legislation submit to the electors of the subdivision the question of issuing any general obligation bonds, for one purpose, that the subdivision has power or authority to issue."

2. Q. What are some of the purposes for which specific statutory authority is given the trustees to issue bonds?

   A. O.R.C. 505.40 provides for issuing bonds for various fire prevention measures, O.R.C. 511.08 provides for issuing bonds for memorial buildings, O.R.C. 5549.021 provides for issuing bonds for the purchase of machinery, tools, trucks, and other equipment, and O.R.C. 5573.14 provides for issuing bonds for roads, and O.R.C. 5555.44 provides for issuing bonds for the township's share of county roads.

I. FISCAL TRANSACTIONS (CONTINUED)

Purpose for Which Bonds May be Issued (Continued)

3. Q. What is a permanent improvement?

   A. O.R.C. 133.01 provides that: "Permanent improvement" or "improvement" means any property, asset, or improvement certified by the fiscal officer, which certification is conclusive, as having an estimated life or period of usefulness of five years or more, and includes, but is not limited to, real estate, buildings, and personal property and interests in real estate, buildings, and personal property, equipment, furnishings, and site improvements, and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of five years or more. The acquisition of all the stock ownership of a corporation is the acquisition of a permanent improvement to the extent that the value of that stock is represented by permanent improvements. A permanent improvement for parking, highway, road, and street purposes includes resurfacing, but does not include ordinary repair."

4. Q. May bonds be issued to cover the cost of current operating expenses?

   A. O.R.C. 133.03 provides that: "A subdivision may not issue securities for the purpose of paying current expenses except for securities authorized to be used for that purpose by this chapter or other laws."

5. Q. May the resolution declaring the necessity of a bond issue relate to more than one purpose?

   A. No. O.R.C. 133.18 provides that the resolution provided for shall relate only to one purpose.

Steps in Submitting Questions to Electorate

1. Q. What are the three main steps in submitting to the electorate the question of issuing bonds for a particular purpose?

   A. First, as provided in O.R.C. 133.18, the board of township trustees should adopt the resolution (1) declaring the necessity and purpose of such bond issue, (2) fixing the date of submission to the voters, (3) fixing the amount of the bond issue, the approximate date, interest rate, and maturity of the bonds, and (4) stating the necessity of the levy of a tax outside the limitation to pay the debt charged on the bonds and any anticipatory securities. Second, the township trustees should certify the above resolution to the county auditor. Third, the township trustees must certify the resolution to the board of elections together with the information which the county auditor supplies.

2. Q. As a part of the second step, what is the duty of the county auditor?

   A. The county auditor has a mandatory duty to calculate and certify to the board of township trustees the average annual levy, expressed (a) in dollars and cents for each one hundred dollars as well as (b) in mills for each one dollar of valuation, throughout the life of the bonds which will be required to pay the debt charges on the bonds. O.R.C. 133.18.

I. FISCAL TRANSACTIONS (CONTINUED)

Steps in Submitting Questions to Electorate (Continued)

3. Q. Is a board of township trustees required to submit the resolution to the county auditor within a certain period of time?

   A. No. O.R.C. 133.18 provides that the township trustees shall certify such resolution to the county auditor but does not provide a specific time limitation.

4. Q. Is there a time limitation within which the county auditor is required to act in the second step of the procedure?

   A. Yes. The county auditor is required to certify his information to the board of township trustees not later than ninety (90) days prior to the election at which the question of issuing bonds will be submitted, as provided in O.R.C. 133.18.

5. Q. Is there a time limit within which the board of township trustees is required to certify to the board of elections, the resolution together with the information furnished by the county auditor showing the average tax levy expressed in dollars and cents for each one hundred dollars of valuation, as well as mills for each one dollar of valuation and the maximum number of years required to retire the bonds?

   A. Yes. O.R.C. 133.18 provides that the board of township trustees shall certify the above to the board of elections not later than the ninetieth day before the day of such election.

6. Q. What is the maximum number of years for which bonds may be issued?

   A. O.R.C. 133.20 sets forth the maximum maturities of bonds, notes and other indebtedness for the various types of permanent improvements.

The Resolution

1. Q. If the trustees wish to submit to the electors of the township the question of issuing bonds, what must the resolution contain?

   A. O.R.C. 133.18 provides that the trustees "...shall pass legislation that does all of the following:

      (1) Declares the necessity and purpose of the bond issue;

      (2) States the date of the authorized election at which the question shall be submitted to the electors;

      (3) States the amount, approximate date, estimated rate of interest, and maximum number of years over which the principal of the bonds may be paid;

      (4) Declares the necessity of levying a tax outside the tax limitation to pay the debt charges on the bonds and any anticipatory securities.

I. FISCAL TRANSACTIONS (CONTINUED)

The Resolution (Continued)

2. Q. When the trustees of a township adopt a resolution declaring the necessity for a bond issue, as provided in O.R.C. 133.18 must the resolution declaring the necessity for a bond issue also declare the necessity for a levy of a tax outside the limitations imposed by Article XII, Section 2 of the Constitution to pay the principal and interest?

   A. Yes.

II. NOTES IN ANTICIPATION OF BONDS

1. Q. May a township issue notes in anticipation of bonds?

   A. Yes. O.R.C. 133.22 authorizes townships to issue notes in anticipation of bonds.

2. Q. When should the board of township trustees begin official action to issue such bonds?

   A. This depends on the nature of the bonds involved. If they are subject to the approval of the electorate, no action should be taken with a view to issuing such notes until the board of elections certifies the results to the township fiscal officer. If the bonds are unvoted bonds, action on issuance of notes may begin following the resolution declaring the necessity of such bond issue, its purpose, and amount, and certification by the township fiscal officer.

3. Q. Assuming that all necessary preconditions have been completed, what action must the board undertake?

   A. O.R.C. 133.22 states in part:

      (1) "With respect to the bonds anticipated:"

         (a) Declares the necessity of the bond issue and states its purpose, which shall be for one purpose, and the principal amount or maximum principal amount of the bonds and an estimated principal payment schedule for and an estimated or maximum average annual interest rate on the bonds;

         (b) If the issuance of the bonds has been approved by a vote of the electors, identifies the election at which approved;

         (c) Identifies the source or sources of payment of debt charges on the bonds as provided in O.R.C. 133.23(C).

      (2) "With respect to anticipatory securities:"

         (a) States the principal amount or maximum principal amount of the anticipatory securities to be issued and outstanding, not to exceed the amount of the bond issue;

         (b) Provides for, or provides for the method for from time to time establishing or determining, the rate or rates of interest or the maximum rate or rates of interest to be paid on the anticipatory securities, the date or dates of the anticipatory securities, and the maturity or maturities or the maximum maturity of the anticipatory securities subject to division (C) of this section;

         (c) Establishes provisions, if any, for redemption or prepayment of the anticipatory securities in whole or in part before maturity;

II. NOTES IN ANTICIPATION OF BONDS (CONTINUED)

(d) If the bonds anticipated are payable from a property tax, provides for the levy of a property tax during the years the anticipatory securities are outstanding, not less than the tax that would have been levied if the bonds anticipated had been issued without the prior issuance of the anticipatory securities.

(B) The fiscal officer of the subdivision shall file a copy of the legislation passed under division (A) of this section with the county auditor of each county in which any part of the subdivision is located.

(C) Subject to O.R.C. 133.17(B) as to anticipatory securities anticipating the levy of special assessments or the issuance of securities under division (A) of that section, any anticipatory securities issued with a latest maturity of less than two hundred forty months may be renewed from time to time until the expiration of two hundred forty months from the date of issuance of the original anticipatory securities, or, if later until the final disposition of any litigation that prevents the sale or issuance of the bonds anticipated. If any of the anticipatory securities are outstanding later than the last day of December of the fifth year following the year of issuance of the original anticipatory securities, the following apply:

(1) There shall be deducted from the latest permitted maturity of the bonds anticipated, as determined under O.R.C. 133.19 and 133.20, the period in excess of those five years during which the anticipatory securities are outstanding.

(2) After the five-year period, a portion of the principal of the anticipatory securities shall be paid in each year in annual amounts at least equal to, and payable not later than the payment dates of, the amounts of principal that would have been paid if bonds payable, as determined by the taxing authority in the legislation passed pursuant to division (A) of this section, as provided in (1) or (2) of O.R.C. 133.21, had been issued at the expiration of the initial five-year period.

(3) The latest maturity of anticipatory securities may not in any case exceed the maximum maturity of the bonds anticipated plus five years. Anticipatory securities issued with a maturity or latest maturity meeting the maximum maturity limitation of the preceding sentence shall not be issued as anticipatory securities in anticipation of bonds but shall be payable and paid from other sources."

4. Q. How must the notes be sold?

A. They first may be offered to the officers in charge of the bond retirement fund of the subdivision sale. O.R.C. 133.29.

II. NOTES IN ANTICIPATION OF BONDS (CONTINUED)

5. Q. How is the public sale to be conducted?

A. O.R.C. 133.30 provides in part, "As determined by the taxing authority, Chapter 133. securities may be sold by competitive bid on the best bid, or at private sale in a manner determined or authorized by the taxing authority, and at not less than ninety-seven per cent of their principal amount, plus accrued interest, and at an interest rate or rates not exceeding that determined by the taxing authority."

SECTION F

TOWNSHIP DEPOSITORY

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I. THE NECESSITY FOR ESTABLISHING A DEPOSITORY

1. Q. If a bank in which the township has deposited its funds becomes partially insolvent, does the township have a better legal claim to recover its funds out of the residue than an ordinary depositor of the bank?

   A. No.

2. Q. Since no preference exists as to township funds over that of the ordinary depositor, what has the legislature done to protect such deposits?

   A. The legislature has enacted the Uniform Depository Act. (See O.R.C., Chapter 135). The act provides for the establishment of a township depository and requires the depository to pledge to the township either specific securities directly, or an undivided portion of a pool of eligible securities. See O.R.C. 135.18 and 135.181.

3. Q. What protection does the pledging of securities give?

   A. The pledging of securities guarantees that in the event of insolvency or failure of the depository that the township funds are protected and is security for the repayment of all public monies that have been placed in the depository.

II. DUTIES OF TOWNSHIP OFFICIALS

1. Q. Who has the duty of designating the depository of funds?

   A. The township trustees are defined by O.R.C. 135.01(D) to be the "Governing Board" and O.R.C. 135.12 requires the governing board to meet every five years to designate the public depositories of the township and award the public moneys of the township among such depositories.

2. Q. Who has the responsibility of seeing that the proper securities are pledged or surety company bonds are deposited?

   A. This responsibility lies with the fiscal officer. This responsibility of the fiscal officer is also quite significant where the depository elects to pledge a pool of securities pursuant to O.R.C. 135.181. While the total value of the securities in the pool must be maintained in strict accordance with statutory mandates, it should be noted that such securities may be freely exchanged and substituted by the depository, and the trustee is usually under no duty to determine the eligibility or value of the securities in the pool. Thus, it is strongly advised that fiscal officers in townships involved in a pooling arrangement closely monitor the securities held by the trustee. For details, see O.R.C., 135.181(L).

3. Q. If the fiscal officer has complied in every respect with the terms of the depository act, and the bank fails, is the fiscal officer liable?

   A. No. O.R.C. 135.19 provides that: A treasurer shall be relieved from liability for the loss of public monies deposited by him in a public depository in compliance with O.R.C. 135.01 to 135.21, of the occasioned by failure of the public depository.

III. PERIOD OF DESIGNATION

1. Q. What is the period of time for which the township shall designate its depositories?

   A. O.R.C. 135.12 provides that the depository shall be designated "for the period of five years commencing on the date of the expiration of the next preceding designation."

2. Q. Is there any specific day upon which townships are required to designate the active and/or inactive township depository, such as the first Monday in April in odd-numbered years?

   A. No. O.R.C. 135.12 instead, provides that the township trustees "shall meet every five years on the third Monday of the month next preceding the date of the expiration of its designation of depositories for the purpose of designating the public depositories of the public money" of the township, and "at such meeting, or any adjourned session thereof, shall designate such public depositories and award the public monies of the subdivision to and among the public depositories so designated...."

3. Q. May a board of township trustees, during the five-year period of designation, request new bids for interim deposits from eligible banks, upon the adoption of a resolution determining that the terms of the applications for interim deposits in force no longer reflect the prevailing interest rates in the market?

   A. Yes. O.R.C. 135.09 provides that the board of township trustees may adopt such a resolution on its own initiative or upon request from the township fiscal officer. This may be done if the township considers that the terms of the applications for interim deposits no longer reflect prevailing interest rates in the market.

IV. APPLICATION REQUIREMENTS

1. Q. If the township trustees determine that part of the township funds should be placed in inactive deposit, is it necessary to advertise in a newspaper for applications to serve as the inactive depository?

   A. Yes. O.R.C. 135.05 provides that the board of township trustees must, at least three weeks prior to the date on which it is required to designate its depository, adopt a resolution in which it estimates the aggregate maximum amount of township funds to be awarded and on deposit as inactive deposits. The township trustees must then cause a copy of this resolution, "together with a notice of the date on which meeting of the board for the designation of such depositories will be held and the period for which such inactive deposits will be awarded, to be published once a week for two consecutive weeks in two newspapers of opposite politics and of general circulation in the county." In addition, at the time the first publication is made in the newspapers, the board of township trustees must give a written notice to each eligible bank stating the aggregate maximum amount to be awarded as inactive deposits of the township.

2. Q. If the township does not wish to have any money on inactive deposit and, therefore, will not publish notices in newspapers for bids for an inactive depository in the manner set forth in O.R.C. 135.05 is it necessary for a township to publish notices in a newspaper advertising for bids for the deposit of interim and/or active funds?

   A. No.

3. Q. Is a bank required to bid for interim or active funds?

   A. Yes. Although newspaper advertisement is not required as a condition precedent to the award of a contract for interim or active funds, O.R.C. 135.09 and 135.10 provide that interim deposits or active deposits shall be awarded on the basis of applications submitted to the township trustees, as the governing board, by eligible institutions within the time, and in the manner set forth in O.R.C. 135.08 and 135.09.

V. ELIGIBLE INSTITUTIONS

1. Q. What institutions are eligible to serve as a depository of the township funds?

   A. Any national bank, any bank doing business under authority granted by the superintendent of financial institutions, or any bank doing business under authority granted by the regulatory authority of another state of the United States, located in this state, is eligible to become a public depository, subject to sections 135.01 to 135.21 of the Revised Code. Any federal savings association, any savings and loan association or savings bank doing business under authority granted by the superintendent of financial institutions, or any savings and loan association or savings bank doing business under authority granted by the regulatory authority of another state of the United States, located in this state, and authorized to accept deposits is eligible to become a public depository, subject to sections 135.01 to 135.21 of the Revised Code. (ORC 135.03)

2. Q. Are credit unions eligible depositories for a township under Chapter 135 of the Ohio Revised Code?

   A. No. Credit unions are not included as eligible depositories for public deposits under the definition of eligible depositories, O.R.C. 135.03.

VI. NEWSPAPER ADVERTISEMENTS FOR THE INACTIVE DEPOSITORY AND WRITTEN NOTICE TO ELIGIBLE DEPOSITORIES

1. Q. What is the first step required by O.R.C. 135.05 if the trustees wish to establish an inactive depository?

   A. The township trustees shall, at least three weeks prior to the date when it is required by O.R.C. 135.12 to designate public depositories, by resolution, estimate the aggregate maximum amount of public moneys subject to its control to be awarded and be on deposit as inactive deposits. There is also a newspaper publication requirement as discussed in the following questions.

2. Q. What shall the newspaper advertisement for the inactive depository contain?

   A. The advertisement submitted by the township trustees, as the governing board, to the newspapers must contain (1) a copy of the resolution referred to above, together with (2) a notice of the date on which the meeting of the board of township trustees for the designation of the inactive depositories will be held and (3) the period for which such inactive deposits will be awarded.

3. Q. How shall the newspaper advertisement for inactive funds be published?

   A. The advertisement referred to above shall be published once a week for two consecutive weeks in two newspapers of opposite politics and of general circulation in the county.

4. Q. Is a board of township trustees required to give written notice to eligible depositories of inactive funds?

   A. Yes. In addition to advertising as above in newspapers for inactive depositories, the board of township trustees, as the governing board, is required to give written notice to each eligible depository stating the aggregate maximum amount to be awarded by the township as inactive deposits. The written notice shall be given to each eligible depository at the time the first publication is made in the newspapers.

VII. THE INSTITUTION'S APPLICATION FOR TOWNSHIP DEPOSITS

1. Q. When shall an institution make application to serve as a depository of township funds?

   A. Application by the eligible institution must be made not more than thirty days prior to the date fixed by O.R.C. 135.12 for the designation of the township depositories, whether the application is for inactive, interim, or active deposits, except applications made for interim deposits during the period of designation. See O.R.C. 135.06, 135.08, and 135.10. As to applications made during the period of designation for interim funds, O.R.C. 135.09 provides that whenever during the period of designation, the township fiscal officer as treasurer or the board of township trustees as the governing board considers the terms of the applications for interim deposits in force no longer reflect prevailing interest rates in the market, the board of township trustees by resolution may determine this fact and request new bids for interim deposits from eligible institutions. Applications for interim deposits during the period of designation shall be made prior to the date set by the township trustees.

2. Q. Is the application of the bank required to be in writing?

   A. Yes. The application of any eligible institution, whether for inactive or active deposits, and whether for interim deposits made at the beginning of the period of designation (O.R.C. 135.08) or during the period of designation (O.R.C. 135.09) is required to be in writing.

3. Q. What is the thirty percent limitation?

   A. O.R.C. 135.03 provides that no bank eligible to be a public depository "...shall receive or have on deposit at any one time public monies, including public monies as defined in O.R.C. 135.31 in an aggregate amount in excess of thirty percent of its total assets, as shown in its latest report to the superintendent of banks or comptroller of the currency." See also O.R.C. 135.06 providing that any inactive depository bank shall not apply more than thirty percent of its depository liability; and O.R.C. 135.08 providing that an interim depository bank shall not apply for more than thirty percent of its depository liability.

4. Q. What is the corresponding limitation for a savings association, savings and loan association, or savings bank?

   A. A savings association, savings and loan association, or savings bank shall not apply for more than thirty percent of its total assets, the same as banks. O.R.C. 135.03.

5. Q. Is the application required to contain a financial statement?

   A. Yes. Whether the application is for inactive, interim, or active deposits, the application shall be accompanied by a financial statement of the applicant, under oath of its cashier, treasurer, or other officer, in such detail as to show the capital funds of the applicant, as of the date of its latest report to the superintendent of banks or comptroller of the currency; superintendent of building and loan associations, the federal home loan bank board, and adjusted to show any changes therein made prior to the date of application. O.R.C. 135.06; 135.08; 135.10.

VII. THE INSTITUTION'S APPLICATION FOR TOWNSHIP DEPOSITS (CONTINUED)

6. Q. Is the amount of funds desired required to be specified in the application?

   A. An application for inactive deposits or an application for interim deposits at the beginning of the period of designation as authorized by O.R.C. 135.09 must specify the maximum amount of township funds the institution desires to have on deposit as inactive deposits or interim deposits as the case may be. As for active funds, O.R.C. 135.10 states that the application may specify the maximum amount of township funds the institution desires to receive and have on deposit at any one time during the period covered by designation.

7. Q. Is the rate of interest required to be specified in the application?

   A. When the application is for inactive deposits or interim deposits, the rate of interest the applicant will pay shall be specified in the application. The rate of interest is not specified on an application for active funds.

8. Q. May applications be combined?

   A. Yes. An application for one type of deposits may be combined with applications for other types of deposits. Thus an application for inactive funds may be combined with an application for interim and/or application for active deposits. O.R.C. 135.06; 135.08; 135.10.

VIII. AWARDING THE FUNDS - GENERAL

1. Q. What are some limitations on the award of township funds to active, inactive or interim depositories?

   A. (1) O.R.C. 135.03 provides that no eligible institution shall have on deposit at any one time public monies in an aggregate amount in excess of thirty per cent of its total assets as shown in its latest report to the superintendent of banks or comptroller of the currency. (2) O.R.C. 135.04 and 135.07 provide that no eligible institution shall be required or permitted to receive and have at any one time a greater amount of inactive or active funds than specified in the application of such depository. (3) No savings association, savings and loan association, or savings bank may receive or have on deposit public monies in excess of thirty per cent of its total assets.

2. Q. How shall the designation and award be evidenced?

   A. O.R.C. 135.12 provides that the designation and award shall be made in duplicate. One copy shall be retained by the township trustees as the governing board, and one copy shall be certified by the board of township trustees to the township fiscal officer as treasurer.

IX. AWARDING THE INACTIVE DEPOSITORY CONTRACT

1. Q. What are inactive deposits?

   A. O.R.C. 135.01(E) defines an inactive deposit to be a public deposit other than an interim deposit or active deposit. Inactive monies are those monies not needed before the end of the five-year period of designation of depositories.

2. Q. How shall inactive deposits be evidenced?

   A. O.R.C. 135.13 provides that "inactive deposits shall be evidenced by certificates of deposit, each of which shall mature not later than the end of the period of designation, and may provide on its face that the amount of such deposit is payable upon written notice to be given a specific period before the date of repayment or by savings or deposit accounts, including, but not limited to, passbook accounts.."

3. Q. How does the rate of interest offered by the institution affect the award of the inactive deposits?

   A. O.R.C. 135.07 provides that the board of township trustees in proceeding to award the inactive deposits of public moneys subject to its control to public depositories, shall estimate the probable amount of public moneys to be so deposited in and among the eligible public depositories applying therefor at the beginning of the period. Such board shall award the inactive deposits of public moneys subject to its control to the eligible institution or institutions offering to pay the highest rate of interest permissible at the commencement of the period of designation on like time certificates of deposit or savings or deposit accounts, in the amount, as to each, specified in the application of the institution therefor. If two or more eligible institutions offer to pay the same permissible highest rate of interest on like time certificates of deposit or savings or deposit accounts on amounts so specified, which in the aggregate exceed the estimated amount to be deposited at the beginning of the period, or the maximum amount thereof subject to deposit at any time during such period, the inactive deposits shall be divided and awarded among such eligible public depositories in proportion to their respective capital funds. If the aggregate amount of inactive public deposits as specified in the applications made therefor by the institution offering to pay the highest such permissible rate of interest thereon is less than the amount of public moneys to be initially so deposited, or the maximum amount required to be deposited during the period, as so estimated, the board shall award the remainder of such inactive deposits to the eligible institution offering to pay the next such highest permissible rate of interest thereon in the amount specified in its application. If the amounts so specified in the applications of two or more institutions offering to pay the same next highest permissible rate of interest on like time certificates of deposit or savings or deposit accounts are in the aggregate in excess of such remaining estimated or probable amount to be so deposited, then such remainder shall be divided among and awarded to each of such institutions in proportion to their respective capital funds. In case the aggregate amount of inactive public deposits as specified in the applications made therefor is less than the public moneys thereof to be initially deposited or the maximum amount required to be deposited during the period, as estimated by the board, such governing board may invite applications for the excess amount from eligible institutions and may designate and award such excess amount to such eligible institutions offering the highest permissible rate of interest on like time certificates of deposit or savings or deposit accounts.

IX. AWARDING THE INACTIVE DEPOSITORY CONTRACT (CONTINUED)

3.(cont) A. This section does not require or permit any public depository to receive and have at any one time a greater amount of public moneys than that specified in the application of such depository. When, by reason of such limitation or otherwise, the amount of inactive public moneys deposited or to be deposited in a public depository, pursuant to an award made under this section, is reduced or withdrawn, as the case requires, the amount of such reduction, or the sum so withdrawn, shall be deposited in another eligible institution offering to pay a rate of interest on like time certificates of deposit or savings or deposit or savings or deposit accounts as high as that offered by the institution from which such amount has been withheld or withdrawn, to the extent such other institution has applied therefor and is eligible to receive the same; and thereafter, or if there is no such eligible institution, the amount so withheld or withdrawn shall be deposited or invested as determined by the governing board in accordance with O.R.C. 135.01 to 135.21.

X. AWARDING THE INTERIM DEPOSITS CONTRACT AND INVESTING INTERIM MONIES

1. Q. What are interim monies?

   A. O.R.C. 135.01(F) provides that interim monies mean township funds after the award of inactive deposits has been made in accordance with O.R.C. 135.07 Interim monies are in excess of the aggregate amount of the inactive deposits as estimated by the township trustees will not be needed for immediate use but will be needed before the end of the period of designation.

2. Q. What is an interim deposit?

   A. O.R.C. 135.01(F) provides that an interim deposits means a deposit of interim monies. This means that a deposit of such monies will not be needed for immediate use, but will be needed before the end of the period of designation of depositories.

3. Q. What obligations are eligible for investment or deposit of interim monies?

   A. Eligible investments for township interim monies are found in O.R.C. 135.14 and O.R.C. 135.144. A township should also consult its adopted investment policy, which may further limit investing beyond these limitations already imposed by O.R.C. 135.14 and O.R.C. 135.144.

4. Q. How shall interim deposits be evidenced?

   A. O.R.C. 135.13 provides that interim deposits shall be evidenced by time certificates of deposit or by savings or deposit accounts, including, but not limited to, passbook accounts. (Effective March 22, 2012).

5. Q. What is the maximum maturity of investments purchased from interim monies?

   A. O.R.C. 135.14 provides that investments made pursuant to their sections must mature within five years from the date of settlement, unless the investment is matched to a specific obligation or debt of the township.

6. Q. Are interim deposits required to be awarded to the eligible institution or institutions which offer to pay the highest rate of interest on interim deposits?

   A. Yes. See O.R.C. 135.09.

XI. AWARDING THE ACTIVE DEPOSITORY CONTRACT

1. Q. What are active deposits?

   A. O.R.C. 135.05 provides that all deposits of the monies of the township made during the period of designation in excess of the amount estimated and awarded as inactive funds "....shall be active deposits or interim deposits." O.R.C. 135.01 defines an active deposit to be "....a public deposit…payable or withdrawable, in whole or in part, on demand...or a public deposit in negotiable order of withdrawal account as authorized in the "Consumer Checking Account Equity Act of 1980," 12 U.S.C. a. 1832(a). Active deposit means a public deposit necessary to meet current demands. Also see questions 34, 38, and 39.

2. Q. What is the basis upon which the township trustees shall award active funds to depositories?

   A. O.R.C. 135.04 provides that the first twenty-five thousand dollars of the active deposits shall be awarded to the institution qualifying therefor on the basis of the operating needs of the township. Active deposits in excess of twenty-five thousand dollars shall be awarded to the eligible institution or institutions applying or qualifying therefor.

XII. PROTECTING THE SECURITIES

1. Q. The township has entered into a depository contract with the XYZ bank by which the XYZ bank agrees to accept $275,000 in active funds. However, at the beginning of the period of designation, the fiscal officer deposits only $200,000 in the XYZ bank. The XYZ bank has only pledged securities in the amount of $85,000. Should the fiscal officer demand that the bank deposit a total of $275,000 in securities or will $85,000 be sufficient to protect the funds as provided in O.R.C. 135.18?

   A. The township funds are fully protected and the requirements of O.R.C. 135.18 are satisfied by the $85,000 in securities presently pledged. Since $250,000 of the township funds are insured by the federal deposit insurance company, securities need not be pledged to cover the portion of the township funds protected by the federal deposit insurance company. Furthermore, the bank is required to furnish securities for township funds in excess of that covered by the federal deposit insurance company only to cover the total amount of township funds actually on deposit at any one time in the depository and not securities in the highest amount which the township has contracted to receive during the period of the depository contract. It should be noted that a different result obtains if the depository elects to pledge a pool of securities pursuant to O.R.C 135.181. In that situation, the total value of the securities would have to be at least equal to 105% of the total amount of the deposit secured, including any portion of the deposit covered by any federal deposit insurance. Thus, if the bank elects to pledge a pool of securities for a $100,000 deposit, the value of the collateral in the trustee's hands would have to be $105,000.

2. Q. Upon reviewing the amount of security on deposit and comparing the market price of the securities at the present time with the market value of the securities at the time that they were deposited, the fiscal officer finds that the securities have depreciated in value so that if the bank became insolvent and the fiscal officer were forced to sell the securities, the amount received from the sale would be $2,000 less than the township funds presently on deposit. What should the fiscal officer do?

   A. O.R.C. 135.18 provides that in such a situation, the fiscal officer may demand that the depository bank pledge additional securities so that township funds will be protected in the full amount. If the securities were part of a pool, pursuant to O.R.C. 135.181, the fiscal officer could demand that the bank pledge additional securities so that the total amount of the pledge would equal at least 105% of the deposit.

XII. PROTECTING THE SECURITIES (CONTINUED)

3. Q. May the bank designated as the depository of township funds at any time substitute or exchange eligible securities having a current market value equal or greater than the current market value of the securities then on deposit as a pledge to protect the township funds?

   A. O.R.C. 135.18 provides that the bank may substitute or exchange eligible pledged securities of the township only if: (1) the township fiscal officer has authorized the depository bank to make substitution or exchange on a continuing basis during a specific period without prior approval of each substitution or exchange; or (2) the depository bank notifies the township fiscal officer of an intended substitution or exchange, and the township fiscal officer fails to object to the trustee bank as to the eligibility or market value of the securities being substituted within ten days after the date appearing on the notice of proposed substitution; or (3) the township fiscal officer gives written authorization for a substitution or exchange of specific securities. If the securities are part of a pool, pursuant to O.R.C., Sec. 135.81, the bank may freely substitute and exchange securities in the trustee's possession, so long as the total value of such securities remains at least 105% of the public deposits.

4. Q. What provision is made by statute for the safekeeping of the securities which a public depository is required to pledge and deposit with the township fiscal officer as security for the repayment of the township money deposited in the township depository during the period of designation?

   A. O.R.C. 135.18 provides that: An institution designated as a public depository may, by written notice to the treasurer, designate a qualified trustee and deposit the eligible securities required by this section with the trustee for safekeeping for the account of the treasurer and the institution as a public depository, as their respective rights to and interest in such securities under this section may appear and be asserted by written notice to or demand upon the trustee. In such case, the treasurer shall accept the written receipt of the trustee describing the securities which have been deposited with the trustees by the public depository, a copy of which shall also be delivered to the public depository. Thereupon all such securities so deposited with the trustee are deemed to be pledged with the treasurer and to be deposited with the treasurer for all the purposes of this section.

5. Q. What institutions are eligible to serve as trustee for the safekeeping of the securities pledged in accordance with O.R.C. 135.18 and 135.181 to protect the township funds?

   A. The three types are (1) any federal reserve bank or branch thereof located in this state, (2) any institution mentioned in O.R.C. 135.03 which holds a certificate of qualification issued by the superintendent of banks, or (3) any institution complying with O.R.C. 1111.04, 1111.05, and 1111.06 for safekeeping of securities other than those belonging to itself or to an affiliate as defined in division (A) O.R.C. 1101.01.

XII. PROTECTING THE SECURITIES (CONTINUED)

6. Q. As to an institution other than a federal reserve bank or branch thereof, what evidence of qualification should a bank or trust company wishing to serve as trustee for the safekeeping of the township securities be able to present?

   A. Either the original or a certified copy of the certificate issued by the superintendent of banks upon application to the superintendent in writing by any such institution is conclusive evidence that the institution named in the certification is qualified to act as trustee with respect to securities other than those belonging to itself.

7. Q. May a bank or trustee having a certificate of qualification from the superintendent of banks serve as trustee for the safekeeping of securities belonging to itself?

   A. No. See O.R.C. 135.18.

8. Q. If the pledged securities are destroyed while they are in the custody of a trustee designated as above, would the fiscal officer be liable?

   A. No. O.R.C. 135.19 provides that: "The treasurer and his bondsmen or surety shall be relieved from any liability to the ...subdivision or the public depository for the loss or destruction of any securities deposited in compliance with O.R.C. 135.01 to 135.21."

9. Q. If the township depository designated a trustee for the safekeeping of the securities which have been pledged should the township pay the service charge of the trustee?

   A. No. O.R.C. 135.18 provides that: "Any charges or compensation of a designated trustee for acting as such under this section shall be paid by the public depository and in no event shall be chargeable to the ...subdivision or to the treasurer or to any officer of the... subdivision." A similar provision appears in O.R.C. 135.181(J).

XIII. SERVICE CHARGE

1. Q. May the township pay a service charge?

   A. O.R.C. 135.16 provides that: "No service charge shall be made against any active deposit or collected from or paid by any treasurer unless such service charge is the same as is customarily imposed by institutions receiving money on deposit subject to check, in the municipal corporation in which the public depository of such deposit is located, in which event the treasurer may pay such charge."

2. Q. If a bank requires a township to pay a service charge for the deposit of funds in the active depository, out of what township fund should the service charge be paid?

   A. The charge should be paid from the general fund.

XIV. INTEREST

1. Q. When shall interest on inactive and on interim deposits be paid?

   A. O.R.C. 135.16 provides that: "Interest on inactive deposits shall be paid or credited by the public depository to the treasurer according to the terms and conditions of the time certificates of deposit or savings or deposit accounts or when the funds are withdrawn. Interest on interim deposits shall be paid or credited by the public depository to the treasurer according to the terms and conditions of the time certificates of deposit or savings or deposit accounts, or when the funds are withdrawn."

XV. GENERAL INFORMATION

1. Q. What is the difference between active, inactive, and interim funds?

   A. Active funds are those monies needed for immediate use; inactive funds are those monies not needed before the end of the two year designation of depositories; and interim funds are those monies not needed immediately, but needed before the end of the two year designation of depositories. Also, see questions 1,2, and 3, section IX. Awarding Inactive Depository Contract; and questions 1 and 2, section X. Awarding The Interim Deposit Contract and Investing Interim Monies. O.R.C. 135.01.

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SECTION G

CEMETERIES

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I. ESTABLISHING A CEMETERY

Election

1. Q. May the trustees purchase or appropriate land to establish a cemetery without submitting the question of the establishment to the electorate?

   A. No. O.R.C. 517.04 specifically requires an election to be held on the question, unless funds are available pursuant to O.R.C. 517.08.

2. Q. Is an election on the question of establishing a cemetery necessary if the trustees have sufficient funds in the general fund with which to acquire the land?

   A. Yes. The election on the question of establishment of the cemetery must be held whether the cost is to be met by a tax levy or is to be paid for out of the general fund.

3. Q. May money from the sale of burial lots be used to defray the cost of establishing a cemetery?

   A. O.R.C. 517.08 provides that "upon unanimous consent of the board of township trustees, such proceeds may be used in the purchase or appropriation of additional land for cemetery purposes in accordance with O.R.C. 517.01 and 517.13" Approval of the electorate is not required for the expenditure of such monies.

Appropriating Land

1. Q. Do the trustees have authority to appropriate land on which to establish a cemetery?

   A. Yes. This power is specifically given in O.R.C. 517.01. Approval of the Court of Common Pleas is no longer required.

2. Q. Is there any limit to the amount of land that the trustees may appropriate to establish a cemetery?

   A. Yes. O.R.C. 517.01 places the maximum at ten acres.

3. Q. How close to a dwelling house or other building may land for cemetery purposes be appropriated?

   A. No land may be appropriated within one hundred yards of a dwelling house or other building. O.R.C. 517.01.

4. Q. May a board of township trustees provide a public road to a township cemetery?

   A. Upon receiving a petition that satisfies the requirements of O.R.C. 517.02, a board of township trustees shall provide a public road to a township cemetery over which the board of township trustees has control. A board of township trustees shall establish the public road in the same way the board is authorized to establish a township cemetery under O.R.C. 517.01, and, if necessary, construct, resurface, reconstruct, or improve the public road as authorized by O.R.C. 5571.01 and O.R.C. 5573.01. OAG 2015-006

I. ESTABLISHING A CEMETERY (CONTINUED)

Additions to Cemetery Grounds

1. Q. If the trustees wish to enlarge the cemetery by purchasing land adjacent to the cemetery, is it necessary to submit the question to a vote?

   A. No. When there is an existing cemetery the provisions requiring submission to a popular vote do not apply.

2. Q. If the township has a cemetery which is not large enough for the needs of the township and is unable to acquire land adjacent to the cemetery to enlarge it, may the trustees purchase additional lands for cemetery purposes in another part of the township without submitting the question to a vote of the electorate if no tax is to be levied to pay for it?

   A. No. O.R.C. 517.13 which permits a township to add to an existing cemetery without a vote of the people does not apply to a situation in which the land to be acquired is not adjacent to the existing cemetery, and in such a situation, it must be said that a new cemetery is being established, and therefore a vote of the people is necessary.

3. Q. Is there any limit to the amount of land that may be appropriated to provide additional lands for a cemetery?

   A. Yes. O.R.C. 517.13 limits the appropriation to not more than ten acres. See also 1985 OAG No. 85-032.

4. Q. May the trustees appropriate land within one hundred yards of a dwelling house if they wish to enlarge an existing cemetery?

   A. Yes. The prohibition of O.R.C. 517.01 against appropriating land within one hundred yards of a dwelling house does not apply to cemetery additions. Under O.R.C. 517.13 the distance limitation for cemetery additions is fifty feet.

5. Q. May the proceeds from the sale of lots in a township cemetery be used for the purchase of additional cemetery grounds?

   A. Yes. O.R.C. 517.08 authorizes the board of township trustees, upon unanimous consent of the board of trustees, to use the proceeds of the sale of cemetery lots for the purchase and appropriation of additional lands for cemetery purposes.

6. Q. May the trustees levy a tax to cover the cost of purchase of land adjacent to an existing cemetery in order to enlarge it?

   A. Pursuant to O.R.C. 517.13, the board may levy a tax, but the tax shall not be in excess of one-half mill and may be levied for a period of not to exceed five years.

7. Q. If a township purchased land using general fund monies for the establishment of a township park, can the trustees use a portion of that land for a township cemetery?

   A. Pursuant to O.R.C. 517.04-05, a board of township trustees that has used monies from the township's general fund to purchase real property for a township park may not use a portion of that property for a township cemetery unless the question of the establishment of the cemetery is submitted to a vote of the electors of the township at a regular annual election and a majority of the votes cast at the election is in favor of the establishment of the cemetery. OAG 2003-040.

II. TITLE TO CEMETERY

Vesting by Operation of Law

1. Q. If a religious society which had title to a cemetery has dissolved and become extinct, do the township trustees have the duty of caring for such cemeteries if they don't have a deed to it or any other record of the cemetery being under their jurisdiction.

   A. Yes. No deed is necessary, since pursuant to O.R.C. 517.10 title vests automatically in the trustees if the cemetery is a public one located outside a municipal corporation, and not owned or under the care of a religious or benevolent society, or an incorporated company or association, or under the control of the authorities of any municipal corporation. 1983 OAG No. 039.

2. Q. Is the township authorized to care for cemeteries that are no longer used as burial grounds? The township has no deed to the cemeteries, but has maintained them for twenty-five years or so.

   A. The fact that the township does or does not have a deed to a cemetery is not determinative of the question of whether or not the township has the duty to maintain the cemeteries. As a result of the provisions O.R.C. 517.10 title to a cemetery located within the township by operation of the law is vested in the board of township trustees if the cemetery is (1) a public cemetery which is; (2) located outside a municipality; (3) which has been set apart and dedicated as a public cemetery or, although not expressly dedicated as a cemetery, used as a cemetery, used as such by the public; (4) is not owned or under the care of a religious or benevolent society, or incorporated company or association, or under the control of the authorities of a municipal corporation. If, within the provisions of O.R.C. 517.10 outlined above, the cemetery is a township cemetery, the township has the duty to maintain the cemetery even though the township has no deed to the cemetery. Note that under the provisions of O.R.C. 517.10 as here set forth, an important consideration is whether the cemetery is a public cemetery or a private cemetery. Title to a private cemetery does not vest by operation of O.R.C. 517.10 in the township, and the township has no duty to maintain private cemeteries. Furthermore, any expenditures for the maintenance of a private cemetery would be unauthorized.

3. Q. If the ownership of a public cemetery is unknown, and the records in the county recorder's office have been checked, but no deed found showing any transfer to a cemetery association or church, would the township trustees have to have added to the cemetery before they would be required to take it over?

   A. No. As stated in the answer above, title vests in the trustees by operation of law and no deed is necessary.

II. TITLE TO CEMETERY (CONTINUED)

Vesting by Operation of Law (Continued)

4. Q. If a Masonic Lodge cemetery is located within the limits of a township, is it compulsory for the township to contribute to its support?

   A. No. If there were a public cemetery located within a township and not under the care of a religious or benevolent society or an incorporated company or association, title to such cemetery would vest in the township trustees by operation of O.R.C. 517.10. However, it would appear that the Masonic Lodge cemetery in question is under the care of a benevolent society and the township would not be authorized to contribute to the support of this private organization.

Cemetery Trustees Must Accept

1. Q. Do the township trustees have to accept a conveyance of a burying ground located on church premises if the trustees of the church have prepared and tendered a deed for such cemetery to the township and if the township trustees do not wish to accept this additional burden?

   A. Yes. O.R.C. 517.27 gives a cemetery association or its trustees as well as a religious society, whether incorporated or not, or the trustees thereof, the right to convey any cemetery under its control to the board of township trustees and its successors in office and the trustees have a mandatory duty to accept the conveyance and care, repair, hold and manage such, subject to the rights of the original grantor, his heirs or assigns.

2. Q. May the trustees require as a condition precedent to the township's accepting title as in the question above, that the church or society apply to the common pleas court for authority to transfer the cemetery to the township?

   A. O.R.C. 517.27 controls the procedures that are to be followed in such a transfer. However, application should be made to the Court of Common Pleas for an order appointing the township as successor in title. OAG No. 73-049.

3. Q. May the trustees require as a condition precedent to the acceptance of the transfer of a burial ground from the trustees of a church or religious society pursuant to O.R.C. 517.28 an accounting from such church or religious society for any proceeds of the sale of lots and other funds of such cemetery.

   A. No. O.R.C. 517.27 which controls, does not require such.

4. Q. If a township cemetery is located in an area that becomes incorporated or in an area that is annexed to a municipality does the cemetery become the property of the municipality and the trustees lose control of the management of such?

   A. Yes. O.R.C. 759.08 vests title to public cemeteries located in a municipal corporation in the municipality in which such cemetery or burial ground is located. No deed from the township trustees is necessary to vest the title in the municipality, though a deed is often given.

II. TITLE TO CEMETERY (CONTINUED)

Cemetery Located in Municipality

1. Q. Do the trustees have authority to accept, from a village located within the township, title to a cemetery which it no longer wishes to maintain?

   A. Yes. O.R.C. 759.19 authorizes such a village to transfer by ordinance any real property acquired for cemetery purposes to the trustees upon such terms as are agreed to between the village and the board of township trustees.

2. Q. What procedures must be followed in order for the township trustees to continue to operate a cemetery located in that portion of Deerfield Township which has recently been incorporated into the village of Mason?

   A. When a public cemetery becomes located within the limits of the municipality, title to such cemetery does, by operation of the law, vest in the municipality. (See O.R.C. 759.08). However, it has been determined that a municipality has authority, under its local home rule powers, to dispose of a cemetery which it owns. In addition, a township has the right to accept a conveyance from a municipality of a cemetery. Therefore, the municipality of Mason would have authority to give a deed to Deerfield Township for this cemetery if the village so desires. If the transfer is thus effected, the township trustees would then be authorized to care for the cemetery as a township cemetery in the manner provided by statute.

Mausoleum

1. Q. May the township trustees spend township funds to repair a public mausoleum which is located in the unincorporated area of the township if the mausoleum is owned or is under the care of an incorporated company or association?

   A. No. The trustees have neither the authority or duty to care for the mausoleum so long as it is owned or under the care of an incorporated company or an association. The same would be true as to a mausoleum located in the unincorporated area of the township but owned or under the care of a religious body or a municipality. It would also be true as to a public mausoleum located within an incorporated municipality and under the jurisdiction of municipal authorities.

2. Q. Do the York township trustees have authority to accept the gift of the Crypt Owners Association of Nelsonville of Greenlawn Mausoleum, along with pertinent deeds, papers, bank statements, check books, bonds (negotiable) of $2,100 and a cash balance of $282? If so, may township funds be used for the care, upkeep and improvement of the mausoleum?

   A. Yes. By reason of O.R.C. 517.27 the trustees not only have the power, they have a mandatory duty to accept the conveyance of the mausoleum from the Crypt Owners Association. When the conveyance is completed, the trustees may use township funds for the care and upkeep of the mausoleum. The same would be true as to any public mausoleum not under the control of a municipal corporation, if the title or control thereof is vested in an association or the trustees thereof, or a religious society, whether incorporated or not, or the trustees thereof who wish to make the conveyance.

II. TITLE TO CEMETERY (CONTINUED)

Mausoleum (Continued)

3. Q. In the event a mausoleum company is dissolved and has abandoned its lots and mausoleum located within a township cemetery, what obligation would the township trustees have to maintain the lots and mausoleum?

   A. If the corporation has ceased to exist and there is no longer a society, association or corporation which has a control of or is charged with the duty and care of the mausoleum, the trustees have the duty to protect and preserve the cemetery, including the mausoleum, O.R.C. 517.10.

4. Q. Do township trustees have authority to spend township funds for the care and maintenance of an abandoned private family mausoleum, record of ownership of which cannot be located?

   A. No. See 1953 OAG No. 2978.

5. Q. If the abandoned private family mausoleum described above is in such a poor state of repair that the bodies therein have become offensive, how should the trustees proceed in the matter?

   A. The trustees may order the mausoleum to be discontinued, and provide for the removal and reinterment of the bodies in suitable public ground in the near vicinity, all of which shall be paid for from the township treasury. See O.R.C. 517.21.

6. Q. If a mausoleum corporation has ceased to exist and there is no longer a society, association or corporation which has control of and is charged with the duty of the care of the mausoleum, assuming the trustees have the obligation of care by virtue of the provisions of O.R.C. 517.10 may the trustees dismantle the mausoleum if it is not feasible to repair it?

   A. Yes. 1965 OAG No. 146.

Deed to Cemetery Lots

1. Q. Are deeds to lots in a township cemetery recorded with the county recorder?

   A. No. The deed which is given by the trustees to a person purchasing a burial lot is a mere easement for burial purposes which provides only the right of burial, ornamentation and erection of monuments, and is not one of the conveyances required to be recorded by the county recorder. O.R.C. 517.07 provides that deeds to cemetery lots shall be recorded by the township fiscal officer in a book kept for that purpose. No other recording of such is necessary.

2. Q. Must the conveyance of a cemetery lot by the trustees to an individual take the form of a real estate deed?

   A. No. O.R.C. 517.07 sets forth the necessary requirements of a deed for a cemetery lot.

II. TITLE TO CEMETERY (CONTINUED)

Deed to Cemetery Lots (Continued)

3. Q. Must the deed to a cemetery lot issued by township trustees be acknowledged before a notary public or other officer as provided in O.R.C. 5301.01.

   A. No. When a deed is issued under O.R.C. 517.07 it is executed by board of township trustees in the performance of a public duty and, having been thus executed as required by O.R.C. 517.07 all has been done that is required by statute and the provisions of O.R.C. 5301.01 requiring that interest in real estate must be attested by the grantor and acknowledged before a notary public or other officer specified in O.R.C. 5301.01 would not be applicable. See 1961 OAG 2256.

4. Q. If a deed to a cemetery lot were issued to a married woman whose sole survivor at death was her husband, would it be necessary to have affidavit of transfer pursuant to O.R.C. 317.22 in order to have the lot transferred to the husband?

   A. No. If a cemetery lot were an ordinary parcel of real estate an affidavit of transfer would be appropriate. However, cemetery lots are not required to be recorded anywhere except in a book kept for this purpose by the township fiscal officer; therefore, the procedure of O.R.C. 317.22 is not applicable to cemetery deeds.

5. Q. Who pays the expense of recording a deed to a cemetery lot?

   A. O.R.C. 517.07 provides that the expense of recording shall be paid by the person receiving the deed.

6. Q. Having sold a cemetery lot, may the township trustees later recover title under a theory of abandonment, where the lot remains unoccupied, and the owner has departed for parts unknown?

   A. A board of township trustees may not reclaim its interest in sold but unused cemetery lots under a theory that the burial easement has been extinguished by abandonment on the basis of nonuse alone and it is highly unlikely that the Board will be able to establish intent to abandon a sold but unused cemetery lot . OAG 2009-006.

7. Q. Does the current version of O.R.C. 517.07 allow for retroactive application to deeds executed before July 24, 1986?

   A. No. O.R.C. 517.07 does not allow any retroactive application for deeds executed on or before July 24, 1986. OAG 2009-006.

8. Q. What legal recourse is there for a township to reclaim and resell cemetery lots that were sold on or before July 24, 1986, and remain unused?

   A. Existing Ohio law provides no clear and direct legal means by which a township may reclaim and resell cemetery lots that were sold on or before July 24, 1986 and remain unused. OAG 2009-006.

II. TITLE TO CEMETERY (CONTINUED)

Sale and Proceeds from Sale of Cemetery Lots

1. Q. At what price should the trustees sell deeds to cemetery lots?

   A. There is no set price for cemetery lots. The trustees should exercise their discretion in determining a reasonable price for the cemetery lots.

2. Q. Mr. "X" has a deed to a cemetery lot which he would like to sell to Mr. "Y." What procedure should he follow?

   A. The proper procedure would be for Mr. "X" to surrender his deed to the township and for the township to issue a new deed to Mr. "Y."

3. Q. What amount should the township pay when it repurchases cemetery lots, the current price per lot or the price at which the lot was sold?

   A. O.R.C. 517.07 authorizes the board to repurchase any cemetery lot from its owner at any time at a price that is mutually agreed upon by the board and the owner.

4. Q. How many cemetery lots can one family buy?

   A. There is no express limit. The trustees have the power to sell such number of lots as the public wants, and the trustees may adopt such rules and regulations as will secure the efficient operation of the cemetery.

5. Q. May the trustees sell a township cemetery ground to a private mausoleum company for the purpose of erecting a mausoleum for burial purposes if the mausoleum company would sell the crypts and provide for the upkeep with a trust fund?

   A. Yes. It is within the power given to the trustees to sell "the number of lots as public wants demand for burial purposes," and deeds to the lots for such purpose would be such as are authorized under O.R.C. 517.07.

6. Q. For what purpose shall the proceeds from the sale of cemetery lots be used?

   A. O.R.C. 517.08 authorizes the proceeds to be used for maintaining, improving, beautifying, and embellishing the cemetery grounds and for maintaining and improving entombments, including mausoleums, columbariums, and other interment rights. Or, upon unanimous vote of the township trustees, O.R.C. 517.08 permits the proceeds to be used in the purchase and appropriation of additional lands for cemetery purposes.

7. Q. Is it necessary to establish a special fund for money received from the sale of cemetery lots?

   A. Yes. Since O.R.C. 517.08 designates the purposes for which the proceeds from the sale of cemetery lots shall be used, O.R.C. 5705.09 would require that a special fund be established into which shall be paid all funds received from the sale of cemetery lots. Specifically, O.R.C. 5705.09(F) requires the establishment of a special fund for each class of revenues derived from a source other than the general property tax, which the law requires to be used for a special purpose. A special fund established pursuant to the provision of O.R.C. 5705.09 does not return to the general fund at the end of the year, but remains in this status until expended by the township trustees.

II. TITLE TO CEMETERY (CONTINUED)

Rules and Regulations

1. Q. What authority do township trustees have to make rules and regulations for cemeteries?

   A. O.R.C. 517.11 provides that: "The board of township trustees shall provide for the protection and preservation of cemeteries under its jurisdiction." In addition, O.R.C. 517.06 specifically provides that: "The board shall make and enforce all needful rules and regulations for the division of the cemetery into lots, for the allotment of lots to families or individuals, and for the care, supervision, and improvement of the lots." Additionally, O.R.C. 517.12 authorizes "rules specifying the times when cemeteries...shall be closed to the public."

2. Q. Is the purchaser of a cemetery lot subject to the rules and regulations of the cemetery?

   A. Yes.

3. Q. May the trustees adopt rules and regulations covering the transfer of title of a cemetery lot from a deceased person to his survivors?

   A. Yes.

4. Q. Would it be proper to provide in the rules and regulations that all work such as the digging of graves should be paid for in advance?

   A. Yes. 1936 OAG 5447, excepting indigent persons who under O.R.C. 517.06, are to be provided for by the township.

5. Q. Would it be proper to establish a rule or regulation requiring lot owners desiring to have their lots sodded, grass cut, flowers and shrubbery planted or trimmed to pay for such work previous to it being done?

   A. Yes. 1936 OAG 5447.

6. Q. May a township trustee be paid to open and close a grave.

   A. The only payment that a township trustee might be authorized to collect for opening and closing a grave is the per diem compensation provided by O.R.C. 505.24. Payment of an amount in excess of the per diem compensation would bring the trustee within the prohibition of O.R.C. 2921.42 and Ohio Constitution Article II, Section 20.

7. Q. May the township trustees contract with an independent contractor when reasonably necessary to maintain and care for a cemetery owned by the township?

   A. Yes. OAG No. 64-991.

II. TITLE TO CEMETERY (CONTINUED)

Permanent Cemetery Fund and Other Bequest Funds

1. Q. What is the difference between expendable trust funds and nonexpendable trust funds?

   A. Expendable trust funds are those trust funds whose principal may be disbursed in the course of their designated operations. Non expendable trust funds are those trust funds whose principal may not be disbursed; however, the interest earned may be expended. (for reporting purposes, nonexpendable trust funds should be classified as a private purpose trust fund or a permanent fund; expendable trust funds should be classified as permanent funds or private purpose trust funds.)

2. Q. What is a permanent cemetery fund?

   A. A permanent cemetery fund is a fund created for the purpose of maintaining, improving, and beautifying township cemeteries and burial lots in township cemeteries. O.R.C. 759.36

3. Q. How may a permanent cemetery fund be funded?

   A. The fund shall consist of money arising from the following sources:

   Gifts, devises, or bequests received for the purpose of maintaining, improving, or beautifying township cemeteries;

   Charges added to the price regularly charged for burial lots for the purpose of maintaining, improving, or beautifying township cemeteries;

   Contributions of money from the township general fund;

   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; or

   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. O.R.C. 759.36

4. Q. How shall permanent cemetery endowment fund balances be invested?

   A. The funds of the permanent cemetery endowment fund may be invested in the same manner as any other township funds.

5. Q. Under what circumstances may a board of cemetery trustees spend the principal of a permanent fund?

   A. When any such funds are received or created…the principal sum shall be kept and invested under the same terms fixed by law for the investment of the funds of a minor by the minor's guardian except that upon unanimous consent of the board of cemetery trustees, the board may use the principal of the fund if the board is unable to keep the cemetery clean and in good order using only the income from the fund. O.R.C. 759.36(D)

II. TITLE TO CEMETERY (CONTINUED)

Permanent Cemetery Fund and Other Bequest Funds (Continued)

6. Q. If a gift is made to the township trustees for a certain cemetery with no conditions attached as to the particular uses for which the fund may be expended, may the entire amount be used for the upkeep of the cemetery or for any cemetery improvement in their discretion?

   A. Yes. OAG No. 34-3237.

7. Q. In the event that a cemetery association having received monies in trust for the care of a cemetery finds it impossible to continue its operation, and conveys its property to a township, and such association is dissolved, or sees fit to relinquish its trust, does the cemetery association have the right to appoint the township trustees as the successor trustee in the administration of the trust funds?

   A. No. The care and supervision of charitable trusts is a well recognized function of courts of equity. The cemetery association has no right of itself to appoint a successor trustee to the trust funds since this is a function of the courts. A court of equity may, however, properly appoint the trustees of the township as the successor trustee, and the trust funds, in accordance with the decree of the court may be turned over to the trustees of the township.

Fences

1. Q. Do the trustees have any duty to maintain fences around an abandoned public burial ground from which all the bodies have not been removed, if the fence was originally constructed by the county commissioners?

   A. Yes. O.R.C. 517.32 provides that the trustees shall maintain such fences in good repair, and in addition must remove the undergrowth and weeds from the cemetery at least once a year. The expense shall be paid from the township funds.

2. Q. Certain township citizens have requested the trustees to build a fence around a cemetery located in the township which had originally been designed as a family burial lot but which has been used as a public place of burial, and in which two hundred bodies now remain. It cannot be shown that there was ever a conveyance to the trustees, nor does a search of the available records show the title to this cemetery was ever vested in or controlled by an association or religious society. Should the trustees build the fence?

   A. Yes. Title to this cemetery vests by operation of law in the township trustees, pursuant to O.R.C. 517.10, and the duty of enclosing cemeteries under township jurisdiction with a substantial hedge or fence is provided by O.R.C. 517.11.

3. Q. What authority do the trustees have to levy a tax to construct and keep the fences of the township cemeteries in good repair?

   A. O.R.C. 517.11 authorizes the trustees to levy a tax not to exceed one-half mill for such purposes.

II. TITLE TO CEMETERY (CONTINUED)

Fallen Tombstones

1. Q. Who is responsible for replacing markers and tombstones which have fallen as the result of flood?

   A. The board of township trustees. O.R.C. 517.11 provides that the trustees may re-erect any fallen tombstone, regardless of what caused it to fall.

2. Q. Does control and care of cemeteries by township trustees place a mandatory duty to replace and re-erect fallen monuments and carry out such other work as is necessary to restore the cemetery to a safe condition?

   A. Yes. O.R.C. 517.11 provides that: "The board of township trustees shall provide for the protection and preservation of cemeteries under its jurisdiction." This section further provides that: "The board may enclose cemeteries under its jursidction with a substantial fence or hedge, and shall keep any such fence or hedge in good repair." The board may also, as it considers necessary, purchase, maintain, and improve entombments, including mausoleums, columbariums, and other interment rights. O.R.C. 517.11 would authorize the board of township trustees to levy a tax not to exceed one half mill in any one year upon all the taxable property of the township if the township does not have sufficient funds to make the necessary repairs.

Indigent Burials

1. Q. When is the board of township trustees required to pay the expense of an indigent burial?

   A. O.R.C. 9.15 provides that: "When the body of a dead person is found in a township or municipal corporation, and such person was not an inmate of a penal, reformatory, benevolent or charitable institution of this state, and the body is not claimed by any person for private interment or cremation at the person's own expense, or delivered for the purpose of medical or surgical study or dissection in accordance with O.R.C. 1713.34, it shall be deposed of as follows:

      (A) If such person was a legal resident of the county, the proper officers of the township or municipal corporation in which his body was found shall cause it to be buried or cremated at the expense of the township or municipal corporation in which he had a legal residence at the time of his death.

      (B) If such person had a legal residence in any other county of the state at the time of his death, the superintendent of the county home of the county in which such body was found shall cause it to be buried or cremated at the expense of the township or municipal corporation in which he had a legal residence at the time of his death.

      (C) If such person was an inmate of a correctional institution of the county or a patient or resident of a benevolent institution of the county, had no legal residence in the state, or his legal residence is unknown, such superintendent shall cause him to be buried or cremated at the expense of the county."

For the purposes of O.R.C. 9.15, "legal residence" is defined as "a permanent place of abode, used or occupied as living quarters at the time of a person's death, including a nursing home, hospital, or other care facility.

II. TITLE TO CEMETERY (CONTINUED)

Indigent Burials (Continued)

2. Q. If there is located within a township a part of a city, i.e., municipality having a population of 5,000 or more, which subdivision has the duty to pay for the burial of a deceased indigent person who is a resident of that portion of the city located within the boundaries of the township, the township or the city?

   A. Assuming the person was not an inmate of a penal, reformatory, etc., institution, and the body has not been claimed for private internment or delivered for medical or surgical purposes, it would be the duty of the officials of the city to bury such indigent person.

3. Q. If there is located within the township an incorporated village, i.e., a municipality having a population less than 5,000 which subdivision has the obligation to pay for the burial of a deceased indigent, the body of which has been found within the corporate limits of the incorporated village?

   A. Assuming that the indigent person was not an inmate of a penal, reformatory, benevolent, etc., institution, and the body has not been claimed for private interment or delivered for purposes of surgical study, the village would be required to bear the expense of the indigent burial. See 1996 OAG 96-026.

4. Q. Are the trustees required to mark the grave of a person who has been buried at township expense?

   A. O.R.C. 9.15 provides that the trustees shall provide a stone, metal, or concrete marker on which is inscribed his name, age and date of death.

5. Q. Would the trustees ever be authorized to provide a burial lot free of charge to a particular person?

   A. Yes. If the head of a family living in the township makes application to the board and the opinion of the trustees, by reason of the family's circumstances, is that payment would be oppressive, the trustees shall give such person the deed to a lot suitable to bury the family.. See O.R.C. 517.07.

6. Q. Are the township trustees obligated to authorize a burial at the cost of the township, pursuant to O.R.C. 9.15 if the body is claimed by an indigent person?

   A. Yes. O.R.C. 9.15 provides that a political subdivision is not relieved of its obligation under that statute if the body is claimed by an indigent person, defined as a person whose income does not exceed one hundred fifty per cent of the federal poverty line.

7. Q. From what fund should costs for indigent burials be paid?

   A. All funds other than the general fund are created for a specific purpose, and expenditures from those funds are restricted by statute to that purpose. Therefore, costs for indigent burials may only be paid from the general fund.

II. TITLE TO CEMETERY (CONTINUED)

Tax Levies

1. Q. If there is a village situated within a township which has located within its limits a cemetery which the village maintains, may the township trustees levy a tax on property within the village for the maintenance of cemeteries under the superintendence of the board of township trustees, and for the use of the township exclusive of the village?

   A. Yes.

2. Q. The township levied a tax for cemetery purposes, and it is estimated that as a result of this levy, about $3,000.00 is paid annually from residents within a village which is entirely within the limits of the township. Therefore, may the trustees spend a reasonable portion of the funds from this tax levy for the care and maintenance of the village cemetery which is located outside the limits of the village?

   A. No. Since the tax was levied by the township, the tax may be used only for the township cemetery. There is no authority in law for the township to participate in the maintenance of a village cemetery.

3. Q. May the proceeds of a tax levied pursuant to O.R.C. 517.03 be spent to advertise the sale of lots or to pay commissions for making the sale of the lots?

   A. No. This section authorizes the tax for the sole purposes of covering the costs of the purchase or appropriation, enclosing, care, supervision, repair and improving of cemetery lands and for the purpose of maintaining and improving entombments. The purpose of promoting the sale of cemetery lots is not included.

4. Q. May the township trustees give a church organization financial aid for the care and maintenance of cemeteries belonging to the church?

   A. No. Public money may not be spent for the upkeep of property which is not owned by the political subdivision. 1983 OAG 039.

5. Q. May a township join with a municipality in the maintenance of a cemetery?

   A. Yes. A union cemetery may be established and managed by one or more townships jointly with a municipality pursuant to O.R.C. 759.27 et seq.

Union Cemetery

1. Q. If the trustees join with another township in establishing a joint cemetery as provided in O.R.C. 759.27 may an existing cemetery be used or must a new cemetery be established?

   A. An existing cemetery may be used.

2. Q. In the case of the establishment of a joint cemetery by two townships as provided in O.R.C. 759.27 which township should hold title to the cemetery?

   A. The trustees of the township in which the cemetery is located should hold the title, in trust for the use of its inhabitants and to the use of the inhabitants of the other township. O.R.C. 759.29.

II. TITLE TO CEMETERY (CONTINUED)

Tax Levies(Continued)

3. Q. If a township and a municipality desire to establish a union cemetery, how are the legislative determinations of questions arising out of the establishment of such a union cemetery made?

   A. The authority of a township and a municipality to control and manage a union cemetery is, by the provision of O.R.C. 759.31 vested in the council of the municipal corporation and the board of trustees of the township to be exercised by the joint action of such bodies pursuant to the provisions of O.R.C. 759.33 through 759.37.

4. Q. How may a township provide for its portion of the cost of operating a union cemetery?

   A. The participating subdivisions must first make a determination as to the amounts of money required to maintain the cemetery and what proportion each subdivision will contribute. The proportionate amount should then be reflected as an item of current expense in the tax budget of each subdivision pursuant to the provisions of O.R.C. 5705.28. If the township is not able to meet its portion of the expense, either from money in the general fund or from a tax levied within the ten mill limitation as provided in O.R.C. 5705.02, it will be necessary for the township to levy a tax outside the ten mill limitation as provided in O.R.C. 5705.19.

5. Q. Sandy Township and the village of Smithville which lies wholly within Sandy township sometime ago joined together in the operation of a union cemetery known as Sandy Lawn Union Cemetery. If the trustees of the township do not have enough money in the general fund to pay the township's portion of the union cemetery cost and wish to submit to the electorate of the township including the residents of Smithville the question of levying a tax for the union cemetery, should the board of township trustees of Sandy Township and village council of Smithville in joint session adopt the resolution of necessity to levy the proposed tax?

   A. Yes. O.R.C. 5705.01 defines a “taxing unit”, in the case of a union cemetery, as the legislative authority of the municipal corporation and the board of township trustees, acting jointly as described in section 759.341 of the Revised Code.

6. Q. If a tax is levied by a township for union cemetery purposes, should the county auditor pay the proceeds of such tax levy to the township trustees or should the county auditor, instead, pay the proceeds from such tax directly to the union cemetery?

   A. The proceeds are to be paid directly to the board of cemetery trustees, who are the custodians of such funds by direction of O.R.C. 759.36.

II. TITLE TO CEMETERY (CONTINUED)

Union Cemetery (Continued)

7. Q. What should be done if one of the participating subdivisions fails to secure sufficient funds to fulfill the obligation created pursuant to the joint action of the participating subdivisions in determining the amount of money needed to maintain the cemetery?

   A. The legislative bodies participating in a union cemetery have authority to make rules and regulations for the governing of the cemetery and to provide for the application of money received for such purposes. The solution to the problem here presented is within the discretion of the participating agencies and should be a matter of agreement by the participating bodies. In a given instance, a participating subdivision which fails to provide its portion might be subject to a mandamus action to do so. O.R.C. 759.36

8. Q. May a union cemetery select a board of cemetery trustees to exercise the powers vested in the union cemetery and perform the duties required of such union cemetery?

   A. Yes. O.R.C. 759.36 provides that: "At any joint meeting provided for by O.R.C. 759.35, or at the joint meeting provided for by O.R.C. 759.34, by a majority vote of all present counting members of the legislative authorities of municipal corporations and of boards of township trustees, such meeting may elect a board of cemetery trustees consisting of three members, of which one or more must be a member of each of the separate boards of township trustees and legislative authority which comprise the union cemetery association represented by the joint meeting."

9. Q. Who shall serve as clerk of a cemetery board of trustees created pursuant to the provisions of O.R.C. 759.36?

   A. O.R.C. 759.36 provides that: "One member of the board of cemetery trustees or a person selected by such board of trustees shall be designated as the clerk-treasurer for a term not to exceed two years."

10. Q. What is the compensation to which such clerk-treasurer would be entitled?

    A. The compensation of the clerk is to be determined by the board.

11. Q. Must the clerk-treasurer of the board of cemetery trustees, created pursuant to the provisions of O.R.C. 759.36 be bonded?

    A. Yes. The clerk-treasurer shall be bonded in an amount equal to or greater than the amount in the fund, but not less than one thousand dollars. The clerk-treasurer's bond is subject to the approval of the board of cemetery trustees, and the premium shall be paid from cemetery funds.

12. Q. Is the fiscal officer of a township entitled to percentage compensation on the amount of money which is paid to a union cemetery for the support of the union cemetery?

    A. No. It is based on total budget for a given year pursuant to O.R.C. 507.09. Therefore, the township fiscal officer is not entitled to such percentage compensation.

II. TITLE TO CEMETERY (CONTINUED)

Union Cemetery (Continued)

13 Q. May an Ohio township and an adjacent township in another state jointly take possession of, and care for, a public cemetery that has land in each township?

A. No. O.R.C. 517.14 does not authorize an Ohio township and an adjacent township in another state to jointly take possession of, and care for, a public cemetery that has land in each township.

Disposal of Cemetery

1. Q. May a board of township trustees convey real property (through sale or lease) it owns to a church that desires to use the property for cemetery and other church related purposes?

A. A board of township trustees that acquired possession of a public cemetery pursuant to O.R.C. 517.27 may not sell and convey, or lease that cemetery with human remains interred therein to a church. O.R.C. 517.21. OAG No. 2003-034.

Private Cemetery

1. Q. Does a board of township trustees have the authority to prohibit the burial of human remains on private property within the unincorporated area of the township?

A. No. Although O.R.C. Chapter 519 grants boards of township trustees certain authority to establish and operate township cemeteries and addresses certain matters related to abandoned cemeteries, nothing in O.R.C. Chapter 519 or elsewhere within the Ohio Revised Code expressly authorizes a board of township trustees to prohibit property owners within the township from burying human remains on their property. OAG 2007-005.

Further, OAG 2014-041 provides that a board of trustees of a limited home rule township may adopt a resolution prohibiting the burial of human remains in private or family cemeteries within the unincorporated territory of the township, provided that the board of township trustees determines the resolution is in the interest of the public health, safety, morals, or general welfare of the public, and the resolution is reasonable and consistent with constitutional limitations.

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SECTION H

DRAINAGE AND GARBAGE

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I. DRAINAGE

Road Drainage

1. Q. What authority do trustees have to construct drains or sewers to carry off surplus water from township roads?

   A. O.R.C. 5571.02 places township roads under the control of the trustees and requires them to keep them in good repair. Incidental to this power goes the duty to see that roads are drained and for this purpose tile or ditches may be installed.

2. Q. Is the board of township trustees supposed to keep in repair all field tiles inside road fences either crossing under the road or along the road?

   A. "(A) Except as provided in division (B) of this section, the board of township trustees, without the presentation of a petition, may take the necessary steps to construct, reconstruct, resurface, or improve a public road or part thereof, upon the passage of a resolution by unanimous vote declaring the necessity for the construction, reconstruction, resurfacing, or improvement. The cost thereof may be paid by any of the methods provided in section 5573.07 of the Revised Code, as determined by the board in the resolution. (B) If the primary reason for the reconstruction, resurfacing, or improvement of a public road or part thereof is to improve the drainage of water from the surface of the road, as declared by the resolution, and there is no presentation of a petition, the board may proceed upon the passage of the resolution by majority vote. The cost in such case may be paid by either of the methods provided in Division (B) of section 5573.07 of the Revised Code." ORC 5571.15.

3. Q. What authority do township trustees have to acquire road drainage rights?

   A. O.R.C. 5543.12 authorizes the county engineer, or anyone acting under his authority, when authorized by a board of county commissioners or board of township trustees, to enter upon land adjacent to a highway for the purpose of opening an existing ditch or drain, or for digging a new ditch or drain for the free passage of water for the drainage of the road. In an instance in which township trustees, acting through the county engineer pursuant to O.R.C. 5543.12 proceed to acquire drainage rights in property adjoining a highway, the township trustees may compensate the landowner. Specifically, O.R.C. 5543.13 authorizes the county engineer, with the approval of a board of township trustees, to agree with the landowner as to the amount of compensation and damages. This section further provides that if an agreement cannot be reached as to the amount of compensation and damages, such amount shall be determined in accordance with O.R.C. 163.01 to 163.02, inclusive.

4. Q. Where a township road parallels a stream and the stream is gradually washing away the road, who is responsible for cribbing the stream so that it will not wash away the township road?

   A. Township trustees have no authority to straighten out a river. On the other hand, O.R.C. 6151.09 specifically authorizes the boards of county commissioners to "cause a river, creek, or water course to be straightened or cleaned for the protection of any bridge or road within its control." This section would authorize the county commissioners to act in the matter.

5. Q. If a landowner desires a flat surface in front of his house instead of an open ditch, may the township furnish the tile for such?

   A. No. If the landowner wishes an underground drain, he must furnish the tile and other necessary materials in order to maintain proper drainage.

6. Q. Are the trustees permitted to pay for a four inch tile through a farmer's field which extends to an outlet and into a road tile?

   A. No. The trustees have no authority to spend public funds for installing tile on private property.

I. DRAINAGE (CONTINUED)

Township Ditches

1. Q. Are township trustees authorized to construct a township ditch?

   A. No. Chapters 6139 and 6141 of the Ohio Revised Code were repealed, effective April 9, 1981.

2. Q. May township equipment be used to repair drainage or private ditches?

   A. No.

Underground Drains

1. Q. Is a township required to maintain or repair underground storm water drainage facilities installed by the developer of a residential subdivision located in the unincorporated territory of a township?

   A. A township is not required to maintain or repair underground storm water drainage facilities installed by the developer of a residential subdivision located in the unincorporated territory of a township unless the maintenance or repair of the facilities is needed to remove surface waters from a township road. OAG 2010-027.

Cleaning and Repair of Ditches

1. Q. Who has the responsibility of cleaning and repairing township ditches?

   A. The county commissioners have the sole authority as to both township and county ditches, but the commissioners are authorized to delegate this duty to the county engineer, who may execute the necessary work or employ a ditch supervisor to perform the job. O.R.C. 305.12.

2. Q. May a board of township trustees petition the board of county commissioners for the construction, reconstruction, straightening, deepening, widening, boxing, tiling, filling, walling, damming, or marking of a ditch, drain or watercourse, or constructing of a levee or to straighten, deepen, or widen any river, creek or run or to vacate any ditch by county ditch proceedings as provided in O.R.C. 6131.01 to 6131.04, inclusive, or O.R.C. 6133.02 to 6133.11, inclusive?

   A. Yes. O.R.C. 6131.04 authorizes any owner of land to be benefited by a proposed improvement to petition for the improvement. O.R.C. 6131.01 defines an "owner" to include a board of township trustees. In a case where the improvement will benefit a township road, the township would be authorized to petition for the improvement and the part of the assessment of the cost found to benefit the township would be assessed against the township and paid out of township funds.

3. Q. May a board of township trustees be required to pay a maintenance assessment on a county or joint county ditch constructed pursuant to Chapter 6131 or 6133, O.R.C., on or after August 23, 1957?

   A. Yes. Under the provisions of O.R.C. 6131.01 and 6133.01, a board of township trustees is defined as an owner. O.R.C. 6137.03 provides that a maintenance fund for each such ditch shall be maintained by an annual assessment upon the benefited owners as defined in O.R.C. 6131.01.

II. GARBAGE

Dumps or Garbage and Refuse Disposal

1. Q. Would it be proper to pay $125.00 yearly to a municipality to share in the operation of a sanitary dump?

   A. Yes. O.R.C. 505.12 provides that: "The boards of township trustees of any two or more townships or the legislative authorities of any two or more political subdivisions, or any combination thereof, may through joint action unite in the joint purchase, rental, maintenance, use, and operation of solid waste facilities and prorate the expense on any terms that may be mutually agreed upon."

2. Q. May a board of township trustees lease property for a garbage dump and maintain same?

   A. Yes. It is not entirely clear from this question whether this is a township dump, provision for which is made in O.R.C. 505.12, or whether, instead, it refers to a facility to be acquired by the board of township trustees, pursuant to O.R.C. 505.27, for the disposal of garbage and refuse. However, the township trustees would be authorized to lease property for either purpose. O.R.C. 505.12 which relates to sanitary dumps, specifically authorizes township trustees to acquire property by lease. While the language of O.R.C. 505.27 is not so specific in authorizing the acquisition of property by lease, the language to the effect that the board of township trustees "may provide" would give the township trustees the implied power to acquire such land by lease.

3. Q. If the board of township trustees establishes a township dump pursuant to the provisions of O.R.C. 505.12 out of what funds should the expense of providing and maintaining such a dump be paid?

   A. The statute does not specifically indicate the fund out of which a dump may be acquired or maintained. Therefore, it would be proper to charge the general fund for any expense involved.

4. Q. What authority does the local board of health have over a township dump?

   A. O.R.C. 505.12 provides that the selection of the site must have the approval of the local board of health.

5. Q. May the board of township trustees provide a system of garbage and refuse collection and disposal and employ persons to operate such?

   A. Yes. O.R.C. 505.27 has been amended to authorize the township to provide, maintain and operate facilities for the collection and disposal of garbage and refuse.

6. Q. May the township trustees provide a system of garbage and refuse collection and disposal by entering into a written contract with either the proper municipal or county authorities or with independent contractors?

   A. Yes. O.R.C. 505.27 so provides.

II. GARBAGE (CONTINUED)

Dumps or Garbage and Refuse Disposal (Continued)

7. Q. May the boards of township trustees of two or more townships jointly provide, maintain and operate facilities for the collection and disposal of garbage and refuse?

   A. Yes. O.R.C. 505.27 so provides.

8. Q. May the boards of township trustees of two or more townships jointly enter into a written contract with the proper municipal or county authorities or with independent contractors for such service for the townships?

   A. Yes. O.R.C. 505.27 so provides.

9. Q. If a board of township trustees provides, maintains, or operates facilities for the collection, transfer, recycling, or disposal of garbage or refuse for the entire township, or if it contracts with a municipality or county or an independent contractor to furnish such to the entire township, how shall the expense be paid?

   A. O.R.C. 505.29 provides that the board may establish equitable charges of rents to be paid such township for the use and benefit of such service, by every person, firm, or corporation whose premises are so served. Such charges shall constitute a lien upon the property served and, if not paid when due, shall be collected in the same manner as other township taxes. In the alternative, the board of township trustees may levy a sufficient tax to provide and maintain waste disposal services and to provide for the collection and disposal of tree leaves. The board may supplement the user fees with general fund money. See 1984 OAG 024.

Garbage and Refuse Disposal for a Waste Disposal District

1. Q. Under either of what two conditions do township trustees have authority to create a waste disposal district?

   A. (1) The township trustees, if by unanimous vote, may create a waste disposal district. If so, notice must be given of the creation of such a district, by publication in a newspaper of general circulation in the township. The action of the board creating such a district shall go into effect unless a petition signed by at least fifty percent of the electors residing in the district protests the board's action within thirty days after the notice is published. (2) The board is required to create such a district if a petition is filed with the board asking for the creation of such a district in the township, which petition is accompanied by a map clearly showing the boundaries of such district, and the petition is signed by at least sixty-five per cent of the electors residing therein, with the addresses of such signers attached. If the petition is valid, the board shall create the district within sixty days after the petition is filed. O.R.C. 505.28.

2. Q. May the board of township trustees provide a system of garbage and refuse collection for a duly created waste disposal district by purchasing equipment and employing persons to operate such?

   A. Yes. O.R.C. 505.27 so provides.

II. GARBAGE (CONTINUED)

Garbage and Refuse Disposal for a Waste Disposal District (Continued)

3. Q. May general fund money be used to provide and maintain waste disposal service in a waste disposal district consisting of all of the territory of the township except a small portion of the township within the limits of an incorporated municipality?

   A. No. O.R.C. 505.28 provides that the entire cost of any necessary equipment and labor shall be apportioned against each district by the board.

4. Q. May a truck purchased by the trustees with gasoline tax money be used to pick up garbage and trash?

   A. No. Such truck may be used only for road maintenance purposes. Equipment for garbage collection should be paid out of the proceeds of a tax levy or from rents charged when a waste disposal district has been created.

5. Q. May the board of township trustees provide a system of garbage and refuse disposal for a duly created waste disposal district by entering into a contract with the proper municipal and county authorities or with independent contractors for such service?

   A. Yes. O.R.C. 505.27 so provides.

6. Q. How shall the cost of providing and maintaining waste disposal service in a township territory which has been formed into a waste disposal district be met?

   A. Two methods are provided. (1) The trustees may levy a tax on all the taxable property in the district, or (2) the township may charge all persons using the service a rental charge which if not paid when due shall be collected in the same manner as other township taxes. O.R.C. 505.29.

7. Q. Is a township waste disposal district a taxing unit?

   A. Yes. It is defined as such by O.R.C. 5705.01 and the township trustees are the taxing authority for the district.

8. Q. If rents in a waste disposal district are charged, is it necessary to establish a special fund for such?

   A. Yes. The fund shall be designated as "the waste collection fund" and shall be used for payment of the costs of the management, maintenance, and operation of the garbage and refuse collection, transfer, recycling, and disposal system in the township or several disposal districts. The fund may also be used by the board for the payments of costs incurred from the collection and disposal of tree leaves. O.R.C. 505.31.

9. Q. How shall the fiscal officer be compensated for work performed in keeping the records for a waste disposal district?

   A. The fiscal officer shall be allowed such compensation as is fixed by the board. The compensation shall be paid semi-annually and charged back, and pro-rated against each waste disposal district as a part of the operating cost. The cost of any increase in the fiscal officer's bond, and the cost of necessary supplies, shall similarly be prorated and charged back to each district. O.R.C. 505.32.

II. GARBAGE (CONTINUED)

Garbage and Refuse Disposal for a Waste Disposal District (Continued)

10. Q. When shall delinquent waste disposal charges be certified to the county auditor for collection?

    A. O.R.C. 505.33 would require the names of the property owners and a description of the lands which are delinquent to be certified annually before the first day of October.

III. PRIVATE SEWAGE COLLECTION TILES

1. Q. Can the township repair private sewage collection tiles?

    A. A board of township trustees may maintain and repair private sewage collection tiles located within a township road right-of-way in the township, where the expenditure from the township general fund for materials to maintain and repair the tiles does not exceed two hundred dollars for any one project. No maintenance or repair shall be performed that is paid for from the township general fund under this division until the board adopts a resolution authorizing the maintenance or repair. If material costs would exceed two hundred dollars, the board may proceed under this chapter to maintain and repair the tiles by assessing the cost against property based on the special benefits the property receives from the project. O.R.C. 521.01.

2. Q. Can residents of a township petition the board of trustees to maintain private sewage collection tiles?

    A. Upon a petition filed with the township fiscal officer by one or more property owners whose property is served by a private sewage collection tile, or upon the board's own initiative by the adoption of a resolution, the board of township trustees may repair or maintain a private sewage collection tile within a township road right-of-way in the township as provided in Ohio Revised Code Chapter 521. On receiving a petition, the township fiscal officer shall give to the board of township trustees a notice of the filing of the petition and a copy of the petition. O.R.C. 521.02.

3. Q. What is the process for contracting work on the maintenance and repair of private sewage collection tiles?

    A. If the total estimated cost of any improvement provided for in section 521.04 of the Revised Code is fifty thousand dollars or less, the contract may be let without competitive bidding. When competitive bidding is required, the board of township trustees shall post, in three of the most conspicuous public places in the township, a notice specifying the improvement to be made and the time, which shall be at least thirty days after the posting of the notices, and the place the board will receive bids to make the improvement. The board shall accept the lowest and best bid, if the successful bidder meets the requirements of section 153.54 of the Revised Code. The board may reject all bids.

    On accepting a bid, the board shall enter into a contract with the successful bidder for making the improvement according to specifications. The contract shall not be for a term longer than ten years. O.R.C. 521.05.

SECTION I

FIRE AND AMBULANCE SERVICES

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I. INVESTIGATION OF FIRES

How the Investigation is Made

1. Q. Who is required to investigate a fire in a township?

   A. The chief of the fire department in each township in which a fire department is established and the fire prevention officer in each township in which no fire department is established are required to investigate fires. O.R.C. 505.38, 3737.14, and 3737.24.

2. Q. If a township contracts with a municipality or a private fire company for fire protection, who shall investigate any fire that may occur in the township?

   A. Since such a township does not have an established fire department, the trustees of the township are required to appoint a fire prevention officer. If any fire occurs in the township, the fire prevention officer shall investigate the fire. O.R.C. 505.38.

3. Q. If a fire occurs, to whom does the chief of the fire department of a township having a fire department, or the fire prevention officer of a township not having a fire department report?

   A. The report shall be made to the State Fire Marshal, 8895 E. Main Street, Reynoldsburg, Ohio 43068. O.R.C. 3737.24 requires the fire to be investigated within two days after the fire occurs and the report must be sent to the fire marshal within one week.

4. Q. What shall the report to the state fire marshal contain?

   A. The written statement to the state fire marshal shall set forth, on forms provided by the state fire marshal, all the facts related to the cause and origin of the fire and such other information as the fire marshal may require. O.R.C. 3737.24.

5. Q. Does the fire prevention officer have any duties besides the investigation of fires?

   A. Yes. O.R.C. 505.38 provides that he shall "exercise all the duties of a fire chief except those involving the maintenance and operation of fire apparatus."

II. FIRE PREVENTION OFFICER

Who Shall Appoint

1. Q. Is it mandatory for each township to appoint a fire prevention officer?

   A. No. Only townships not having a fire department are required to appoint a fire prevention officer. O.R.C. 505.38

2. Q. Is it compulsory for a board of township trustees to appoint a fire prevention officer if there is an incorporated village within the township that has a fire department and the township trustees contract with such village for fire protection?

   A. Yes. If a township does not have its own fire department, it must appoint a fire prevention officer. O.R.C. 505.38

3. Q. If a township has a contract with a neighboring township for fire protection, must the township trustees appoint a fire prevention officer?

   A. Yes. A township not having a fire department but receiving fire protection by contract from a neighboring township is required to appoint a fire prevention officer. O.R.C. 505.38

Qualifications

1. Q. May a township trustee hold the office of fire prevention officer in his own township?

   A. There is no statutory prohibition, and a trustee has been held to be permitted to serve as a fire chief or fire prevention officer provided he is not compensated for such service. O.R.C. 505.38 and 505.011, and OAG No. 87-084

2. Q. May a township fiscal officer hold the office of fire prevention officer in his own township?

   A. Yes. 1962 OAG No. 2872.

3. Q. Would it be permissible to appoint the fire chief of the first department with which the township contracts for fire protection to serve as fire prevention officer; and, if so, would he be entitled to compensation in addition to that which he receives as fire chief?

   A. Yes. The fire chief of the fire department with which the township contracts may be appointed fire prevention officer, and the trustees would be authorized to pay the fire chief for the performance of his duties as fire prevention officer in addition to the compensation which he receives as fire chief. O.R.C. 505.38

4. Q. May a member of a fire department of an adjoining township be hired as fire prevention officer?

   A. Yes. The statutes nowhere specifically state that the fire prevention officer must be a resident of the township. Since the statutes do not specifically require that the fire prevention officer be a resident of the township, a person from an adjoining township may be appointed to fill that position.

II. FIRE PREVENTION OFFICER (CONTINUED)

Qualifications (Continued)

5. Q. May the police constable act as fire prevention officer?

   A. Yes. There is no statute which would prohibit the constable from serving as fire prevention officer and the two positions are not incompatible at common law if it is physically possible for one person to perform the duties of both positions. OAG No. 62-2872.

6. Q. Is a physical examination required of a candidate for township fire prevention officer?

   A. No. Although O.R.C. 505.38 requires that any firefighter of the fire department of any township or fire district pass a physical examination, there is no such requirement for a fire prevention officer.

Compensation

1. Q. Who shall fix the compensation of the fire prevention officer required to be appointed by township trustees in a township not having a fire department?

   A. The township trustees are authorized by O.R.C. 505.38 to fix the compensation of fire prevention officer.

2. Q. Is it possible to pay the salary of the fire prevention officer from the proceeds of a special levy for fire protection?

   A. If the purposes for which the tax for fire protection was levied are broad enough to include payment of personnel hired in connection with the fire department, the proceeds of the levy would be available as a source of payment for the compensation of the fire prevention officer. In the alternative, the compensation of the fire prevention officer may be paid from the general fund or from any other fund created for fire purposes.

Bond

1. Q. Will it be necessary for the person appointed as fire prevention officer to furnish bond?

   A. No. No statute requires the fire prevention officer to give bond.

Removal

1. Q. How shall a fire prevention officer be removed from office?

   A. The fire prevention officer shall continue in office until removed as provided by O.R.C. 733.35 to 733.39, inclusive.

School of Instruction

1. Q. May the fire prevention officer be sent to a school of instruction designed to promote the efficiency of firemen?

   A. Yes. O.R.C. 505.45 so provides.

II. FIRE PREVENTION OFFICER (CONTINUED)

School of Instruction (Continued)

2. Q. May the township pay the expenses of a fire prevention officer attending such a school of instruction?

   A. Yes. However, O.R.C. 505.45 provides that the township may pay the necessary expenses, only if such is authorized in advance of attendance of the meeting.

III. TO WHOM FIRE PROTECTION SHALL BE FURNISHED
Mandatory

1. Q. A township which has a village within its limits has a duly established fire department and is furnishing fire protection to the township. Should the trustees make a contract with the village officials to furnish fire protection to the property in the village?

   A. No. Assuming that the township is not divided up into fire districts, the village territory is levied upon for purposes of fire protection and, therefore, entitled as a part of the township, to fire protection. Therefore, any additional charge to the village for fire protection would be unauthorized.

2. Q. Is the township fire department required to answer fire calls on governmental property located within the township fire district, such as school property, conservancy district property, or United States governmental property? If so, can a township fire department charge these public entities for such fire and rescue sevices?

   A. The same kind of fire protection must be furnished the governmental property as is furnished any other property located in the township fire district, even though such governmental property may not be subject to taxation or any other charge for fire protection. While O.R.C. 505.84 permits a township to charge township residents who avail themselves of fire protection services, it has been found inadequate authority for a township to impose charges against another public entity. OAG 2005-036.

3. Q. Would it be legal for a fire department in Washington Township to contract with two groups of farmers in St. Marys Township to furnish fire protection to each farmer at the rate of $3.00 annually?

   A. No. The authority to contract with private persons to furnish them fire protection is not given to townships.

4. Q. Is it a duty of a township to answer a fire call to a vehicle traveling on a state or federal highway, such as Route 40, in a situation in which the township buys its fire protection from neighboring townships at a yearly contract price plus a fixed fee for each run?

   A. Yes. The township has a duty to answer fire calls to any portion of a state or federal highway located within the township in spite of the fact the township does not operate a fire department, but, instead, contracts with neighboring townships at a yearly contract price plus a fixed fee for each run. When fire protection is furnished within a township, it must be furnished to all on equal terms. This is true, in spite of the fact that the one benefiting from the fire protection may not be a tax paying resident of the township but merely a person traveling on a highway located in the township. OAG 1987-040, citing O.R.C. 505.37

5. Q. A township contracts to receive fire protection from a village, paying for the same on a fixed fee per call basis. May the township trustees, in turn, charge the person who had the fire with the cost of such call?

   A. Yes. Pursuant to O.R.C. 505.84, a board of township trustees that contracts with a village to obtain fire protection services may charge township residents who avail themselves of the fire protection services provided by the village. OAG 2008-001

III. TO WHOM FIRE PROTECTION SHALL BE FURNISHED (CONTINUED)

Discretionary

1. Q. May a township legally charge the Ohio Turnpike Commission for fire runs made by the township volunteer fire department to fires occurring on the turnpike which is outside the boundaries of the township?

   A. Yes. There is no legal obligation on the part of the township to furnish fire protection to places outside the boundaries of the township.

2. Q. May the superintendent or other administrative head of any state institution, when authorized by the board or authority charged with the care and maintenance of such institution contract with a township having a fire department for the services of such township to afford fire protection or additional fire protection in times of emergency for property located outside the boundaries of such township?

   A. Yes. O.R.C. 9.60 so provides.

3. Q. May the board of county commissioners contract with a township having a fire department for the services of such department in affording fire protection or additional fire protection in times of emergency for county property located outside the boundaries of such township?

   A. Yes. O.R.C. 9.60 so provides.

4. Q. May the superintendent or other administrative head of a state college or university, when authorized by the board or authority charged with the care and maintenance of such college or university, contract with a township having a fire department for the services of such department in affording fire protection, or additional fire protection in times of emergency, for property located outside the boundaries of such township?

   A. Yes. O.R.C. 9.60 so provides.

5. Q. Does a township have authority to receive federal grants for the purpose of providing firefighting equipment for civil defense?

   A. Yes. The township may use such grants in connection with its own funds for such purpose, and may use its equipment in cooperation with civil defense organizations in case of enemy attack. OAG No. 52-1665.

III. TO WHOM FIRE PROTECTION SHALL BE FURNISHED (CONTINUED)

Discretionary (Continued)

6. Q. May a township charge a fee for responding to multiple false fire alarms?

   A. Yes. If, after the fire department of a township, township fire district, or joint fire district, or a private fire company with which the fire department of a township, township fire district, or joint fire district contracts for fire protection, responds to a false alarm from an automatic fire alarm system at a commercial establishment or residential building, the board of township trustees gives written notice by certified mail that it may assess a charge of up to three hundred dollars for each subsequent false alarm occurring after three false alarms by that system within the same calendar year, the board of township trustees may assess that charge. This notice shall be mailed to the owner and the lessee, if any, of the building in which the system is installed. After the board gives this notice, the board need not give any additional written notices before assessing a charge for a false alarm as provided by this section. O.R.C. 505.391(A)

7. Q. What may the township do if payment for responding to false alarms is not received in thirty days?

   A. If payment of the bill assessing a charge for a false alarm is not received within thirty days, the township fiscal officer shall send a notice by certified mail to the manager and to the owner, if different, of the real estate of which the commercial establishment is a part, or to the occupant, lessee, agent, or tenant and to the owner, if different, of the real estate of which the residential building is a part, indicating that failure to pay the bill within thirty days, or to show just cause why the bill should not be paid within thirty days, will result in the assessment of a lien upon the real estate in the amount of the bill. If payment is not received or just cause for nonpayment is not shown within those thirty days, the amount of the bill shall be entered upon the tax duplicate, shall be a lien upon the real estate from the date of the entry, and shall be collected as other taxes and returned to the township treasury to be earmarked for use for fire services. O.R.C. 505.391(B)

IV. PROTECTING PROPERTY AND LIVES

Authorized Actions

1. Q. May the members of a fire department use township equipment for the purpose of driving to the scene of accidents and assisting injured persons in cases that do not involve fires?

   A. Yes, if the trustees adopt a policy. Although O.R.C. 505.37 is primarily concerned with the guarding against the occurrence of fires, since the statute further provides that the trustees may establish all necessary rules to Aguard against the occurrence of fires and to protect the property and lives of the citizens against damage and accidents," the fire department may appropriately use township equipment to assist such persons.

2. Q. Does the protection of property and lives of citizens against damages and accidents include rescuing from drowning, resuscitation of persons overcome by gas fumes, and aiding of persons who have fallen from ladders?

   A. Yes.

Charge Unauthorized

1. Q. If, by reason or drought or otherwise, citizens of the township are unable to obtain sufficient water from their own supply to provide for such necessary purposes as drinking, sanitation, and the watering of stock, may the board of township trustees provide water from the fire department supply, assuming that the furnishing of such water will not impair the efficiency of the fire department?

   A. Yes. Authority given the board of township trustees under O.R.C. 505.37 to "protect the property and lives of citizens against damages and accidents" would authorize the township trustees to furnish water to citizens of the township in such emergency situations. OAG No. 62-3066.

2. Q. If the township trustees furnish water to the citizens of the township in an emergency situation such as when drought exists, may the fire department deliver the water to such private citizens?

   A. Yes. The delivery of water might fall within the purpose of protecting lives and property of the citizens. OAG No. 62-3066.

3. Q. If the township trustees furnish water to private citizens of the township in an emergency created by drought conditions, may the board of township trustees charge a fee for the water which is delivered to such private citizens.

   A. No. There is no specific statutory authority given the township trustees to charge a fee for its services in meeting such emergencies, and it must, therefore, be concluded that a fee may not be charged. OAG No. 62-3066.

4. Q. Do township trustees have authority to purchase rescue cars?

   A. Yes. If the township trustees feel that such is necessary in order to guard against fires and/or protect the property and lives of citizens against damages and accidents, such may be purchased. OAG No. 53-2416.

IV. PROTECTING PROPERTY AND LIVES (CONTINUED)

Ambulance Services

1. Q. Are township trustees authorized to provide ambulance service?

   A. O.R.C. 505.37 authorizes the township trustees to "protect the property and lives of citizens against damage and accidents." This has been held to authorize the township to provide ambulance service in emergencies. OAG No. 79-072.

2. Q. What methods may be used by the township trustees to provide such service?

   A. As this is a service incidental to fire services, any means of providing fire services may be used to provide ambulance service.

3. Q. Is it possible for the township to provide ambulance service without reference to fire services?

   A. Yes. This may be done by contract with the county (O.R.C. 307.05), by general contract (O.R.C. 505.44), or by formation of a joint ambulance district (O.R.C. 505.71).

4. Q. May the township trustees, purchase, equip and maintain an ambulance?

   A. Yes. If the township trustees feel that such is necessary in order to guard against fires, protect the property and/or lives of citizens against damages and accidents, such may be purchased. OAG 69-038.

5. Q. May the township trustees charge fees for the use of fire and rescue services, ambulance services, or emergency medical services?

   A. Yes. A board of township trustees may establish reasonable charges for the use of fire and rescue services, ambulance services, and emergency medical services. The board may establish different charges for township residents and non residents, and may, in its discretion, waive all or part of the charge for any resident. The charge for ambulance transportation for nonresidents shall be an amount not less than the authorized Medicare reimbursement rate, except that, if prior to September 9, 1988, the board had different charges for residents and nonresidents and the charge for nonresidents was less than the authorized Medicare reimbursement rate. O.R.C. 505.84 (**Effective March 31, 2005**).

6. Q. Must these charges be deposited in a special fund?

   A. Yes. Except as provided in section 505.441 of the Revised Code, charges collected under O.R.C. 505.84 shall be kept in a separate fund designated as “the fire and rescue services, ambulance services, and emergency medical services fund,” and shall be appropriated and administered by the board. The fund shall be used for the payment of the costs of the management, maintenance, and operation of fire and rescue services, ambulance services, and emergency medical services in the township. If the fire and rescue services, ambulance services, and emergency medical services are discontinued in the township, any balance remaining in the fund shall be paid into the general fund of the township. (**Effective March 31, 2005**).

V. ESTABLISHING NECESSARY REGULATIONS

1. Q. May the board of township trustees establish all necessary regulations to guard against the occurrence of fires?

   A. Yes. O.R.C. 505.37 so provides.

2. Q. May the board of township trustees adopt a regulation authorizing a fire chief to organize volunteer fire companies by appointing captains of various units, each captain, in turn, to be authorized to select a group to assist him in the various units?

   A. Yes. Such a regulation, duly adopted by the board of township trustees, would be permissible under O.R.C. 505.37.

3. Q. May the township trustees adopt a fire code regulation?

   A. Yes. O.R.C. 505.373 grants the township trustees authority to adopt a standard code pertaining to fire, fire hazards, and fire protection prepared and promulgated by the state or any public or private organization that publishes a model or standard code.

4. Q. How does the township board of trustees enforce these regulations?

   A. O.R.C. 505.374 states that no person shall violate a regulation adopted pursuant to O.R.C. 505.373.

5. Q. What is the possible punishment?

   A. Violation of such a code, if properly promulgated, would result in a minor misdemeanor. See O.R.C. 505.374 and 505.99.

VI. METHODS OF PROVIDING FIRE PROTECTION

1. Q. What are the four principal ways of obtaining fire protection?

   A. The township may: (1) maintain a regular township fire department employing one or more persons to maintain and operate firefighting equipment; (2) buy the equipment and contract with a volunteer fire company to use and operate it; (3) contract with one or more townships, villages, cities or private fire companies to supply fire protection services; (4) unite with one or more townships or municipalities, or any combination thereof, in the joint purchase, maintenance, use and operation of firefighting equipment. O.R.C. Chapter 505

VII. FIRE DISTRICTS

What a Fire District May Consist of

1. Q. May the township trustees create more than one fire district within a single township?

   A. There is no prohibition against creating more than one fire district within a single township.

2. Q. What is the guide for deciding that a township shall be divided into more than one fire district?

   A. Whenever the township trustees by resolution declare that it is expedient and necessary to guard against the occurrence of fires, the township trustees within their discretion may create a fire district of such portions of the township as they deem necessary.

3. Q. May fire districts be formed by portions of two or more townships, or by portions of one or more municipal corporations.

   A. Yes. Such "joint fire districts" are now authorized. O.R.C. 505.371. Discussion of joint fire districts follows in Section VIII below.

4. Q. May the trustees establish a fire district which will include approximately half of the rural territory in the township as well as a village located in the township, but exclude the remaining half, leaving it entirely out of any such fire district?

   A. Yes. It is entirely consistent with the language of the statute to organize as a fire district only that portion of the township which in the judgment of the township trustees is in need of fire protection and is so situated as to be capable of maintaining a fire department or contracting with a municipality for such protection.

5. Q. If there is a township which is quite large and has no villages in it, and in which no fire department is established, may the township trustees divide the township into two separate fire districts?

   A. Yes. Formerly O.R.C. 505.37 prohibited the creation of separate fire districts in a township which has no village in it. However, this provision has been deleted from the law, with the result that separate fire districts may be created even in a township having no municipalities.

Tax Levies for Fire District

1. Q. Is a fire district considered a subdivision for the purpose of voting millage outside the ten-mill limitation as provided in O.R.C. 5705.19?

   A. Yes. In O.R.C. 5705.01 a township fire district is defined as a subdivision for the purposes of the tax law.

VII. FIRE DISTRICTS (CONTINUED)

Tax Levies for Fire District (Continued)

2. Q. If the township trustees create a fire district consisting of less than the entire township, may the trustees pay the contract price for the fire protection for such district out of the general fund?

   A. There is no provision in the statute whereby restricted general fund of the township could be used for the cost of fire protection of a fire district constituting only a portion of the township. Funds raised by taxation, which go to make up the general fund of the township, are produced by a levy upon all the property in the township. General Fund money that is not the proceeds of a general levy for current expenses and which is not otherwise restricted may be expended by the trustees for fire protection for a fire district. Examples of this type of money include Estate Taxes and Liquor Permit fees.

3. Q. If the township trustees set up a fire district in only a portion of the township and leave the other portion of the township without fire protection, how should the money be raised to pay for the expenses of the fire district?

   A. O.R.C. 505.39 would permit the township to levy a tax on that portion of the township included within such district. O.R.C. 505.40 would also permit bonds to be issued to cover the cost of the purchase of equipment or sites, etc.,; however, bonds for such purpose may not be issued unless such are first authorized by a vote of the people in the district, and may not be issued in excess of $150,000.00, or two percent of the total assessed value of all the property in the township, whichever is greater. If it is necessary to levy outside the ten mill limitation, a vote must be had on the tax levy as well.

4. Q. If the township is divided into two districts, may the trustees levy taxes at one rate in one district and at another rate in the other district?

   A. Yes. The fire districts are separate entities, and the rate of taxation may vary with the varying needs of each fire district.

5. Q. What must be done in order to transfer unincorporated territory from one township fire district to another, when there are already tax levies in place?

   A. A board of township trustees that proposes to transfer unincorporated territory from one township fire district to another must submit the proposal to the electors of the territory, if voters in the district to be expanded have approved a tax levy on property in that district. Voter approval of the transfer and tax is required even if the unincorporated territory is currently located in a fire district where voters have approved a tax levy that is identical in millage and duration to the tax levied in the district to which the territory would be added. OAG 2006-029.

6. Q. May political subdivisions that establish a joint fire district pursuant to O.R.C. 505.371 agree that the rate of millage of the joint fire district tax levy will be lower in one political subdivision than the rate that applies in the other political subdivisions of the district?

   A. In accordance with Article XII, Section 2 of the Ohio Constitution, political subdivisions that establish a joint fire district pursuant to R.C. 505.371 may not agree that the rate of millage of a tax levied by the joint fire district will be lower in one of the political subdivisions than the rate that applies in the other political subdivisions of the district. Any tax levied by a joint fire district must be levied uniformly throughout the joint fire district. OAG 2015-010

VIII. JOINT FIRE DISTRICTS

Creation of a Joint Fire District

1. Q. How are "joint" fire districts created?

   A. Such districts are created by joint resolution of the participating subdivisions, through their legislative authorities. See O.R.C. 505.371.

2. Q. What body is responsible for the administration of the joint fire district?

   A. A joint fire district is administered by a board of fire district trustees. This board is composed of one representative of each board of township trustees, and of each municipal corporation legislative authority participating in the joint fire district. O.R.C. 505.371

3. Q. What authority does a board of fire district trustees possess?

   A. A board is authorized to exercise the same powers as are granted to a board of township trustees in O.R.C.sections 505.37 through 505.45.

4. Q. Are board members entitled to compensation?

   A. Yes. They may receive up to thirty dollars per meeting, not to exceed fifteen meetings per year, and may be reimbursed for their necessary expenses. O.R.C. 505.371

5. Q. May a joint fire district be dissolved?

   A. Yes. To withdraw from a joint fire district, a subdivision must: (1) Adopt a resolution of withdrawal. This is effective only on the following January 1st. (2) Join in an apportionment of the assets of the fire district. O.R.C. 505.371.

6. Q. Who is responsible for this apportionment?

   A. The county auditor is responsible for the apportionment. It includes funds on hand, money and taxes in the process of collection, credits, and real and personal property, but not taxes levied for the payment of indebtedness. The division must be on the basis of the valuation of the respective tax duplicates of the withdrawing subdivision and the remaining territory of the joint fire district. O.R.C. 505.371.

7. Q. Is the withdrawing subdivision free from responsibility for the debts of the fire district?

   A. No. It may be subject to taxation by the board of fire district trustees for the payment of indebtedness incurred while the subdivision was a member of the fire district. O.R.C. 505.371.

8. Q. What is the status of a joint fire district?

   A. A joint fire district, like a single fire district, is a separate and distinct subdivision. It may not receive financial support by a member subdivision, but must finance itself from the resources of the district, O.R.C. 505.371.

VIII. JOINT FIRE DISTRICTS (CONTINUED)

Creation of a Joint Fire District (Continued)

9. Q. If the township is divided into two separate fire districts, may the township trustees enter into a contract with one fire district for the protection of one fire district and a second contract with a different fire district for the other district?

   A. Yes. The very fact that separate fire districts may be created gives rise to the conclusion that the contract in one district will not necessarily have any bearing on the contract in the other district.

10. Q. May a district within a township contract with the township for fire protection?

    A. No. To do so would mean that the township trustees would be contracting with themselves. Such a fire district must contract either with a separate municipality or with another township.

11. Q. To whom shall a joint fire district provide firefighting and fire protection services ?

    A. A joint fire district created pursuant to O.R.C. 505.371 is required to provide firefighting and fire prevention services to properties situated within the fire district. OAG 2011-016.

Dissolution of a Fire District

1. Q. Do the township trustees have authority to abolish a joint fire district once it is established?

   A. Any municipal corporation or township may withdraw from a joint fire district. The district shall continue to levy and collect taxes for the payments of indebtedness within the territory of the district as it was comprised at the time the indebtedness was incurred. O.R.C. 505.371.

2. Q. If a municipality annexes township territory and such territory has included within it all the territory of a fire district, does the municipality gain control of the fire truck of the fire district?

   A. No. O.R.C. 709.12, which has to do with apportionment of indebtedness upon annexation, does not apply in determining title to or division of tangible property, and the fire truck thus remains the property of the fire district and is under the control of township trustees.

IX. JOINT AMBULANCE DISTRICTS

1. Q. How is a joint ambulance district formed and administered?

   A. The procedures are substantially identical to those provided for joint fire districts, discussed in a separate section of this handbook. O.R.C. 505.71.

X FIRE AND AMBULANCE DISTRICTS

1. Q. How are Fire and Ambulance Districts formed?

   A. Fire and Ambulance Districts can be formed using one of two methods. First, a Joint Fire District and Joint Ambulance District that have identical geographical borders may negotiate to combine their two joint districts into a single fire and ambulance district for the delivery of both fire and ambulance services, if the geographic area covered by the combining joint districts is exactly the same. Both boards shall adopt a joint resolution ratifying the agreement and setting a date on which the fire and ambulance district shall come into being. O.R.C. 505.375(A)(2)(a).

   Alternatively, the boards of township trustees of one or more townships and the legislative authorities of one or more municipal corporations, or the legislative authorities of two or more municipal corporations, or the boards of township trustees of two or more townships, may negotiate an agreement to form a fire and ambulance district for the delivery of both fire and ambulance services. The agreement shall be ratified by the adoption of a joint resolution by a majority of the members of each board of township trustees involved and a majority of the members of the legislative authority of each municipal corporation involved. The joint resolution shall specify a date on which the fire and ambulance district shall come into being. O.R.C. 505.375(A)(1)(a).

2. Q. If a joint fire district or a joint ambulance district is dissolved to facilitate the creation of a fire and ambulance district, may the assets of the dissolved districts be transferred to the new district?

   A. Yes. O.R.C. 505.375(A)(1)(b).

XI. FIRE DEPARTMENT UNDER TRUSTEES' CONTROL

1. Q. A township which has certain pieces of equipment and a fire house now wishes to purchase additional pieces of equipment. May it issue monthly checks, payable to the fire department, and permit the fire chief to make such purchases as he sees fit, paying for same by checks written against the fund so established and signed by the fire chief and secretary-treasurer?

   A. Generally, the purchase of equipment and payment for same requires exercise of discretion which cannot be delegated, and which requires proper resolution and authorization before purchase. However, the board of township trustees may by resolution authorize an officer or employee to incur obligations of $2500.00 or less on behalf of a township, which shall be subsequently approved by formal resolution. If the fire chief is authorized to expend such funds, the township fiscal officer must be notified of the amount, date, purpose and vendor. The money, however, must still be paid out by the procedure set forth in O.R.C. 507.11 and not by the fire chief and secretary-treasurer. O.R.C. 507.11 states: "No money belonging to the township shall be paid out, except upon an order signed personally by at least two of the township trustees, and countersigned by the township fiscal officer."

XII. FIRE CHIEF

1. Q. Is it the duty of the township trustees to appoint the fire chief?

   A. In any township or fire district which has a fire department, the board of township trustees has the duty of appointing the fire chief. However, if the township contracts with a private fire company or one or more townships, or municipal corporations the trustees have no authority to appoint the fire chief.

2. Q. May the board of township trustees, under authority of O.R.C. 505.37 adopt a regulation by majority vote of the board authorizing the fire chief to appoint the firemen necessary to operate fire equipment?

   A. Yes.

3. Q. Is the fire chief of the township fire department required to be a resident of the township?

   A. No. The fire chief is an appointed officer of the township. An appointed officer has to be a qualified elector, but not a resident. Generally, any officer other than an elective officer is considered an employee. O.R.C. 9.481 generally prohibits townships from imposing residency requirements on employees. See page A-31, Question 1.

4. Q. If a township is divided into three different fire districts, do the township trustees have authority to appoint a fire chief for each such district, or may only one fire chief be appointed?

   A. Provided a fire department is established within each fire district, the township trustees have the authority and duty to appoint a fire chief within each such district.

5. Q. May a board of township trustees appoint a fire chief for each volunteer fire company within the township if the services of more than one fire company have been contracted for by the township trustees?

   A. Although the township trustees are required to appoint a fire chief in each township or fire district in which a fire department has been established, there is no authority for the board to appoint a fire chief of an independent volunteer private fire company with which the board has contracted for fire protection.

6. Q. If a township is divided into three different fire districts, each having a fire department, may the township trustees appoint a person to act as an "overall chief" over the three fire districts in addition to appointing a chief for each of the three districts?

   A. No. O.R.C. 505.38 quite clearly states that each township or fire district is to have its own chief. This statute could not authorize the appointment of an "overall chief" in addition to the chief in each fire district. 1956 OAG No. 7112.

XIII. FIRE STATIONS

1. Q. Would it be proper to organize about five fire stations within a township with one fire chief overall, and in the event of fire in any portion of the township, call upon the firemen in that particular division to operate the township fire equipment stored at a central location?

   A. Yes.

XIV. FIREMEN

1. Q. May a township advertise of its need for firemen for the township fire department?

   A. Yes. This would be a valid means of providing fire protection under its regulatory power pursuant to O.R.C. 505.37.

2. Q. May a township send officers and firemen of its fire department to schools of instruction designed to promote the efficiency of firemen?

   A. Yes. O.R.C. 505.45 specifically authorizes this and further provides that, if authorized in advance, the township may pay this necessary expense from the funds used for the maintenance and operation of such department. Furthermore, such training is now required under O.R.C. 505.38.

3. Q. Are registration fees in connection with a school of instruction an expense for which a fireman attending the school may be reimbursed?

   A. Yes. The registration fee required to be paid by persons who attend the program of instruction is a proper item to be included in the expense account of the person authorized to attend such school.

4. Q. Is there any requirement that a fireman be a resident of the township by which he is employed as a fireman?

   A. No. O.R.C. 9.481 generally prohibits townships from imposing residency requirements on employees. See page A-31 question 1.

5. Q. Do township trustees have authority to adopt a regulation requiring that a fireman be a resident within the township?

   A. No; however, O.R.C. 9.481(B)(2)(b) states that to ensure adequate response times by certain employees to emergencies or disasters… a township may adopt a resolution that requires any individual employed by that township, as a condition of employment, to reside either in the county where the political subdivision is located or in any adjacent county in this state. See page A-31 question 1.

6. Q. Is a physical examination required for appointment as a firefighter?

   A. Yes. See O.R.C. 505.38.

7. Q. If a fire chief or fireman is delinquent in his duties, how is he removed from his position?

   A. Such person should be removed by the method provided in O.R.C. 733.35 to 733.39 in the same manner that municipal officers are removed.

8. Q. In removing a fireman or fire chief in accordance with O.R.C. 733.35 to 733.39, who is authorized to file the charges and how is it done?

   A. The board of township trustees files the written charges, causes a copy of such charge to be served upon the party against whom the charges are made and accepts the return of service.

XIV. FIREMEN (CONTINUED)

9. Q. On the basis of what action may charges be filed by township trustees?

   A. Charges may be filed when the board of trustees "has reason to believe" that an individual is guilty in the performance of his official duty, of bribery, misfeasance, malfeasance, nonfeasance, misconduct, gross neglect of duty, gross immorality, or habitual drunkenness. O.R.C. 505.38, referencing removal proceedings under 733.35; see also 1957 OAG 912.

10. Q. When shall the charges be heard?

   A. O.R.C. 733.36 controls the hearing time and procedure, and provides that the charges shall be heard at the next regular meeting, unless time is extended on application of the accused.

11. Q. May the accused be suspended pending a hearing?

   A. Yes.

12. Q. Do the statutory provisions providing for the dismissal of the fire chief or firemen apply to duly appointed volunteer firemen?

   A. Yes. A duly appointed volunteer fireman may not be dismissed or removed from his position as a firefighter without compliance with the statutory procedures found in O.R.C. 733.35 to 733.39.

XV. REMOVAL OF FIRE CHIEF OR FIREMAN IN CIVIL SERVICE TOWNSHIPS

1. Q. When do civil service provisions apply to removal of the township fire chief and firemen?

   A. If a township has a population of ten thousand or more persons outside of any municipal corporation, and has a civil service commission established under O.R.C. 124.40 the procedures for employment, promotion, and discharge contained in O.R.C. 124. O.R.C. 505.38(C).

XVI. VOLUNTEER FIREMEN OPERATING TOWNSHIP FIRE EQUIPMENT

Payment

1. Q. May the board of township trustees enter into an agreement with a volunteer fire company for the use and operation of township fire equipment?

   A. Yes. O.R.C. 505.37 so provides.

2. Q. May the board of township trustees employ or appoint volunteer firemen individually to operate township equipment or must the township contract with the organization or association?

   A. In their discretion, the board of township trustees may either employ or appoint volunteer firemen individually or the township may contract with the company or association.

3. Q. May the trustees of a township legally pay a certain nominal amount to volunteer firemen for attending a fire call?

   A. Yes. Although it is somewhat inconsistent to make payment to one who is a volunteer fireman, the trustees have the authority "to establish all necessary rules to guard against the occurrence of fires." Since a small compensation may, to some extent, aid in maintaining such an organization, such a practice would come within the power of the trustees to establish the necessary rules and regulations to protect the citizens of the township against fires. Each fireman may be compensated individually or the volunteer fire company or association may be paid a fixed amount. O.R.C. 505.37(A).

4. Q. May a township which has a contract with a private fire company as an organization issue one township warrant to the proper officer of the department for payment of the volunteer fireman?

   A. Yes.

Instruction Meetings

1. Q. May a township which owns its own firefighting equipment which is operated by volunteer firemen organized under a chief, assistant chief, and other officers and members, who are paid a fixed and reasonable sum for services at each fire, in addition pay such firemen to attend a weekly meeting to train for firefighting?

   A. Yes. Pursuant to O.R.C. 505.37 the board of township trustees may compensate the members of a volunteer fire company on any basis and in any amount that it considers equitable. This may include attendance at a weekly training meeting.

2. Q. Is there any requirement that a township which maintains and operates a volunteer fire department must purchase standard casualty insurance to provide accidents and death benefits, for the members of such fire department, to insure such members while acting in the line of duty?

   A. No. Although O.R.C. 505.23 permits a township which maintains and operates a volunteer fire department to provide for insurance against liability and accident and death benefits for the members of such a fire department by the purchase of such insurance, there is no mandatory duty for a township to do such if they do not wish to.

XVI. VOLUNTEER FIREMEN OPERATING TOWNSHIP FIRE EQUIPMENT(CONTINUED)

Casualty Insurance

1. Q. From what fund should premiums for casualty insurance for firemen be paid?

   A. The premiums may be paid from the general fund. OAG No. 44-6849.

2. Q. If a township maintains and operates a volunteer fire department and has made the necessary contributions to bring members of such volunteer fire department within the protection of the volunteer firemen's dependents fund created pursuant to chapter 146, Ohio Revised Code, would the fact that such volunteer fireman were covered under chapter 146, Ohio Revised Code, prohibit the township from purchasing standard casualty insurance for the members of the volunteer fire department in addition to coverage in the volunteer firemen's dependents' fund?

   A. No. The fact that each township maintaining a volunteer fire department is required by law to be a member of the volunteer firemen's dependents fund does not prohibit a political subdivision from providing additional accident insurance for its volunteer firemen. OAG No. 57-1479.

Donations

1. Q. Through the sponsorship of banquets, dances and carnivals, a volunteer fire company which fights fires throughout the township and village, located within the township without cost to the township trustees or the township, has accumulated $3,500.00, which it is now using to construct a restroom to be used by the township village and traveling public. May the township trustees legally contribute to this worthwhile project by paying for the tiling of the floors in the amount of $500.00?

   A. No. There is no authority for township trustees to make a donation to the volunteer fire company, nor to become joint owner in the purchase of property; nor could a donation be made on the theory that it was back payment of wages, although there would be no prohibition against paying reasonable wages in the future.

2. Q. May the trustees join with a private fire company in the purchase of fire equipment?

   A. No. Such would be prohibited by Article VIII, Section 6, of the Constitution of Ohio which prohibits a township lending its credit to a private organization or corporation.

3. Q. May a township lend money to a private fire company with which it has contracted for fire protection?

   A. No. Such would be prohibited by Article VIII, Section 6, of the Constitution of Ohio which prohibits a township lending its credit to a private organization or corporation.

4. Q. On some occasions, cash donations are made to the volunteer fire department by individuals of the township whose homes have been visited by fire. If the township owns and maintains the fire equipment, may such donations be retained by the department or should they be turned over to the township?

   A. Unless the donations are given specifically to the township, the volunteer fire company may retain such money for the use and benefit of the organization. To avoid question, the donor may prefer to write a check directing to whom it shall be paid.

XVII. CONTRACTING FOR FIRE PROTECTION

With Whom

1. Q. With whom may a township contract for fire protection?

   A. A township may contract with one or more (1) townships, (2) municipal corporations or (3) private fire companies.

2. Q. May the township trustees, in an emergency, enter into a contract for fire protection with a township in an adjoining state?

   A. Yes. O.R.C. 9.60 authorizes a township to contract with either a municipality or township in an adjoining state, both on a regular basis and in times of emergency.

3. Q. May a township contract to receive ambulance service?

   A. Yes. Such contracts may be signed with a township, municipal corporation, or private owner, within or without the state. O.R.C. 505.44.

Terms of Contract

1. Q. Upon what terms may a township contract to receive fire protection?

   A. The township may contract upon such terms as are agreed upon by the contracting parties. It may contract for (1) the services of fire departments, (2) the use of fire apparatus, (3) the interchange of the service of fire departments, (4) or use of fire apparatus within the several territories of the contracting subdivisions and private fire companies.

2. Q. Is there any limit to the time for which a contract for fire protection may run?

   A. No.

3. Q. May a village contract to furnish fire protection to four adjoining townships with the stipulation that each township shall contribute on a pro rata basis whenever damage is sustained to fire equipment while making a run into any of the townships, or may the damage only be charged to the township in which the damage occurred?

   A. The damage may properly be prorated among the townships, since all the townships are equally benefited if the equipment is kept in condition for service. Since the damage to equipment of this sort is partly due to general wear and tear, and could not be definitely charged to any particular call or run, it would seem that a reasonable method of equitably apportioning the cost of upkeep would be to charge the several subdivisions served an equal portion of such expense.

4. Q. If, pursuant to O.R.C. 9.60, the trustees have a contract with a village to receive fire protection from the village at a certain fixed sum per year, would it be legal for the township to make payment for other items of expense in connection with the operation of fire equipment?

   A. No. The contract controls the total which may be paid.

XVII. CONTRACTING FOR FIRE PROTECTION (CONTINUED)

Terms of Contract (Continued)

5. Q. May a township which has entered into a contract with a village for fire protection purchase a tank truck and a pump for the joint use of the township and village in fighting fires occurring in both political subdivisions, said equipment, when purchased, to be in the possession of the village fire department, and under its control so long as the contract for mutual fire protection exists between them?

   A. Yes. Under the authority of O.R.C. 505.37, the township may purchase firefighting equipment, and under the authority of O.R.C. 9.60, a township is authorized to contract with a village for services of the village fire department and for the use and interchange of fire apparatus for the protection of property within the township against fire.

XVIII. JOINT FIRE PROTECTION

Who May Participate

1. Q. May two or more townships through joint action unite in the joint purchase, lease, lease with an option to purchase, maintenance, use and operation of firefighting equipment, and any other purpose designated in O.R.C. sections 505.37 to 505.42?

   A. Yes. O.R.C. 505.37(B).

2. Q. May a municipality and a township, or several municipalities and one or more townships through joint action, unite in the joint purchase, lease, lease with an option to purchase, use and operation of firefighting equipment, and the other purposes specified in O.R.C. Sections 505.37 to 505.44, inclusive?

   A. Yes.

3. Q. If a contract is entered into between one township and one or more municipalities or other townships for the interchange of fire equipment, and such contract contains no provision with respect to liability for damage to such fire equipment, which of the subdivisions shall bear any loss occurring to the fire equipment damaged?

   A. In the absence of the contract specifically designating which subdivision shall bear the loss, such damage must ordinarily fall upon the political subdivision owning the fire equipment damaged.

4. Q. If two or more townships or municipalities have united in the joint purchase, use, and/or operation of firefighting equipment, which of the subdivisions shall house the equipment and pay insurance on the equipment?

   A. The boards of township trustees of any two or more townships, or the legislative authorities of any two or more political subdivisions, or any combination of these, may, through joint action, unite in the joint purchase, lease, lease with an option to purchase, maintenance, use, and operation of fire-fighting equipment, or for any other purpose designated in sections 505.37 to 505.42 of the Revised Code, and may prorate the expense of the joint action on any terms that are mutually agreed upon. O.R.C. 505.37(B)

5. Q. Are mutual aid agreements legal?

   A. Mutual aid agreements would be permissible under the provision of O.R.C. 9.60, which authorizes a township to enter into a contract with one or more townships, municipal corporations or private fire companies upon such terms as are agreed to by them for services of fire departments, for use of fire apparatus or the interchange of service of fire departments within the several territories of the contracting subdivisions and private fire companies if such contract is first authorized by the respective boards of township trustees or other legislative bodies.

6. Q. May a mutual aid agreement be drawn for more than one year? Would it be possible to enter into a mutual aid agreement to last for an indefinite period of time, terminable by either party of thirty days' written notice?

   A. Yes. The former three year limitation is no longer in effect.

XVIII. JOINT FIRE PROTECTION (CONTINUED)

Who May Participate (Continued)

7. Q. Are several townships authorized to join together in the purchase and maintenance of fire alarm systems?

   A. Yes. O.R.C. 505.37 would authorize the joint purchase of fire alarm equipment.

8. Q. May a board of county commissioners establish and operate a base radio station to receive and transmit fire activity messages from and to the fire departments of townships and municipalities located within the townships which operate fire departments?

   A. Yes. O.R.C. 307.15 and 307.16 would authorize the board of county commissioners to contract with a group of townships and municipalities which has entered into an agreement to join in providing such a network, pursuant to O.R.C. 505.37, 505.44 and 717.02. See OAG 95-004.

9. Q. If the county commissioners are establishing and operating a base radio station to receive and transmit official fire activity messages from and to fire departments for townships and municipalities located within the county, may the county commissioners contract with various private incorporated fire companies in the county whose only contract with political subdivisions is by contract to furnish fire protection to political subdivisions?

   A. Yes. Assuming a proper agreement between the township and the private fire company, then under authority of O.R.C. 307.15 and 307.16, a board of county commissioners may contract with private fire companies relative to the operation of radio and fire communication systems in the same way that a municipal corporation or township might contract.

Subdivisions Participate as Separate Units

1. Q. When either two or more townships unite in joint action or one or more townships and one or more municipalities unite in joint action in the joint purchase, maintenance, use and operation of firefighting equipment as indicated in the above two questions, is a board created consisting of the members of the legislative bodies of the political subdivisions thus united?

   A. Each political subdivision in such an instance takes action by voting separately on all questions involved. No board is created consisting of all the members of the legislative bodies of the respective units. O.R.C. 505.37.

2. Q. May a village and a township which have entered into a contract to purchase and maintain fire equipment to be operated by a volunteer fire company jointly hire a fire chief and an assistant fire chief?

   A. No. There is no legal authority for a joint board of trustees and village council nor for a joint fund of the two subdivisions. One or the other of these two subdivisions must assume responsibility for the appointment of the fire chief and assistant fire chief. Although the joint purchase, maintenance, use and operation of firefighting equipment is authorized by O.R.C. 505.37., this statute only gives the subdivisions the power to "prorate the expense of such joint action on such terms as are mutually agreed upon." No authority is given to form a joint political body capable as such of raising or maintaining funds or hiring employees for any purpose.

XVIII. JOINT FIRE PROTECTION (CONTINUED)

Subdivisions Participate as Separate Units (Continued)

3. Q. When a township and a municipality jointly construct a fire station, by what method could the township dispose of its interest in the fire station?

   A. The board of township trustees, as a body, may dispose of its interest in such firehouse, without any cooperative action of the council of the municipality by one of two methods. It may sell or convey its interest in accordance with O.R.C. 505.10 at public auction or by sealed bid; (2) it may by resolution authorize the conveyance of such property to the municipality, within which that property is located, if it is located within a municipality, upon such terms as are agreed to between the township trustees and the legislative authority of the municipality.

Authorization of Agreements

1. Q Does O.R.C. 505.37(B) authorize a board of township trustees or a township fire chief to unite with a municipal corporation to jointly establish a mobile communication center for fire-fighting purposes?

   A. Pursuant to O.R.C. 505.37(B), if it seems advisable to a board of township trustees to provide the township with a mobile communication center for fire-fighting purposes, the board and the legislative authority of a municipal corporation may, through joint action, unite to establish the mobile communication center. O.R.C. 505.37(B) does not, however, authorize a township fire chief and the legislative authority of a municipal corporation to take such joint action. OAG 2009-013.

2. Q. Does O.R.C. 9.60 authorize a board of township trustees or a township fire chief to enter into a contract with the governing board or administrative head of a municipal corporation whereby the township and municipal corporation each provide equipment to establish a mobile communication center for providing fire protection services?

   A. O.R.C. 9.60 authorizes a board of township trustees, but not a township fire chief, to enter into a contract with the governing board or administrative head of a municipal corporation whereby the township and municipal corporation each provide equipment to establish a mobile communication center for providing fire protection services. OAG 2009-013.

3. Q. Does a township fire chief have the authority to enter into a memorandum of understanding with officials from a municipal corporation whereby township fire equipment is installed in a motor vehicle of the municipal corporation?

   A. A township fire chief may not enter into a memorandum of understanding with officials from a municipal corporation whereby township fire equipment is installed in a motor vehicle of the municipal corporation. A township fire chief may, however, participate in the preparation of such a memorandum of understanding. OAG 2009-013.

XIX. FIREFIGHTING EQUIPMENT

Miscellaneous Authorized Expenditures

1. Q. Is there any requirement that a fire station supply itself with gas masks?

   A. Yes. O.R.C. 3737.72 provides that each subdivision which operates a fire department must provide at least two gas masks for each fire station. This section further provides that the fire chief of the fire department must give adequate instruction to each member of the fire department in the use of such gas masks.

2. Q. May the township purchase radio transmission receiving equipment and place such sets in the homes of the various volunteer firemen to pick up fire calls received at a nearby radio station whose operators will utilize a special township radio transmitter to send out fire calls, or pay for a system of fire alarm communications and service with a telephone company?

   A. Yes. The township trustees are expressly authorized to "establish all necessary rules to guard against the occurrence of fires" and for that purpose to "purchase, lease, lease with option to purchase, or otherwise provide such fire apparatus, mechanical resuscitator, underwater rescue and recovery equipment, or other fire equipment, appliances, materials, fire hydrants and such water supply for fire-fighting and fire and rescue purposes that seems advisable to the board." In addition, the trustees have specific authority to "establish and maintain lines of fire-alarm communications within the limits of the township." Either of the above systems would be within the purpose and intent of the statute. O.R.C. 505.37(A).

Prosecuting Attorney's Approval

1. Q. Must the prosecuting attorney approve the specifications for the purchase of fire apparatus, mechanical resuscitators or other equipment, appliances, materials, fire hydrants and water supply for firefighting purposes?

   A. O.R.C. 505.37 requires the prosecuting attorney to approve the specifications for the above supplies mentioned within that section prior to purchase by the Board of Trustees.

2. Q. Must the prosecuting attorney approve specifications for supplies such as chairs, tables, cleaning supplies and light bulbs to be used by the volunteer fire department of the township?

   A. No. These materials are general supplies for the firehouse and are not within the intention of the statute which speaks of fire apparatus and other related equipment.

3. Q. What is the result if the trustees do not obtain approval of the specifications by the prosecuting attorney prior to purchasing fire equipment?

   A. Any such purchases may be set aside as illegal if the attention of the courts is called to such transactions by a taxpayer's suit instituted by any citizen and taxpayer within the township.

XIX. FIREFIGHTING EQUIPMENT (CONTINUED)

Advertising for Bids

1. Q. If a township wishes to purchase firefighting equipment, is there any requirement of advertising for bids?

   A. O.R.C. 505.37 authorizes a township to make contracts for the purchase of fire equipment. This section provides that when the purchase price is in excess of $50,000.00, bids must be advertised for.

2. Q. If the township contemplates purchasing a piece of fire equipment, the total purchase price of which probably will not exceed fifty thousand dollars, may the board of township trustees, nevertheless, advertise for bids?

   A. Yes. The expense of advertising for bids would not be an unauthorized expenditure of township money in spite of the fact that bidding is not required by statute in such an instance. The reason for this is that it is good public policy to advertise for bids since, by advertising for bids, the township probably will be able to purchase at a better price the equipment or materials which it needs.

3. Q. Will it be necessary to advertise for bids in an instance in which the township has money in the general fund, and the opportunity of buying fire engines which are surplus commodities offered for sale by the federal government, when the purchase price of each fire truck will exceed $50,000.00?

   A. O.R.C. 9.25 authorizes a township to purchase surplus commodities from the federal government without the necessity of advertising for bids irrespective of the amount of money involved. There must, however, be a finding that the property being purchased can be obtained from the government at a price less than would be obtained by taking bids as provided by law for the purchase from private persons.

4. Q. O.R.C. 505.37(D) permits the township trustees to purchase, lease, lease with an option to purchase necessary firefighting equipment, buildings and sites for a fire district. Is it necessary to advertise for bids for the sale of such notes?

   A. No. The statute says that "the securities shall be offered for sale on the open market or given to the vendor or contractor if no sale is made." Therefore, competitive bidding would not be necessary. It would be enough simply to offer the notes for sale through the normal commercial channels customarily used in the sale and exchange of negotiable instruments, at a price the trustees would be willing to accept or at the prevailing price for similar notes if higher than the lowest acceptable price.

XIX. FIREFIGHTING EQUIPMENT (CONTINUED)

Advertising for Bids (Continued)

5. Q. The fire department needs approximately 15,000 feet of two and one-half inch fire hose which can be purchased from a local dealer at a cost of $5.00 per foot. Since the total price of such a purchase would exceed $50,000.00 if it were purchased in one lot, thus necessitating advertising for bids, may the township legally purchase the firehouse in lots of three hundred feet and spread the purchase over a period of several months and avoid the necessity of advertising for bids?

   A. No. It is well established that a township may not do indirectly what it is prohibited from doing directly. By law, if it proposed to purchase fire equipment with a cost in excess of $50,000.00, it is necessary to advertise for bids. Therefore, the purchase may not be broken down into three lots to avoid the necessity of advertising for bids.

Issuing Notes

1. Q. What is the maximum amount for which notes may be issued to cover the cost of purchasing fire equipment in accordance with O.R.C. 505.37?

   A. There is no maximum set by statute. Formerly the amount was limited to $20,000.00, but the statutes have been amended to delete this limit.

2. Q. May the township trustees borrow money from a bank in order to finance the purchase of fire equipment or must notes for the purchase of fire equipment be offered to the seller of the equipment?

   A. The township may issue the notes to a bank. O.R.C. 505.37 does not require that notes issued for the purchase of fire equipment be issued to the seller. O.R.C. 505.37 merely provides that such notes shall be "offered for sale on the open market or given to the vendor or contractor if no sale is made." A bank might very well be authorized to purchase the notes of the township on the open market.

3. Q. Can the township trustees use a credit card to defer payment of the purchase price?

   A. No. 1984 OAG NO. 050.

4. Q. What is the meaning of the phrase "offered for sale on the open market," as used in O.R.C. 505.37?

   A. In 1949 OAG No. 468, it was stated that, as used in O.R.C. 505.37, the term offering for sale on the open market "would imply an offer for sale on the notes of the township by the trustees to a prospective purchaser or to prospective purchasers through normal commercial channels customarily used in the sale and exchange of negotiable instruments, at such price as they would be willing to accept or at the prevailing price for similar instruments if higher than the lowest acceptable price, under such circumstances that the trustees would be under no obligation to sell such notes at a price that would not be acceptable to them and the prospective buyer or buyers undergo obligation to purchase the same at a greater price than they were willing to pay." Therefore, the trustees might issue the notes of the township for purchase of fire equipment if they merely contacted several banks to make certain that they were getting the best interest rate on the notes.

XIX. FIREFIGHTING EQUIPMENT (CONTINUED)

Issuing Notes (Continued)

5. Q. If the board of township trustees issues notes for the purchase of fire equipment pursuant to O.R.C. 505.37, must the board of township trustees provide for levying and collecting annually by taxation amounts sufficient to pay the interest on and principal of such notes?

   A. Yes. O.R.C. 505.37(D) so provides.

6. Q. Since O.R.C. 505.37 provides that the authorization for "the issuance of the securities shall provide for levying annually by taxation amounts sufficient to pay the interest on and principal of such notes," must the board of township trustees levy a tax specifically to retire such notes; or, if the township has other money available to retire the notes, such as general fund money, may the notes be retired out of such general fund money?

   A. O.R.C. 505.37 does not require that a tax be levied specifically for the purpose of retiring the notes. It merely requires that provision must be made annually for paying the interest and principal of such notes, the levy provided for in O.R.C. 505.37, could be reduced in amount or entirely omitted, depending upon what money was otherwise available to retire the notes.

Levying a Tax
(See also Tax Levies for Fire District)

1. Q. If a township which is not divided up into fire districts has a village within it, is the property in the village subject to taxation to raise the funds necessary to provide fire protection?

   A. Yes. "All the taxable property in the township" includes the taxable property of a village in a township. Because some part of the territory of a township becomes a village does not operate to take the area within the village out of the township for voting or taxing purposes. O.R.C. 505.14

2. Q. May funds realized from a one mill levy which has been voted for fire protection be used for laying down of water mains and the installation of fire hydrants, when the benefited area constitutes only a small fraction of the entire township upon which the one mill tax has been levied?

   A. Yes. It has generally been held that when a tax is levied for a public purpose and the rule of equality has been observed in making the levy, the payment of the tax cannot be defeated by showing that no direct or pecuniary benefit will accrue to either the property or its owner from the proposed expenditure. See O.R.C. 505.39 and 5705.19(I).

3. Q. The township has voted a one mill tax levy for the establishment and maintenance of fire alarm lines. However, the funds from the tax levy will not be available from the tax levy for a year, and the township wishes to commence immediate construction. May the township transfer money sufficient to cover the contracts of the current year, pursuant to O.R.C. 5705.15 and 5705.16?

   A. Money in the general fund may lawfully be set aside, by simple resolution of the board, pursuant to O.R.C. 5705.40, under appropriation item 1-C-03, and expended for the establishment and maintenance of fire alarm lines. Therefore, there is no need for a transfer from the general fund to a special voted levy fund, although it would not be wrong to do so.

XIX. FIREFIGHTING EQUIPMENT (CONTINUED)

Levying a Tax (Continued)

4. Q. A township wishes to get started on the project for which a tax levy for purchase of fire apparatus, equipment, and erecting of buildings has been approved. However, the general fund is very low and the proceeds of the tax levy have not as yet started to come in. How may the township proceed?

   A. O.R.C. 133.10 permits a township to borrow money and issue notes, in anticipation of the collection of current revenues. However, the amount which it may thus borrow may not exceed one-half of the amount that it is estimated will be received from the next ensuing settlement of taxes for such fiscal year as estimated by the budget commission. O.R.C. 5705.191 permits the issuance of notes in anticipation of tax levies.

5. Q. The tax levy for fire protection is in excess of that which is required for current fire protection services. May the board of township trustees accumulate it for later expenditure for capital improvements?

   A. No. The proceeds of tax levies may not be accumulated for later use, but must be expended for their intended purpose. If the needs of the subdivision, as shown by their current budget, do not justify the full levy, the county budget commission has a duty to reduce the levy. O.R.C. 5705.32.

Issuing Bonds

1. Q. If a township wishes to issue bonds for buildings or equipment for fire protection, must the question first be submitted to the electorate for approval?

   A. Yes. O.R.C. 505.40.

2. Q. What is the maximum amount for which bonds of the township may be issued for the purpose of providing fire apparatus and appliances, buildings or sites therefor, sources of water supply and materials therefor, or for the establishment and maintenance of lines of fire alarm telegraph?

   A. The statute limits the amount to the greater of $150,000 or two percent of the total assessed value of all property in the township.

3. Q. May the township trustees submit a single bond issue question to the electorate for the purpose of constructing a fire station as well as for the purpose of purchasing fire apparatus, equipment and appliances?

   A. Yes. O.R.C. 133.18, which is a part of the uniform bond act, requires that a bond issue may relate to only one purpose. Fire apparatus, equipment and appliances are closely enough related in purpose to the construction of a firehouse that there would be no prohibition against including both in a single bond issue.

4. Q. May the township trustees issue notes and borrow money in anticipation of the issuance of bonds?

   A. Yes. O.R.C. 133.22 specifically authorizes such.

XX. FIREHOUSE

Purchase or Construction

1. Q. In an instance in which the township has approved a tax levy for fire protection for the purpose of acquiring a site and constructing a building for storage of fire equipment and the owner of the lot upon which the trustees desire to build the building does not wish to sell it, may the township trustees start an action for appropriation (acquire through legal proceedings) of the real estate?

   A. Yes. If the township trustees cannot, by deed or gift or purchase, procure land in terms they consider reasonable, they may institute proceedings to appropriate such land for that purpose under O.R.C. 163.01 to 163.22. O.R.C. 505.37(E).

2. Q. If there is adequate money in the general fund, may the cost of the purchase of a firehouse be paid out of the general fund?

   A. Yes. Assuming that the township is not divided into fire districts, the purchase price may be paid from the general fund.

3. Q. May township trustees purchase or lease land upon which to construct a firehouse?

   A. Yes. Although O.R.C. 503.37 authorizes the board of township trustees to purchase, lease, or construct and maintain the necessary buildings, the manner in which the site for such a building shall be acquired is not indicated. It may be assumed, therefore, that the board of township trustees would have authority either to purchase or lease a site on which to construct a firehouse.

4. Q. May buildings and a site for a fire department be purchased by the issuance of three notes maturing in one, two, and three years from date of purchase?

   A. Yes. Formerly, O.R.C. 505.37 provided only for the purchase of firefighting equipment by issuance of notes. The statute now provides that, in addition to necessary fire equipment, buildings and sites for such township, fire district, or municipal corporation may be purchased by the same method.

5. Q. May the cost to construct a building to house fire equipment be financed by the issuance of notes?

   A. Yes. O.R.C. 505.37 was amended specifically to authorize the issuance of notes for the construction of a firehouse.

6. Q. A township wishes to construct an addition to the present fire equipment storage house at an approximate cost of $50,300.00. Is it necessary to advertise for bids?

   A. Yes. The provisions of O.R.C. 505.42 and O.R.C. 505.376, which require the advertisement for bids in accordance with O.R.C. 731.14 to 731.16, inclusive, apply not only to purchases made with proceeds of a bond issue, purchase of fire apparatus and appliances, but to the construction of a firehouse as well.

XX. FIREHOUSE (CONTINUED)

Purchase or Construction (Continued)

7. Q. If two bond issues have been approved, one for the construction of a firehouse and the other for the construction of a township garage to house road equipment, would it be possible to combine the two for the purpose of constructing one building?

   A. Yes. Although the voters actually approved the construction of two distinct buildings, one for a fire station and the other for a road equipment garage, it would be permissible as a matter of architectural design and construction to locate the two buildings in such proximity that they could be united by a joint party wall.

8. Q. Assuming that the land upon which a firehouse was constructed was purchased out of the general fund and that there is surplus land remaining after the construction of such building, may the surplus land be used for playground purposes?

   A. Yes. Since O.R.C. 505.26 authorizes a board of township trustees to purchase a "township park," they may lawfully utilize surplus township land surrounding the firehouse and township garage for recreational purposes, and install thereon items of playground equipment.

Joint Firehouse

1. Q. May a township and a village contract for joint construction of a mutual fire station with an agreed prorated expense of such joint fire station and its subsequent operation?

   A. Yes. The statute specifically provides that two or more political subdivisions may unite in the joint construction, purchase, lease, lease with option to purchase, maintenance, use, and operation of firefighting equipment or buildings and prorate the expense on such terms as they shall mutually agree upon. O.R.C. 505.37(B).

2. Q. If a township and village contract for joint construction of a mutual fire station, is it necessary, pursuant to O.R.C. 511.05 and 511.06, to submit to the electors of the township and the village the question of whether or not a joint fire station shall be constructed?

   A. No. Although O.R.C. 511.05 and 511.06 refer to the joint construction by a village and township of a "public building" and require the question to be submitted to the electorate under certain conditions, such sections follow a group of sections relating to the construction of a townhall, and do not have application to the joint construction of a firehouse. Therefore, it is not necessary to submit the question of construction of a joint firehouse to the electorate.

Public Meetings in Firehouse

1. Q. May the board of township trustees lawfully permit organizations such as the Hinckley Stamp Club, the Welcome Wagon, the Britannica Club, the Garden Club, Girl Scouts, Boy Scouts, Cub Scouts, 4-H Clubs, and the Hinckley Grange to use the firehouse as a place of meeting without charge?

   A. A firehouse would be considered a building maintained by taxation under the laws of this state within the meaning of the provisions of O.R.C. 3313.76. The trustees, therefore, would be authorized to make such available, free of charge, to any group whose purpose falls within those enumerated in O.R.C. 3313.76.

XX. FIREHOUSE (CONTINUED)

Public Meetings in Firehouse (Continued)

2. Q. Who is authorized to make application to the board of township trustees for use of the firehouse?

   A. Application for the use of the firehouse may be made by any responsible organization or, in the alternative, application may be made by a group of at least seven citizens.

3. Q. Which organizations may the board of township trustees permit to use the firehouse free of charge as provided in O.R.C. 3313.76?

   A. O.R.C. 3313.76 provides that a public building supported by taxation, such as the firehouse, "shall be available for use as social centers for the entertainment and education of the people, including the adult and youthful population and for the discussion of all topics tending to the development of personal character and civic welfare, and for religious exercises. Such occupation shall not seriously infringe upon the original and necessary use of such property. The public officials in charge of such building shall prescribe such rules and regulations for their occupancy and use as will secure a fair, reasonable and impartial use of the same." Upon receiving an application from a responsible organization or a group of at least seven citizens, the township trustees should review the purposes of the group or organization and make a determination as to whether or not the purposes of such group or organization fall within the permissible purposes enumerated in O.R.C. 3313.76.

4. Q. May the Farmers Institute hold its meetings free of charge in the firehouse provided it complies with any regulation that the township trustees have adopted in relation to the use of the building, such as paying for the cost of heat and light or any damage that may occur over and above the ordinary wear?

   A. Yes. It has been determined that the purposes of the Farmers Institute fall within the permissible purposes of O.R.C. 3313.76.

5. Q. If the board of township trustees determines that the purposes of the Boy Scout groups is such that the Boy Scouts would be authorized to use the firehouse as a place for holding their meetings free of charge, as provided in O.R.C. 3313.76, may the township trustees, nevertheless, charge the scout group the cost of heat and lighting the meeting room in the firehouse during the time that the Boy Scouts occupy such room, as well as make the Boy Scouts responsible for any damage over and above ordinary wear and tear that occurs while the scouts are meeting in the room?

   A. Yes. O.R.C. 3313.79 provides that: "Any organization or group of citizens permitted to use the properties specified in O.R.C. 3313.76 shall be responsible for any damage over and above the ordinary wear, and shall, if required, pay the actual expenses incurred for janitor service, light, and heat."

6. Q. Do the township trustees have authority to take out liability insurance to protect them in case a person who is attending a meeting at the firehouse is injured as a result of the negligence of the township in failing to keep the firehouse in proper repair?

   A. Yes. The purchase of liability insurance is a necessary and prudent township expense, and is permitted by O.R.C. 505.37(E). See O.R.C. 511.233 and 505.63.

XX. FIREHOUSE (CONTINUED)

Waterlines

1. Q. What is the extent of the authority of the township trustees with regard to water necessary for firefighting purposes?

   A. The authority of a board of township trustees to establish or procure waterlines and to provide a water supply within the township concerned extends only to the provision of such water supply as is necessary for firefighting purposes. O.R.C. 505.37.

2. Q. May the township trustees of a township which has established a water supply for firefighting purposes permit residents of the township to tap in on such waterlines to obtain water for domestic uses?

   A. No. The board of trustees of townships being created by statute have no authority other than that given by a statute and there is no enabling statute permitting township trustees to supply water for residents of the township. Therefore, the authority of the township trustees being limited to procuring a water supply for firefighting purposes, they cannot supply water through lines of the township to property owners or other residents.

Disposition of Used Equipment and Property

1. Q. Are the township trustees permitted to trade old fire equipment in on the purchase of new fire equipment?

   A. Yes. O.R.C. 505.10 authorizes the board of township trustees whenever it finds, by resolution, that such fire equipment is not needed or is unfit for public use, to sell such equipment and to have the selling price credited to the purchase price of the new equipment.

2. Q. If the township wishes to trade in old equipment on new fire equipment and the purchase price of the new fire equipment will exceed twenty-five thousand dollars, is it necessary to include in the advertisement for bids for the purchase of the new equipment a notice of the willingness of the board to accept bids for the old equipment?

   A. No. Although the language in O.R.C. 505.10 is not mandatory, the statute provides that when the board advertises for bids, it may include in the same advertisement a notice of the willingness of the board to accept bids for the machinery which is operated or is needed for public use and to have the amount of such bids subtracted from the selling price of the new equipment as a means of determining the lowest responsible bidder.

3. Q. If the old equipment is not traded in on the purchase of new fire equipment, how shall the old equipment be disposed of?

   A. O.R.C. 505.10 would require the board of township trustees to sell and convey such property by public auction or sealed bid upon notice thereof being published once a week for three weeks in a newspaper of general circulation in the township, the last of such publications to be at least five days before the date of the sale. However, if the disposition of the old fire equipment is to be by sale to another department, agency, or political subdivision of the State, the board of township trustees, by resolution, may enter into the contract without advertising or bidding. O.R.C. 505.101.

XX. FIREHOUSE (CONTINUED)

Disposition of Used Equipment and Property (Continued)

4. Q. Several years ago a small fire truck was purchased from defense funds and was housed and operated by an incorporated village. May this truck, the title to which is in the name of the township, be given to the village?

   A. No. The truck may not be "given" to the village. However, the township may, by resolution, sell the truck to the village, by contract and without advertising or bidding. O.R.C. 505.101. The resolution shall:

      (A) Set forth the maximum amount to be paid as the purchase price for the motor vehicles, materials, equipment, supplies, or services;

      (B) Describe the type of motor vehicles, materials, equipment, supplies, or services that are to be purchased;

      (C) Appropriate sufficient funds to pay the purchase price for the motor vehicles, materials, equipment, supplies, or services, except that no such appropriation is necessary if funds have been previously appropriated for the purpose and remain unencumbered at the time the resolution is adopted.

5. Q. If the township has a title to real property located within a municipal corporation situated within the township, and the township wishes to sell such real property to such municipality, must the township dispose of the real property by auction or sealed bid as provided in O.R.C. 505.10?

   A. No. O.R.C. 505.10 would authorize the board of township trustees, by resolution, to transfer and convey such property to the municipal corporation for municipal purposes upon such terms as are agreed to between such board and the legislative authority of such municipal corporation. No auction or sealed bid would be necessary.

6. Q. Does a township have authority to sell a waterline constructed for fire protection and, if so, how should it proceed?

   A. Yes. Under authority of O.R.C. 505.10 the township trustees have authority to sell township property which it does not need. Therefore, it must pass a resolution declaring that it does not need the waterline. It must then proceed to make the sale by public auction or sealed bid advertising such once a week for three weeks in a newspaper published or of general circulation in the township, the last of such publications to be at least five days before the date of the sale. In the alternative, the township could convey it to a municipality located within the township upon such terms as are agreed to between the board and the legislative authority of the municipality.

7. Q. Do the township trustees have the right to insure township buildings or equipment against fire, theft, wind, collision and other similar hazards?

   A. Yes. It is well settled that the express authority extended to a township to acquire, possess, and hold property includes the power to protect such property so as to secure the township in case of loss. This is true even in the absence of a statute giving the trustees express authority.

XX. FIREHOUSE (CONTINUED)

Property Damage Insurance

1. Q. From what fund should insurance on fire equipment be purchased?

   A. If the fire equipment belongs to a fire district, the premium on insurance covering such fire equipment should be paid from the fire protection levy on the fire district. If the entire township is furnished fire protection as a unit, such premiums may be paid from either the fire protection levy fund or the general fund of the township.

XXI. FUNDS FOR FIRE PROTECTION

General Fund – Fire Fund

1. Q. A township wishes to install water hydrants, a well, and a waterline solely for fire protection to the township as a water supply for tank trucks. May money from the general fund be used for this purpose or will it be necessary to levy a special tax for this purpose?

   A. The township trustees have authority to appropriate unencumbered money in the general fund to provide fire protection for the township. Therefore, a special levy would not be necessary.

2. Q. Is it permissible for the township trustees by simple resolution to transfer money in the general fund to a fire fund to meet emergencies created by unanticipated fires?

   A. Yes. The transfer may be done by a simple resolution passed by the township trustees and duly entered in the minutes of the meeting. A transfer to a fire fund created from the proceeds of a tax levy would be authorized pursuant to O.R.C. 5705.14.

Special Fire Funds

1. Q. May the receipts from a tax levied for purchasing fire apparatus equipment, and erecting buildings for the same, be placed in the general fund?

   A. No. O.R.C. 5705.09 requires a township to establish a special fund for each special levy. The money received from a fire levy may not be co-mingled with or credited to the general fund, but must be placed in a separate fund for the purpose set forth in the levy voted by the electors.

Liquor Permit Money

1. Q. May money collected by the department of liquor control as fees and paid back to the township by the state auditor be placed in the fire fund for fire protection?

   A. Yes. O.R.C. 4301.30 provides that the aggregate amount shown by the statements to have been collected from permits in the territory of a township outside the limits of any municipal corporation located therein may either be paid into the general revenue fund of the township or used for fire protection purposes, including buildings and equipment in the township.

2. Q. How is liquor permit money distributed if a township is divided into fire districts?

   A. Liquor permit money is refunded to each such fire district in the township in the proportion that such funds are derived from liquor permits within the territory comprising such fire district. However, the money is received by the township as one check, and the township in turn makes the distribution to the respective fire districts.

XXII. OPERATION OF EMERGENCY VEHICLES

1. Q. How does O.R.C. 4511.01 define a public safety vehicle?

   A. Subsection (E) provides that: "'Public safety vehicle' means any of the following: ambulances, including private ambulance companies under contract to a municipal corporation, township, or county, and private ambulances and nontransport vehicles bearing license plates issued under Section 4503.49 of the Ohio Revised Code; motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the state; any motor vehicle when properly identified as required by the director of public safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The state fire marshal shall be designed by the director of public safety as the certifying agency for all public safety vehicles described in this section; vehicles used by fire departments, including motor vehicles when used by volunteer fire fighters responding to emergency calls in the fire department service when identified as required by the director of safety; and vehicles used by the motor carrier enforcement unit for the enforcement of orders and rules of the public utilities commission as specified in section 5503.34 of the Revised Code.

2. Q. What are some of the statutes which control the operation of fire equipment defined as emergency vehicles?

   A. The following enumerated statutes may be applicable:

   4511.01 - Definitions
   4511.03 - Emergency Vehicles and Public Safety Vehicles To Proceed Cautiously Past Red Or Stop Signals
   4511.04 - Exemptions
   4511.24 - Emergency Vehicle and Public Safety Vehicles Excepted from Speed Limitations
   4511.45 - Public Safety Vehicles Have Right-Of-Way
   4511.68 - Parking Prohibitions
   4511.72 - Following an Emergency Vehicle or Public Safety Vehicle Prohibited
   4511.73 - Driving Over Unprotected Fire Hose
   4513.01 - Definitions
   4513.17 - Number of Lights Permitted; Red and Flashing Lights
   4513.21 - Horns, Sirens and Warning Devices

3. Q. If a public safety vehicle of a fire department wishes to proceed cautiously past a red or stop light as provided in O.R.C. 4511.03 when responding to an emergency situation, must the driver sound audible signal by bells, sirens or whistles?

   A. Yes. O.R.C. 4511.03 provides that: "The driver of an emergency vehicle or public safety vehicle, when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed cautiously past such red or stop sign or signal with due regard for the safety of all persons using the street or highway."

XXIII. RIGHT TO ENTER ON PRIVATE PROPERTY

1. Q. Do members of a fire department, or a volunteer fire association or a private fire company have authority to enter onto private property, if it is necessary to cross such property in order to get to the scene of a fire?

   A. Yes. Section 19, Article I, of the Ohio Constitution provides that: "Private property shall ever be held inviolate, but subservient to the public welfare..." Although there is no express authority given by statute for either the members of a duly established fire department or the members of a fire company with which the township has contracted to the owner's wishes, it may be said that the members of the fire department or fire company would have implied authority to do such if it is necessary for their public welfare.

XXIV. WORKERS' COMPENSATION

Persons Covered

1. Q. Are full-time regular employees of a lawfully constituted township fire department eligible to be covered by workmen's compensation?

   A. Yes. O.R.C. 4123.01 defines as an employee who is entitled to coverage under the workmen's compensation act: "Every person in the service of ...any... township..., including regular members of lawfully constituted fire departments of ...townships."

2. Q. Are persons "employed by a township on a part-time basis to operate or maintain fire-fighting equipment or persons employed in any manner incidental to the operation or maintenance of such equipment" entitled to coverage under the workmen's compensation act?

   A. Yes. O.R.C. 505.41 provides that such are township employees for the purposes of workmen's compensation insurance, the same as though regularly employed as designated in O.R.C. 4123.01.

3. Q. Are members of a volunteer fire company or association, each of which members has been appointed or employed by the board of township trustees, and each of which members is paid five dollars for attending each fire, to operate equipment which the township owns, eligible to be covered by workmen's compensation?

   A. Yes. O.R.C. 505.41.

4. Q. Must volunteer firemen who donate their services to townships which have enlisted such services be paid a dollar a year or some other token remuneration in order to be eligible for workmen's compensation coverage?

   A. No. Such persons may qualify as employees and be eligible for workmen's compensation coverage under the provisions of O.R.C. 4123.01 without receiving one dollar or any other token remuneration from the township. However, O.R.C. 4123.03 would require the township to enter into a contract with the bureau of workers' compensation to determine, among other things, a reasonable basis for compensation, because the firemen in question do not have weekly wages from which an average could be determined.

XXIV. WORKERS' COMPENSATION (CONTINUED)

Persons Covered (Continued)

5. Q. If the township contracts with a volunteer firemen's association to operate fire equipment which is owned by the township and the members of such volunteer firemen's association have not been appointed or employed by the board of township trustees and the board of township trustees has no control or direction over the members of such association, are the members of such association entitled to be covered by workmen's compensation?

   A. Yes. O.R.C. 4123.03 provides that: "If the state or any ...township...employs, enlists, recruits, solicits, or otherwise secures the services of any organization, association, or group of persons and the members thereof, including volunteer firemen, and auxiliary policemen and patrolmen, the individual members of which are not, by reason of such service, employees as defined in division (A)(1) of Section 4123.01 of the Ohio Revised Code, or if the state or any political subdivision thereof desires to secure workmen's compensation coverage in respect of any volunteer fireman, policeman, deputy sheriff, marshal, or deputy marshal, constable, or other person in its service in the event of injury, disease, or death of such person while engaged in activities called for by his position but not such as would entitle such person to compensation as an employee so defined, subject to the limitations contained in Section 4123.02 of the Ohio Revised Code, the state or such political subdivision may contract with the bureau of workers' compensation for coverage of such persons under this Chapter, while in the performance of such service. The contract shall contain provisions for the determination of premiums, average weekly wages or their equivalent, the identity of the persons covered, and such other provisions as are necessary in each case to establish or define the risk and determine claims arising thereunder. Payment of premiums...shall be made in the same manner as is provided with respect to workmen's compensation premiums payable by...a political subdivision and at such times as are provided by such contract. Upon execution of such contract, the persons covered thereby are entitled to the same benefits, payable from the public insurance fund, which are accorded to employees as defined in division (A) of Section 4123.01 of the Ohio Revised Code."

6. Q. Are members of a lawfully constituted fire department of a township, as well as paid or volunteer firemen of a township, acting outside the township and in another subdivision pursuant to contract providing fire protection to said subdivision subject to and entitled to the benefits of the workmen's compensation act while so engaged?

   A. Yes. If the service is performed under a contract, they would be entitled to coverage under the workmen's compensation act, as an employee as defined in O.R.C. 4123.01.

7. Q. If a volunteer fireman of the duly established fire department of X township is injured while fighting a fire in Z township would he be entitled to workmen's compensation benefits?

   A. The answer to this question depends upon whether or not the fireman was in the course of his employment. In order to avoid the problem of having to determine whether a fireman is in the course of his employment when fighting a fire outside the township of the fire department of which he is serving, it is recommended that a mutual contract be entered into by duly adopted resolution.

XXIV. WORKERS' COMPENSATION (CONTINUED)

Persons Covered (Continued)

8. Q. Is a volunteer fireman employed by a township which entered into a contract for interchange of fire apparatus entitled to the protection of the workmen's compensation act while engaged in the performance of his duties outside the territorial limits of the township employing him?

   A. Yes. Provided the fireman is in the performance of his duties in another subdivision with which the township has a contract for the interchange of fire apparatus, the fireman is covered.

9. Q. If volunteer firemen make trips outside the township which either employs the volunteer firemen or has a contract with the volunteer firemen's association to operate township equipment, and the territory into which such firemen go is not territory with which the township has a contract for interchange of fire equipment or a contract to furnish fire protection to, would the firemen be protected by workmen's compensation?

   A. No. The firemen in such an instance would be outside the scope of their contract of hire and, therefore, are not covered by workmen's compensation.

10. Q. Are members of a private fire company with which the township contracts at the rate of three hundred dollars per year entitled to coverage under the workmen's compensation act?

   A. Yes. O.R.C. 4123.01(B)(2) defines an employer to mean: "Every person, firm, professional employer organization, and private corporation, including any public service corporation, that (a) has in service one or more employees or shared employees regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, or (b) is bound by any such contract of hire or by any other written contract, to pay into the insurance fund the premiums provided by this chapter." All such employers are required to make payments into the fund to provide workmen's compensation benefits.

When Covered

1. Q. If a township fire department is fighting a fire in the township and, because the fire is raging out of control, one of the firemen asks a bystander to assist in the fighting of the fire, would such bystander be covered by workmen's compensation if he were injured?

   A. No. In order for such a person to be covered, he would have to be a lawfully constituted member of the fire department. Any appointment to the fire department should be by resolution duly adopted by the township trustees.

2. Q. The trustees of the township, pursuant to O.R.C. 505.37 have adopted regulations providing for the organization of fire companies by creating the position of fire chief given authority to appoint captains of the various units. Provisions are also made that each captain shall select a group to assist him in the operation of the various units, which men are known as volunteers. Would a volunteer thus appointed be entitled to workmen's compensation in case he was injured while fighting a fire?

   A. Yes. An appointment in accordance with regulations thus adopted would bring such person into the service of the township, and entitle him to coverage in an instance in which he was injured.

XXIV. WORKERS' COMPENSATION (CONTINUED)

Premium Payment
Private Volunteer Fire Company

1. Q. If XYZ township contracts with a private volunteer fire company, paying the volunteer fire company three hundred dollars per year for fire protection, who shall pay the premium in order to provide the members of such fire company with workmen's compensation?

   A. The private volunteer fire company must apply to the bureau of workmen's compensation and pay the premiums since its employees would be within the definition of O.R.C. 4123.01(A)(1)(b). This section defines employee to be: "Every person in the service of any person, firm, or private corporation, including any public service corporation that (i) employs one or more persons regularly in the same business or in or about the same establishment under any contract of hire, express or implied, oral or written, including aliens or minors. ***"

Public Volunteer Fire Company

1. Q. If ABC township contracts with the individual members of a volunteer fire company to have them man the township fire equipment at no salary or a minimum salary, or a regular salary, may the township pay the premium?

   A. Yes. O.R.C. 4123.01(A)(1)(a) provides that "employee" shall mean: "Every person in the service of the state or of any county, municipal corporation, township, or school district therein, including regular members of lawfully constituted police and fire departments of municipal corporations and townships, whether paid or volunteer, and wherever serving within the state or on temporary assignment outside thereof, the executive officers of boards of education, under any appointment or contract of hire, express or implied, oral or written, including any elected official of the state, or of any county, municipal corporation, or township, or members of boards of education."

XXIV. WORKERS' COMPENSATION (CONTINUED)

Premium Payment (Continued)

Public Volunteer Fire Company (Continued)

2. Q. If ACE township contracts with the FGH volunteer fire company to operate township fire equipment and the FGH volunteer fire company has sole authority to appoint the volunteers to man the fire equipment, the township having no authority to appoint or employ the firemen and no control over the performance of their duties, may the township pay the premium for coverage under the workmen's compensation act?

   A. Yes. O.R.C. 4123.03 provides that if a township "employs, enlists, recruits, solicits, or otherwise secures the service of any organizations, association, or group of persons and the members thereof, including volunteer firemen . . . which are not, by reason of such service, employees as defined in division (A)(1) of Section 4123.01 of the Ohio Revised Code, or if . . . any political subdivision thereof desires to secure workmen's compensation in respect of any volunteer firemen . . . in its service in the event of injury, disease or death of such person while engaged in activities called for by his position but not such as would entitle such person to compensation as an employee . . . the political subdivision may contract with the bureau of workers' compensation for coverage of such persons under this chapter, while in the performance of such service."

3. Q. How are payments for premiums made by a township which, pursuant to O.R.C. 4123.03 has entered into a contract with the industrial commission to cover volunteer firemen?

   A. O.R.C. 4123.03 provides that: "Payment of premiums by the state or a political subdivision shall be made in the same manner as is provided with respect to workers' compensation premiums payable by the state or a political subdivision and at the times as provided by the contract."

Fire Department

1. Q. How is the premium which the township is required to pay to cover persons defined as employees by O.R.C. 4123.01 (regular members of lawfully constituted fire departments, whether paid or volunteer, under any appointments or contract of hire, express or implied, oral or written) transmitted to the industrial commission?

   A. O.R.C. 4123.39 provides that the amount of money to be contributed by a township shall be determined by the Administrator of Workers Compensation and that in connection therewith: "The Administrator shall classify counties and other taxing districts into such groups as will equitably determine the contributions in accordance with the relative degree of hazard, and shall also merit rate such individual counties, taxing districts, or groups of taxing districts in accordance with their individual accident experience so as ultimately to provide for each taxing subdivision contributing an amount sufficient to meet its individual obligations and to maintain a solvent public insurance fund."

XXIV. WORKERS' COMPENSATION (CONTINUED)

Premium Payment (Continued)
Fire Department (Continued)

2. Q. How is deduction of the premium made from the township?

A. O.R.C. 4123.41 provides a schedule for payments.

If the policy year commences on or before January 1, 2014, the township fiscal officer, on or before the fifteenth day of May immediately following the conclusion of the policy year, shall pay no less than forty-five percent of the amount due for the policy year; and, on or before the first day of September immediately following the conclusion of the policy year shall pay no less than the total amount due for the policy year.

If the policy year commences January 1, 2015, the township fiscal officer, on or before the fifteenth day of May immediately following the conclusion of the policy year, shall pay no less than fifty percent of the amount due for the policy year; and, on or before the first day of September immediately following the conclusion of the policy year shall pay no less than the total amount due for the policy year.

If the policy year commences January 1, 2016, the township fiscal officer, on or before the fifteenth day of May immediately following the conclusion of the policy year, shall pay no less than fifty percent of the annual premium established by the bureau; and, on or before the first day of September in that policy year, shall pay no less than the total amount of annual premium estimated by the bureau.

For a policy year commencing on or after January 1, 2017, the township fiscal officer shall pay the total amount of annual premium estimated by the bureau on or before the thirty-first day of December immediately preceding the start of the policy year.

O.R.C. 4123.41(F) further states that "for payment of premium and assessments for a policy year prior to the policy year commencing January, 1, 2015, the Administrator shall provide a discount to any county, district, district activity, or institution that pays its total amount due to the public insurance fund on or before the fifteenth day of May of each year as its proper contribution for premiums."

XXV. POLICE AND FIRE PENSION FUND

Eligibility for Membership

1. Q. Who shall contribute to the police and fire pension fund created pursuant to O.R.C. 742.02?

   A. Both the Employer and Employee are required to make contributions to the fund created by O.R.C. 742.02. See O.R.C. 742.31 and 742.34.

2. Q. Who is responsible for seeing that the firemen's salary contributions are paid into the police and fire pension fund?

   A. O.R.C. 742.31 provides that, for salary earned in pay periods beginning not earlier than July 2, 2015, the firemen's twelve and one-quarter salary contribution shall be deducted by the township on each payroll.

3. Q. How much is the township required to pay to the police and fire pension fund created pursuant to O.R.C. 742.02?

   A. A township is required to contribute to the police and fire pension fund if the township has firemen who are covered by the fund. O.R.C. 742.34 provides that each employer shall pay monthly, on such dates as the board of trustees of the Ohio police and fire pension fund requires, from its general fund, or from a levy imposed pursuant to division (I) or (W) of section 5705.19 of the Revised Code, to the fund an amount knows as the “firefighter employers’ contribution,” which shall be twenty-four percent of the salaries as defined in division (L) of section 742.01 of the Revised Code, of the members of the fire department of the employer. O.R.C. 742.34.

4. Q. Is it mandatory for firemen appointed pursuant to O.R.C. 505.38 by a township or fire district which has a fire department to make the twelve and one-quarter percent salary contribution and for the township to pay its employer's contribution to the police and fire pension fund?

   A. Yes. If a township has a fire department and employs firemen as authorized by O.R.C. 505.38, it is mandatory for the firemen to make the twelve and one-quarter percent salary contribution and for the township to pay its employer's contribution to the police and fire pension fund. The board of trustees of the police and fire pension fund is authorized to certify delinquent payments to the county auditor to be withheld from the township from any funds in the hands of the county treasurer for distribution to the township. O.R.C. 742.32 provides as to the firemen's payments that if a township fails to deduct and transmit contributions for any firemen, the board of trustees of the Ohio police and fire pension fund may make a determination of the employee’s liability for contributions and certify to the township the amounts due for collection in the same manner and subject to the same penalties as provided in O.R.C. 742.35 as to the township's late payments.

XXV. POLICE AND FIRE PENSION FUND (CONTINUED)

Eligibility for Membership (Continued)

5. Q. May a township fireman who is contributing to or receiving a retirement or disability benefit from the police and fire pension fund elect to waive such contribution or retirement benefit in favor of membership in the public employees' retirement system?

   A. No. That election was dropped November 21, 1975. However, any person serving as a full time regular member of a township fire department who was serving in that capacity on December 31, 1966, and was a member of the public employees retirement system on that date, and who has continued to serve in the same capacity and continued as a member of the public employees retirement system until filing his election after November 20, 1973, may have elected prior to January 1, 1985, to transfer from the public employees retirement system to the police and fire pension fund.

6. Q. Should persons who are members of a private volunteer fire company with which the township has contracted for fire protection at an annual rate make a 12.25 percent salary contribution to the police and fire pension fund created by O.R.C. 742.02?

   A. No. Only a fireman appointed as provided by O.R.C. 505.38 is eligible to be a member of the police and fire pension fund. However, the private volunteer fire company may make application as permitted in O.R.C. 146.02 to become a member of the volunteer firemen's dependents fund.

7. Q. Are volunteer firemen appointed or employed by the township but who receive no compensation or only nominal compensation, and whose services are utilized only when the fire alarm is raised, eligible to be members of the police and fire pension fund?

   A. No. O.R.C. 146.02 provides that each township or fire district which has a fire department employing volunteer firemen is a member of the volunteer firefighters' dependents fund and shall establish a volunteer firefighters' dependents' fund board.

8. Q. The township has a very small fire department and employs only one fireman full-time. The other firemen are volunteers who come when a fire alarm is raised. Is the full-time fireman eligible for membership in the police and fire pension fund?

   A. Yes. Any firemen employed pursuant to O.R.C. 505.38 become eligible for membership in the police and fire pension fund, irrespective of the number of full-time employees of the fire department.

XXV. POLICE AND FIRE PENSION FUND (CONTINUED)

Eligibility for Membership (Continued)

9. Q. A township owns firefighting equipment and has a fire department that employs a fire chief and an assistant fire chief, each of whom is to work part-time twenty hours per week. The remaining firemen are volunteers who come whenever the alarm is raised. Are the fire chief and the assistant fire chief eligible to make the 12.25 percent salary contribution to obtain membership in the police and fire pension fund?

   A. Probably not. O.R.C. 742.01 provides the requirements which must be met to be considered eligible for membership in the police and fire pension fund. Generally, a fireman must be a full-time employee in order to be a member in the fund; however, there are exceptions provided in O.R.C. 742.01. Additional questions should be directed to Ohio Police and Fire Pension Fund; 140 East Town Street; Columbus, Ohio 43215; (614) 228-2975.

10. Q. On January 1, 1976, the township owning fire equipment and operating a fire department appointed Jack Smith, then thirty-five years of age, to serve as a fireman forty hours each week. Is Jack Smith eligible to make the 12.25 percent salary contributions to obtain membership in the police and fire pension fund?

   A. Yes. A person, no matter what his age, employed on a full time basis pursuant to O.R.C 505.38 by a township or fire district which has a fire department, may be eligible for membership in the police and fire pension fund. See question 9 above for information on who to contact regarding questions.

Pension Rights

1. Q. If a person was receiving a benefit or pension payment from a firemen's relief and pension fund established by the township under former O.R.C. 521.02, what benefit or pension payment is he entitled to receive from the police and fire pension fund upon the transfer of the assets from the firemen's relief and pension fund to the police and fire pension fund?

   A. O.R.C. 742.37(A) provides that persons who were receiving benefit or pension payments from a police relief and pension fund established under former O.R.C. 741.32, or from a firemen’s relief and pension fund established under former O.R.C. 521.02 or 741.02, at the time the assets of the fund were transferred to the police and firemen’s disability and pension fund, shall receive benefit and pension payments from the police and fire pension fund in the same amount and subject to the same conditions as such payments were being made from the former fund on the date of the transfer.

2. Q. In computing years of service in determining the benefits to which a retiring township fireman is entitled as a result of membership in the police and fire pension fund, should a credit be given for the service credit to which he was entitled in the firemen's relief and pension fund established pursuant to former O.R.C. 521.02 or 741.02 on the date the assets of the firemen's relief and pension fund were transferred to the police and fire pension fund, as provided by O.R.C. 742.25?

   A. Yes. See O.R.C. 742.25.

XXV. POLICE AND FIRE PENSION FUND (CONTINUED)

Pension Rights (Continued)

3. Q. May a member of the police and fire pension fund, in computing his years of active service, under O.R.C. 742.37, include service in the fire department as a volunteer or part-time fireman?

   A. Yes. O.R.C. 742.37 does not specify full-time service or active service on full time. The statutes providing for payment of pensions do not limit such payment to those who qualify by reason of years of service as a "member of the fund." Instead, they provide for payment based upon "years of service in the fire department." However, part-time or volunteer service has an effect on the increase in pension called for in O.R.C. 742.37.

4. Q. Would the fact that a person is serving as township trustee or has full-time employment with the township or another political subdivision disqualify him from continuing to receive a pension or disability allowance from the police and fire pension fund?

   A. No. There is no such prohibition contained In O.R.C. Chapter 742.

5. Q. If a member of a township fire department is contributing 12.25 percent of his annual salary to the police and fire pension fund, is he also required to pay into the public employees retirement system?

   A. No. O.R.C. 145.01(A)(1) defines who is a "public employee" for coverage in the public employees retirement system. It does not include a person covered by O.R.C. 742.01.

6. Q. If a member of the township fire department who is contributing 12.25 percent of his annual salary to the police and fire pension fund and in his spare time works for the township as cemetery sexton, should he contribute to the public employees retirement system for the amount of compensation which he receives as a township cemetery employee?

   A. Yes. O.R.C. 145.01(A) and 145.03 require membership in public employees retirement system for the sexton position.

7. Q. Under what circumstances can a fire employee be a member of PERS?

   A. The only eligible fire employees would be any fireman who was eligible to transfer from PERS to the police and firemen's disability and pension fund under O.R.C. 742.51 or 742.515 and elected to remain a member in PERS through written communication with PERS prior to August 3. 1992.

8. Q. The township employs in its cemetery a retired township fireman who is currently receiving a pension from the police and fire pension fund. Shall deductions from such employee be made for the public employees retirement system?

   A. Yes. O.R.C. 145.38.

XXV. POLICE AND FIRE PENSION FUND (CONTINUED)

Public Employees Retirement System

1. Q. Are members of a private volunteer company to which the township pays $550.00 per year for fire protection required to contribute to the public employees retirement system?

   A. No. Such persons would not be considered as holding a non-elective office in the township, or as being employed and paid in whole or in part by the township. They also would be ineligible to contribute to the police and firemen's disability and pension fund, but would be eligible to apply for membership in the volunteer firemen's dependent's fund.

2. Q. Are members of a volunteer fire company appointed or employed to operate township equipment at $5.00 per fire run required to contribute to the public employees retirement system?

   A. No. O.R.C. 145.012(A)(6) excludes firefighters from PERS membership unless they were a member before August 3, 1992 and elected to remain a member.

XXVI VOLUNTEER FIRE FIGHTERS' DEPENDENTS FUND

Who Shall Establish the Fund

1. Q. Is any township required to create a fireman's indemnity fund?

   A. No. Former O.R.C. 521.14 to 521.21, which required the creation of such a fund in any township not having a firemen's relief and pension fund, and which maintained a fire department supported in whole or in part at public expense has been repealed. However, O.R.C. 146.07 provides instead for a volunteer fire fighters' dependents fund.

2. Q. Are the members of a private volunteer fire company covered under the provisions of O.R.C. 146.01, et. seq.?

   A. Yes.

3. Q. What information must a private volunteer fire company, as defined in O.R.C. 146.01(C) furnish to the secretary of the volunteer fire fighters' dependents fund board?

   A. A private volunteer fire company shall provide the secretary of the board of the volunteer fire fighters' dependents fund with a roster of the members of the fire company and shall report any changes to the secretary as they occur. Only the names appearing on the list, and in no event more than an average number of 50 per station are eligible for benefits under O.R.C. 146.01 through 146.19, inclusive. O.R.C. 146.05.

4. Q. Is the secretary of the township's volunteer fire fighters' dependents fund board required to furnish the names of the volunteer firemen appointed or employed to operate township equipment?

   A. No. Such is required only of the private volunteer fire company. Furthermore, all firemen appointed or employed by the township would be covered since there is no 50 member limitation as in the case of a private volunteer fire company.

5. Q. Who shall be a member of the volunteer fire fighters' dependents fund?

   A. O.R.C. 146.07 provides that each political subdivision or fire district which maintains in whole or in part a volunteer fire department or employs volunteer firemen shall be a member of the fund.

6. Q. If "A" township has a contract with "B" township whereby "B" township is to furnish "A" township fire protection for a certain contract price, and volunteer firemen are employed by "B" township to furnish fire protection to "A" township, is "A" township required to become a member of the volunteer fire fighters' dependents fund and pay the premiums required by O.R.C. 146.06?

   A. No. It cannot be said that "A" township in contracting with "B" township is thereby "maintaining" even, in part, the fire department of "B" township in the sense that the word is used in O.R.C. 146.01, et. seq. so as to require "A" township to become a member of and make a contribution to the volunteer fire fighters' dependents fund.

XXVI. VOLUNTEER FIRE FIGHTERS DEPENDENTS FUND (CONTINUED)

When Fire Protection is Joint

1. Q. Where neither township "A" nor township "B" have a fire department, but contract with township "C" and village "X" (located within township "C") who jointly purchase and maintain firefighting equipment housed within village "X" and operated by volunteer firemen from Village "X" and township "C" but appointed by village "X" only, is township "A", "B" and/or "C" required to be a member of the volunteer fire fighters' dependents fund? The firemen above are not members of a private fire company.

   A. No. Neither township "A" or "B" can be required to be members of the volunteer fire fighters' dependents fund. O.R.C. 146.01(D) states, in part, that a "'member of the fund' includes a political subdivision or fire district of this state that maintains in whole or in part a volunteer fire department or employs volunteer firefighters." Township "A" and "B" do not maintain a fire department nor do they employ volunteer firefighters and thus would not qualify as members. Township "C" however, does maintain in part, a volunteer fire department and together with village "X" employs volunteer firemen. Even if Township "C" did not employ volunteer firemen it would still be eligible for membership of the fund as the language of O.R.C. 146.01(D) states that the subdivision must maintain in whole or in part a volunteer fire department or employ volunteer firefighters. If one of the two are met, then the subdivision would be eligible to be included. Therefore, township "C" and village "X" may be members and be required to pay the premium under O.R.C. 146.07 (See 1958 OAG 1696).

2. Q. (a) In the situation outlined above, must both village "X" and township "C" contribute to the volunteer fire fighters' dependents fund since the employees come from both village "X" and township "C"? (b) If both are not required to contribute which is required to contribute?

   A. (a) Village "X' and township "C" are not both required to contribute to the fund. (b) Township "C" is the proper subdivision to contribute. Although the village and the township together employ volunteer firemen, the contribution from the township is most logical since when the township levies for fire protection it levies on all property in the township including the property within village "X."

3 Q. If a village and a township jointly contract to purchase, operate, and maintain fire equipment pursuant to O.R.C. 505.37, which is to be operated by a volunteer fire company, do said subdivisions jointly make contributions to the volunteer fire fighters' dependents fund?

   A. No. Neither the village nor the township maintain in whole or in part a fire department nor do they appoint the volunteer firemen. The volunteer fire company, however, if it wishes to belong to the volunteer fire fighters' dependents fund, would be authorized by O.R.C. 146.07(B), to elect to do so, but the initial premium in such an instance would be paid by the private volunteer fire company. (See 1957 OAG 1238).

Who Are Firemen

1. Q. If the chief of a volunteer fire department should ask assistance from a spectator at a fire to assist in fighting the fire and that person should be injured, would he be entitled to the benefits of the fire fighters' dependents fund if he had not been appointed by the board of trustees?

   A. Yes. O.R.C. 146.01 specifically includes in the definition of "volunteer firemen," firemen drafted, requisitioned, or appointed to serve in an emergency.

XXVI. VOLUNTEER FIRE FIGHTERS' DEPENDENTS FUND (CONTINUED)

Fire Fighters' Dependents Fund Board

1. Q. In which subdivisions shall a volunteer fire fighters' dependents fund board be established?

   A. O.R.C. 146.02 provides that such a board shall be established in each political subdivision or fire district, having a fire department employing volunteer firemen.

2. Q. For what purpose is a volunteer fire fighters' dependents board established?

   A. Such board is established for the administration of the volunteer fire fighters' dependents fund. O.R.C. 146.05.

3. Q. What information is the secretary of the volunteer fire fighters' dependents board required to furnish annually to the State Fire Marshal?

   A. O.R.C. 146.05 requires such secretary to certify to the State Fire Marshal immediately after the holding of the organizational meeting of the volunteer firefighters' dependents' board: (1) the names and addresses of the members elected, (2) by whom elected, (3) the names of the board chairman and secretary, and (4) a certificate or statement by the fiscal officer of the township of the current assessed valuation of such township or fire district.

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SECTION J

PARKS AND RECREATIONAL FACILITIES

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I. PARKS AND RECREATIONAL FACILITIES

Parks and Recreational Purposes

1. Q. What parks may a board of township trustees control and improve?

   A. O.R.C. 511.32 provides that in "any township having within its limits a public park, public square, or grounds devoted to public uses for park purposes and which are not under the control of a board of park commissioners***," the board of township trustees may control and care for such park or grounds.

2. Q. In what ways may a township park which is not under the control of a board of park commissioners be improved by township trustees?

   A. O.R.C. 511.32 enumerates specifically the type of improvements which may be made.

3. Q. May park funds be expended to construct a suitable tower or other structure on park property for the preservation and display of an old church bell or school bell which is an object of community interest because its historical background and associations make it worthy of preservation and display for the edification of the patrons of the park?

   A. Yes.

4. Q. May a speakers' stand or dais be constructed in such a park?

   A. Yes. OAG Op. 20-1647.

5. Q. What are some of the common purposes which would be included among those enumerated under O.R.C. 511.32?

   A. In OAG Op. 20-1647, it was stated that: "'Park purposes' as used in the statute must be construed to mean any ordinary and usual purpose, such as rest and recreation, games and entertainments, and outdoor sports, etc., tending to promote the public welfare, health and enjoyment for which a park is suitable and for which it is usually used and maintained. Thus it may be improved by adding seats, grading a baseball field and providing a back-stop for the same."

6. Q. May the trustees construct a swimming pool in a township park?

   A. Yes. This is now authorized under O.R.C. 755.12 instead of O.R.C. 511.32.

7. Q. May a municipality and a township join in the construction of a swimming pool?

   A. Yes. See O.R.C. 755.16.

8. Q. In providing a park and recreational facilities, is a board of township trustees limited to the types of improvements it may make to those enumerated in O.R.C. 511.32?

   A. No. In addition to the park facilities authorized by O.R.C. 511.32, a board of township trustees may furnish the recreational facilities authorized by O.R.C. 755.12, which provides that a board of township trustees may designate and set apart for use as playgrounds, play fields, gymnasiums, public baths, swimming pools, or indoor recreation centers, any land or buildings owned by such township and not dedicated or devoted to other use, or acquire lands or buildings for such use.

I. PARKS AND RECREATIONAL FACILITIES (CONTINUED)

Authority to Regulate

1. Q. What authority does a board of township trustees have to maintain order in the township park to protect and preserve it?

   A. O.R.C. 511.32 authorizes a board of township trustees to "adopt bylaws, rules, and regulations for the government and control of any such park, square or grounds*** and provide for the enforcement of such rules and regulations by fines and penalties."

Parks Which Trustees May Operate

1. Q. Does a board of township trustees have authority to control, care for, grade and improve existing township parks, or must all township parks be operated by a board of park commissioners?

   A. The trustees may control, improve and maintain in the manner set forth in O.R.C. 511.32 any "public park, public square, or grounds devoted to public uses for park purposes, and which are not under the control of a board of park commissioners," provided the park is within the limits of the township.

Funds

1. Q. What funds may township trustees use for park purposes?

   A. Park expenses are a proper charge to the general fund. Also, taxes may be levied both within and outside the ten mill limitation. There is no limit to the amount of money that may be expended from available township funds. However, O.R.C. 511.33 provides that: "If a sum greater than two thousand dollars is to be expended by the board for park management and improvement purposes in any one year, and the sum is not available from any unappropriated money in the township treasury, the question of levying such additional tax shall, before making a levy which will amount to more than two thousand dollars, be submitted to and approved by a majority of the electors of the township voting on the question." A tax for such purposes may be levied outside the ten mill limitation only pursuant to O.R.C. 5705.19 or 5705.191.

2. Q. The township trustees submitted to the electorate the question of an "additional tax not to exceed five-tenths of a mill for the purpose of the maintenance of Kindling Field, a public park, for a period of five years." May the proceeds of this tax be used to construct a shelter house on the park grounds?

   A. No. Funds which are raised by a special levy requiring an affirmative vote of the electors can be expended only for the purpose stated on the ballot. This tax was levied for the maintenance of the park. The proceeds of a tax levied under O.R.C. 5705.19 may be used for permanent improvements only if the purpose as set forth on the ballot includes the acquisition or construction of a permanent improvement.

I. PARKS AND RECREATIONAL FACILITIES (CONTINUED)

Funds (Continued)

3. Q. The township trustees submitted to the electorate the question of levying "an additional tax not to exceed five-tenths of a mill for recreational purposes for a period of five years." May the proceeds of this tax be used to construct a shelter house as well as to pay the park custodian and other miscellaneous maintenance bills?

   A. Yes. The "single purpose" limitation of O.R.C. 5705.19 requires the levy to be confined to one of the several permissible purposes as outlined therein. A tax levied for recreational purposes may be used for both current operating expenses and permanent improvements of the park since funds raised for "parks and recreational purposes" are for a single purpose and are outside of O.R.C. 5705.19(A) limiting expenditures to current operating expenses and subparagraph (F) limiting expenditures to a permanent improvement specified in the resolution.

Acquiring Park Lands and Recreational Areas

1. Q. May township trustees purchase, appropriate, construct, enlarge, improve, rebuild, repair, furnish and equip a township park?

   A. Yes. These powers of the trustees in relation to parks are set forth in O.R.C. 505.26.

2. Q. How may the township trustees acquire private lands for park purposes?

   A. See O.R.C. 505.261.

3. Q. May trustees acquire lands for park or recreational purposes by way of lease?

   A. Yes. O.R.C. 505.26 authorizes the trustees to acquire sites for a township park "by lease or otherwise...including lands and buildings for recreational purposes."

4. Q. Is a board of township trustees liable for negligence occurring in township parks or recreation areas and, if so, may insurance be purchased to cover such liability?

   A. Yes. With the abolition of sovereign immunity, a township would be liable for damage or injury arising out of a negligent act or omission of the township, officers or employees. Insurance may be procured to protect a township against that liability. See O.R.C. 511.233.

Recreational Activities

1. Q. May a township establish playgrounds and recreation centers?

   A. Yes. O.R.C. 755.12, et. seq. authorizes a board of township trustees to "designate and set apart for use as playgrounds, play fields, gymnasiums, public baths, swimming pools, or indoor recreation centers, any lands or buildings owned by any such...township...and not dedicated or devoted to other public use."

2. Q. Is a stadium for athletic purposes such an object is as mentioned in O.R.C. 755.16?

   A. Yes. The primary intent of the provisions of O.R.C. 755.12, et. seq. is to provide a means to the young people of the township to participate in athletics and wholesome recreation.

I. PARKS AND RECREATIONAL FACILITIES (CONTINUED)

Recreational Activities (Continued)

3. Q. May the township as a part of its recreation program purchase swimming tickets from the owners of a privately owned swimming pool to be distributed free to the children of the township?

   A. No. Although a township has authority to acquire lands and construct buildings and other necessary improvements so as to provide playgrounds, swimming pools and other recreational centers, nowhere is the township given authority, in any way to subsidize private recreational centers or swimming pools.

4. Q. May the board of township trustees supervise and maintain the recreation center, or must a recreation board be created?

   A. The board of township trustees may exercise such authority themselves, or, in the alternative the township trustees may create a recreation board. See O.R.C. 755.13.

5. Q. Who shall appoint the director of the recreation board?

   A. O.R.C. 755.13 provides that the board of township trustees may "employ play leaders, recreation directors, supervisors, superintendents, or any other officers of employees."

6. Q. If the trustees appoint a recreation board, what authority does the board have?

   A. The board shall have the authority to supervise and maintain parks, playgrounds, play fields, gymnasiums, public baths, swimming pools or indoor recreation centers.

7. Q. Would such a recreation board have authority to acquire recreational facilities, including equipment, and to employ supervisory personnel?

   A. Yes, the recreation board does have the authority to acquire facilities and employ supervisory personnel. See OAG Op. 66-062.

8. Q. How many members should be appointed to any recreation board?

   A. O.R.C. 755.14 authorizes the appointment of a board, which “shall consist of five persons, two of whom shall be members of the board of education of the city or village school district or shall be appointed by that board of education. The other members of the recreation board shall be appointed by the mayor or manager as executive of such municipal corporation with the consent of its council. The members who are board of education members and members appointed by a board of education shall be residents of the school district making the appointment but need not be residents of the municipal corporation. All other members of the board shall be residents of the municipal corporation. All members of the board shall serve for terms of five years, except that the members first appointed shall be appointed for such terms that the term of one member shall expire annually thereafter.”

9. Q. May the recreation board appoint or fix the compensation of the employees utilized in a recreation program?

   A. The board has the authority to appoint employees, however the authority to fix the compensation of such employess resides with the township trustees. See OAG Op. 66-062.

10. Q. May a township lease a site to be used for recreational purposes?

    A. Yes. O.R.C. 505.26 authorizes the trustees to "acquire sites by lease or otherwise... including lands and buildings for recreational purposes.”

I. PARKS AND RECREATIONAL FACILITIES (CONTINUED)

Recreational Activities (Continued)

11. Q. How shall the expenses of the operation of the recreational facility be met?

A. Such expenses are payable from the general fund or a tax may be levied either inside or outside the ten-mill limitation specifically for recreation purposes.

Cooperating with Other Authorities

1. Q. Under authority of O.R.C. 755.16 may a township join with another township, county, or municipal corporation in the acquisition or maintenance of playground or recreation facilities?

A. Yes. This may be in the form of joint action with said subdivisions, or in the formation of a joint recreation district, which is governed by a board of trustees vested with the powers of the legislative authority of a subdivision under O.R.C. 755.14 - 755.18.

2. Q. May a board of township trustees make contributions of moneys, supplies, equipment, office facilities, and other personal property or services to a board of park commissioners established pursuant to O.R.C. Chapter 1545?

A. Yes. See O.R.C. 511.37.

Fees

1. Q. Is it permissible for the board of park commissioners of a township park district to charge fees for the use of the park?

A. The board may do either of the following:

(1) Establish and charge fees for the use of any facilities and services of the park or parks regardless of whether the park or parks were acquired before, on, or after September 21, 2000;

(2) Enter into a lease agreement with an individual or organization that provides for the exclusive use of a specified portion of the park or parks within the township park district by that individual or organization for the duration of an event produced by the individual or organization. The board, for the specific portion of the park or parks covered by the lease agreement, may charge a fee to, or permit the individual or organization to charge a fee to, participants in and spectators at the event covered by the agreement. See ORC 511.23(G).

II. PARK DISTRICT

Acquisition of Lands

1. Q. Upon what terms may park lands be acquired by the park commissioners of a township park district established pursuant to O.R.C. 511.18, et. seq.?

   A. O.R.C. 511.23 provides that lands may be purchased "for cash, by purchase by installment payments with or without a mortgage, by lease or lease-purchase agreements, or by lease with option to purchase, may acquire suitable lands through an exchange under section 511.241 of the Revised Code, or may appropriate suitable lands and materials for park district purposes."

2. Q. May the commissioners of a park district establish more than one free public park within the township?

   A. Yes. O.R.C. 511.18 specifically authorizes such.

3. Q. If all or a part of the area of a township in which is located a township park district is annexed to a municipality, or becomes incorporated, what effect does this have on the taxes levied or to be levied for such a park district?

   A. Such annexation or incorporation has no effect on the millage which may be claimed by the township board of park commissioners.

4. Q. May the commissioners of a township park district contract to receive a grant from the United States of America?

   A. Yes. O.R.C. 511.23 provides that: "The board may receive and expend grants for park purposes from agencies and instrumentalities of the United States and this state, and may enter into contracts or agreements with those agencies and instrumentalities to carry out the purposes for which the grants were furnished."

Funds

1. Q. If there is no available millage within the ten-mill limitation, may the park commissioners levy a tax without a vote of the people?

   A. No. Such would be unconstitutional and void.

2. Q. Do township trustees have authority to appropriate or transfer township funds whether from a township park levy or otherwise, for the purpose of maintaining public parks under the control of the park commissioners of a township park district created under the provisions of O.R.C. 511.18, et. seq.?

   A. No. As provided in O.R.C. 511.32 township funds may be used for park purposes only when there is a public park "not under the control of a board of park commissioners."

II. PARK DISTRICT (CONTINUED)

Authorized Expenditures

1. Q. May a park district be required to pay special assessments for improvements made by other political subdivisions on such park lands?

   A. Yes.

2. Q. Does the prosecuting attorney have a statutory duty to provide legal counsel for a township board of park commissioners?

   A. No. After an election in which the vote is in favor of establishing a free public park, the township park district becomes a body politic and corporate separate and apart from the township. The park commissioners are thus not township officers within the meaning of O.R.C. 309.09. See OAG Op. 64-1297.

3. Q. May the township park commissioners employ legal counsel necessary to assist them in carrying out their statutory duties?

   A. Yes. The boards are bodies politic and corporate with power to employ the officers and employees necessary to carry out their statutory duties.

4. Q. Are there any restrictions on the terms of employment of legal counsel?

   A. No. The terms of employment by the board of park commissioners would be a question to be determined by the board in the exercise of its sound discretion.

5. Q. May the park commissioners adopt a plan providing for payment of salaries to employees for a reasonable period of absence occasioned by illness?

   A. Yes.

6. Q. May township park employees receive paid vacations?

   A. Yes.

Sale or Lease of Park Lands

1. Q. Must the park commissioners submit to the electorate the question of the sale of park land, if the board wishes to transfer that portion of their park lands necessary for the right of way to the state of Ohio for highway purposes?

   A. No. O.R.C. 511.25 provides the procedure for sale, in part, "no lands shall be sold without first giving notice of the board's intention to sell the lands by publication once a week for four consecutive weeks in a newspaper of general circulation in the township or as provided in section 7.16 of the Revised Code. The notice shall contain an accurate description of the lands being offered for sale and shall state the time and place at which sealed bids for the lands will be received. If the board rejects all of the purchase bids, it may reoffer the lands for sale in accordance with this section.

   "The board also may sell park lands not necessary for district purposes to another political subdivision, the state, or the federal government without giving the notices or taking bids as otherwise required by this section."

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SECTION K

PARTITION FENCES

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I. PROCEDURE

1. Q. What is the duty of the trustees in regard to partition fences?

   A. Upon the complaint of a landowner that the adjoining landowner has failed to build or repair a partition fence he is required to build or maintain, the trustees shall give notice to all adjoining landowners of a time and place at which a meeting thereon shall be held. The notice must be written, and must be given no less than ten days before the date of the meeting. At the meeting, the board shall view the fence or premises where the fence is to be built and at that time make an assignment in writing to each person of the portion to be constructed or kept in repair by him. See O.R.C. 971.09.

2. Q. Who is an "adjoining landowner?"

   A. The phrase "adjoining landowner" as used in O.R.C. 971.09(B), includes owners whose land touches property at a partition fence or division line that is the subject of a complaint filed under O.R.C. 971.09 (A)(1)(b) or whose land touches the property upon which the partition fence or division line is located. When a state road touches property at a partition fence or division line that is the subject of a complaint filed under O.R.C. 971.09(A)(1)(b) or touches property upon which the partition fence or division line is located, the State of Ohio, in its capacity as the Department of Natural Resources, is an "adjoining owner" as that term is used in O.R.C. 971.09(B), if the Department of Natural Resources owns, leases, manages, or otherwise controls the land on which the state road is located and the land that abuts the road is used to graze livestock. When a county or township road touches property at a partition fence or division line that is the subject of a complaint filed under O.R.C. 9701(A)(1)(b), or touches property upon which the partition fence or division line is located, a county or township with a real property interest in recreational trails is an "adjoining owner" for purposes of O.R.C. 971.09(B) if the county or township owns, leases, manages, or otherwise controls the land on which the county or township road is located and the land that abuts the road is used to graze livestock. See OAG Op. 2016-001.

3. Q. When do the trustees have the authority to construct the partition fence?

   A. After an assignment has been made, if either person fails to build his assigned portion and the aggrieved person complains to the township trustees, the trustees shall advertise for bids on the construction of the fence by posting notices in three public places in the township. The notices must be posted for two weeks and the contract shall be let to the lowest responsible bidder agreeing to furnish the labor and material, and to build the fence according to the specifications proposed by the board. The trustees have authority to construct the fence themselves only if no bids from responsible bidders are received. See O.R.C. 971.12.

4. Q. If the fence is constructed under authority of the township trustees, how shall the costs be paid?

   A. The trustees shall certify the costs to the fiscal officer and, if the fiscal officer is unable to collect such costs from the landowner within thirty days, the fiscal officer shall certify the costs to the county auditor to have such assessed against the landowner, and collected. See O.R.C. 971.13

I. PROCEDURE (CONTINUED)

5. Q. If a landowner destroys an existing partition fence and constructs a new partition fence without following the procedures of O.R.C. 971.02 and 971.04, how do the township trustees determine costs assigned to abutting landowners?

   A. If a landowner destroys an existing partition fence and constructs a new partition fence without following the procedures of O.R.C. 971.02 and 971.04, the board of township trustees may assign portions of the fence in accordance with O.R.C. 971.04 and adjudge the value of the portion assigned to the adjoining landowner in accordance with O.R.C. 971.11. The value of the previously existing fence may be considered in determining the amount by which the value of the land after the construction of the new fence exceeds the value of the land before the construction of the new fence. See OAG Op. 2002-018.

6. Q. If a dispute exists between owners over the proper location of an existing partition fence, may a board of township trustees settle the dispute?

   A. No. A board of trustees has no authority of settle a dispute between adjoining owners regarding the proper location of an existing partition fence. See OAG Op. 2016-001.

7. Q. If a survey establishes that an existing partition fence is not located on the division line between the adjoining properties of two owners, may a board of township trustees require the adjoining owners to maintain the fence at its current location?

   A. A board of township trustees may order the maintenance of a partition fence that has been considered a division line between two properties even though a survey establishes that the partition fence is not located on the division line. See OAG Op. 2016-001.

8. Q. If, in settling a dispute over the proper location of a partition fence that existed between the adjoining properties of two owners on or before September 30, 2008, a court orders that the existing fence be relocated, is a partition fence considered to have existed between the adjoining properties prior to its relocation?

   A. When a court orders the relocation of a partition fence that has existed between the adjoining properties of two owners on or before September 30, 2008, relocation of the partition fence does not change the fact that a partition fence existed between the owners' adjoining properties on or before September 30, 2008, provided that the fence has been considered a division line between the adjoining properties of the two owners prior to its relocation. See OAG Op. 2016-001.

9. Q. How does a court's order to relocate an existing partition fence affect a previous assignment by a board of township trustees pursuant to O.R.C. 971.09(D)-(F)?

   A. A court decision that orders owners to relocate an existing partition fence does not affect a previous determination and assignment by a board of township trustees under O.R.C. 971.09 for the repair or maintenance of the fence. A determination and assignment by a board of township trustees under O.R.C. 971.09 is a final order that may only be challenged or revisited through arbitration pursuant to the procedures available in O.R.C. 971.09(G) or through administrative appeal pursuant to the procedures set forth in O.R.C. Chapter 2506. See OAG Op. 2016-001.

I. PROCEDURE (CONTINUED)

10. Q. May a board of township trustees consider the cost of constructing or maintaining specific portions of a partition fence when assigning the construction or maintenance of those portions of the fence to each owner under O.R.C. 971.09(D)(2)?

A. A board of township trustees may consider costs in assigning the construction or maintenance of specific portions of a partition fence to each owner under O.R.C. 971.09(D)(2) so long as the board also considers the factors listed in O.R.C. 971.09(E)(1)-(6). See OAG Op. 2016-001.

11 Q. May a board of township trustees consult with a contractor to obtain an estimate of the total cost of building or maintaining a partition fence and then assign a portion of that cost to each owner pursuant to O.R.C. 971.09(D)(2)?

A. A board of township trustees may not consult a contractor to obtain an estimate of the costs of constructing or maintaining a partition fence for the purpose of assigning a portion of those costs to each owner under O.R.C. 971.09(D)(2). See OAG Op. 2016-001.

12 Q. When considering a partition fence constructed under O.R.C Chapter 971, may a water gate be installed as part of the partition fence?

A. A board of township trustees may not require owners to install a water gate as part of a partition fence. O.R.C. 971 does not require nor permit owners to install a water gate as part of a partition fence. See OAG Op. 2016-001.

II. COMPENSATION OF TOWNSHIP OFFICIALS

1. Q. What amount are township trustees permitted to charge for the duties they perform in partition fence proceedings?

   A. O.R.C. 505.24 governs the compensation for township trustees and has been amended. There is no trustee pay for work on partition fence proceedings.

2. Q. What is the compensation to which a fiscal officer is entitled for his services performed in relation to partition fences?

   A. O.R.C. 507.09 governs the compensation of a township fiscal officer and has been amended. There is no fiscal officer pay for work on partition fences.

III. BRUSH

1. Q. May the township trustees force cutting of brush and trees four feet back from a line fence?

   A. Yes. O.R.C. 971.34 sets forth the procedure to be followed if the owner or tenant occupying land either neglects or refuses to cut brush, briars, thistles or other noxious weeds as required by O.R.C. 971.33. This section authorizes an owner or occupant of land on the line or partition fence to give notice of not less than ten days to the owner or tenant to cut or remove the brush, briars, thistles, or noxious weeds. If such owner or tenant refuses or neglects to do so, the person giving notice may notify the board of township trustees of this fact. The trustees then have the duty to "forthwith view the premises and if satisfied that there is just cause of complaint" to "cause them to be out, by letting the work to the lowest bidder, or by entering into a private contract therefor." Provision is made in O.R.C. 971.35 for certifying the cost of removal to the county auditor and collecting the amount upon the tax duplicate as other taxes are collected. See also O.R.C. 971.36.

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SECTION L

POLICE PROTECTION

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I. TOWNSHIP POLICE DISTRICTS

Police Districts

1. Q. May the township trustees create a township police district in all or any part of the unincorporated territory of the township?

   A. Yes. The board of township trustees is authorized by O.R.C. 505.48, by a two-thirds resolution, to create such a district. If the township police district does not include all of the unincorporated territory of the township, the resolution creating the district shall contain a complete and accurate description of the territory of the district and a separate and distinct name for the district.

2. Q. If a municipality or part of a municipality is located within the township, may this incorporated area be included within the township police district?

   A. No. O.R.C. 505.48 limits the police district to all or a portion of the unincorporated territory of the township.

3. Q. If a police district only serves a portion of the township, may the board of township trustees expand the district's territory at a later date?

   A. Yes. Townships may expand the territorial limits of a police district any time not less than one hundred twenty days after a township police district is created and operative, in the manner provided in division (B) of O.R.C 505.48 or, if applicable, as provided in section 505.481 of the Revised Code. If the township police district imposes a tax, any territory proposed for addition to the district shall become part of the district only after all of the following have occurred:(1) Adoption by two-thirds vote of the board of township trustees of a resolution approving the expansion of the territorial limits of the district; (2) Adoption by a two-thirds vote of the board of township trustees of a resolution recommending the extension of the tax to the additional territory; and (3) Approval of the tax by the electors of the territory proposed for addition to the district.

4. Q. May township constables be included as a part of the township police force?

   A. Yes. O.R.C. 505.49(B)(2) provides that: "The township trustees ***may*** include in the township police district and under the direction and control of the chief of police, any constable appointed pursuant to O.R.C. 509.01, or designate the chief of police or any patrolman appointed by him as a constable, as provided for in O.R.C. 509.01, for the township police district." Townships are not explicitly required by statute to include constables in the township police district." See OAG Op. 2003-007.

5. Q. Do members of the township district police force have enforcement powers in addition to those given all township constables under O.R.C. 509.01?

   A. No.

6. Q. Do members of a township district police have authority to make arrests for violations enumerated in O.R.C. 4513.39 on state highways within the township, outside municipalities?

   A. Yes. O.R.C. 4513.39 limits the power of arrest on all state highways for violation of the statutes enumerated in that section to state highway patrol and sheriffs or their deputies, and township policemen and constables who have received a certificate from the Ohio Peace Officer Training Council pursuant to O.R.C. 109.75. Such a police officer can arrest on state highways in the district, except interstates. The constable can arrest on state highways, except interstates in the unincorporated area of the township.

I. TOWNSHIP POLICE DISTRICTS (Continued)

Police Districts (Continued)

7. Q. O.R.C. 109.761 requires reporting of information of police officers and constables to the Ohio peace officer training commission. If a police officer of a civil service township is appointed as a police constable as well, who has the duty of reporting?

   A. When the board of township trustees of a civil service township that has created a police district designates a police officer of the district as a police constable, both the board of township trustees and the district's chief of police are required to comply with the annual reporting provisions of O.R.C. 109.761(B). See OAG Op. 2003-007.

Joint Police Districts

1. Q. Can a township police district merge with other townships?

   A. Yes, the boards of township trustees of any two or more contiguous townships, whether or not within the same county, may, by a two-thirds favorable vote of each such board, form themselves into a joint township police district board, and such townships shall be a part of a joint township police district. In the formation of such a police district, such action may be taken by or on behalf of part of a township, by excluding that portion of the township lying within a municipal corporation. The joint township police district board may exercise the same powers as are granted to a board of township trustees in the operation of a township police district under sections 505.49 to 505.55 of the Revised Code, including, but not limited to, the power to employ, train, and discipline personnel, to acquire equipment and buildings, to levy a tax, to issue bonds and notes, and to dissolve the district. See O.R.C. 505.482.

2. Q. Can another township or a municipality located within the joint police district join the district?

   A. Yes, a township or municipal corporation, or parts thereof, may join an existing joint police district by the adoption of a resolution by the township or of an ordinance by the municipal corporation requesting participation in the district and upon approval of the existing joint police district board. See O.R.C. 505.483.

3. Q. Are there bonding requirements for members of the board of a joint police district?

   A. The treasurer of the joint police district board, before entering upon the duties of that office, shall execute a bond payable to the state, in the amount and with surety to be approved by the joint police district board, conditioned for the faithful performance of all the official duties required by the treasurer. The bond shall be deposited with the president of the joint police district board, and a copy thereof, certified by the president, shall be filed with the county auditor. See O.R.C. 505.484.

4. Q. How are the rules of operation determined for a joint police district?

   A. O.R.C. 505.49 through 505.495 discuss the authority of the board of a joint police district as it pertains to the operation, appointment, qualifications, and discipline of personnel employed by a joint police district.

II. CONTRACTS FOR POLICE PROTECTION

O.R.C. 505.43 Contract With Township, Municipality or Sheriff

1. Q. May the proceeds of a levy for police protection, pursuant to O.R.C. 5705.19, be used to contract for police protection?

   A. Yes.

2. Q. With whom may a township contract for police protection under the provisions of O.R.C. 505.43?

   A. A township may contract with one or more townships, municipal corporations, park districts created pursuant to section 511.18 or 1545.01 of the Revised Code, county sheriffs, joint police districts, or with a governmental entity of an adjoining state upon any terms that are agreed to by them for police protection.

3. Q. What shall the terms of the contract be?

   A. The terms may be such as are agreed to by the contracting parties and may provide for the services of police departments or use of police equipment, or the interchange of the services of police departments, or use of police equipment with the several territories of the contracting subdivisions, if such is first authorized by the respective boards of township trustees or other legislative bodies.

4. Q. Is there any limit to the number of years for which the contract shall run?

   A. No.

5. Q. May several townships join together in the purchase and maintenance of communication systems to be used in connection with the constable or police department system of the township?

   A. O.R.C. 505.43 authorized a township to enter into a contract with one or more townships, municipal corporations, joint police districts or county sheriffs for services of police departments, and use of police equipment within the contracting territories. It does not authorize the joint purchase of equipment. However, maintenance may be negotiated as an aspect of the use of police equipment. In addition, O.R.C. 505.50 provides authority for the board of trustees of two or more contiguous townships to jointly purchase, lease, or lease with an option to purchase police equipment, by joint agreement, for any other police purpose designated by O.R.C. 505.48 to 505.55.

6. Q. If the township contracts with the sheriff for police protection, must the county commissioners approve the contract?

   A. No. Decided under former O.R.C. 505.441 (now 505.43), 1960 OAG 1309, holds that approval of the County Commissioners is not necessary.

II. CONTRACTS FOR POLICE PROTECTION (CONTINUED)

O.R.C. 505.43 Contract With Township, Municipality or Sheriff (Continued)

7. Q. Is a township required to establish a constable's relief and pension fund if the township has two full-time constables?

   A. The statutes nowhere require that a constables' relief and pension fund or any other similar type of fund be established for the benefit of township constables. However, members of a municipal police department serving a township pursuant to a contract between the township and a municipal police department may participate in any pension and indemnity fund established by the municipality to the same extent as while acting within the municipality and are entitled to all the rights and benefits of O.R.C. 4123.01 to 4123.91, inclusive, to the same extent as while performing services within the subdivision. Any such municipal police department members have the same protection against liability while serving outside the municipality within the contracting township as they have while serving within their employing municipality.

8. Q. May a township provide police protection outside the township without a contract?

   A. Yes. O.R.C. 505.431 provides that a township may provide police protection to any county, municipal corporation, or township of this state, or to a governmental entity of an adjoining state without a contract to provide police protection, upon approval, by resolution, of the board of township trustees of the township in which the department is located and upon authorization by an officer or employee of the police department who is designated by title of office or position, pursuant to the resolution of the board of township trustees, to give such authorization.

O.R.C. 311.29 Contract with Sheriff

1. Q. May the township trustees enter into a contract with the sheriff, whereby the sheriff undertakes and is authorized to perform any police function, exercise any police power, or render any police service on behalf of the township which the township may perform, exercise or render?

   A. Yes. See also O.R.C. 505.43.

2. Q. What powers do the deputies assigned to the township have?

   A. O.R.C. 311.29 provides that "All such deputies shall have the same powers and duties, the same qualifications, and be appointed and paid and receive the same benefits and provisions and be governed by the same laws and regulations as all other deputy sheriffs."

3. Q. How many deputies shall the sheriff assign to the township?

   A. The number of additional deputies to be assigned for the township should be agreed upon in the contract. To the extent provided in the contract as emergencies indicate a need for shifting assignments, the sheriff may increase or decrease the deputies assigned. Such contract shall provide for the ascertainment of such costs***and may contain such other terms as may be agreed upon.

II. CONTRACTS FOR POLICE PROTECTION (CONTINUED)

Police District Contracts

1. Q. May a township which has established a police district in the manner authorized by O.R.C. 505.48 by joint agreement unite with one or more contiguous townships in the joint purchase, maintenance, use and operation of police equipment for the police district?

   A. Yes. See O.R.C. 505.50.

2. Q. May a township which has established a police district in the manner authorized by O.R.C. 505.48 enter into a contract with one or more townships, a municipal corporation, or the county sheriff upon such terms as are mutually agreed upon for the provision of additional police protection services either on a regular basis or for additional protection in times of emergency, subject to agreement in each instance by the respective board or boards of township trustees and by the legislative authority of the municipal corporation involved?

   A. Yes. See O.R.C. 505.50.

3. Q. May a township police district obtain all township police protection through contracts with another political subdivision?

   A. No. O.R.C. 505.49 requires provision of basic police protection to a township police district via the employment of a chief of police, necessary patrolmen and acquisition of police equipment. Although O.R.C. 505.50 authorizes contracts with other political subdivisions for additional police protection, it does not authorize a contract by which all police protection for a township police district is obtained. See OAG Op. 76-027.

4. Q. May the board of trustees of a township police district or joint police district issue notes for the purpose of buying police equipment, or a building or site to house police equipment?

   A. Yes. The board of trustees of a township police district or joint police district may issue notes for a period not to exceed three years, and only for the purpose of buying police equipment or a building or site to house police equipment. The notes shall not bear an interest rate greater than the rate determined as provided in O.R.C. 9.95, but are not subject to O.R.C. Chapter 133. They shall be offered for sale on the open market or given to a vendor if no sale is made. Further, one third of the purchase price shall be paid at the time of the purchase, and the remainder shall be covered by notes maturing in two and three years respectively. See O.R.C. 505.53.

Compensation

1. Q. Out of what fund are constables in a township not having a township police district to be paid?

   A. Police constables are to be paid out of the general fund of the township, unless a special tax has been levied for police protection.

2. Q. What is the compensation to which a police constable in a township not having a township police district is entitled?

   A. Such a police constable shall receive such compensation as the board by resolution prescribes for the time actually spent in keeping the peace, protecting property and performing duties as a police constable.

II. CONTRACTS FOR POLICE PROTECTION (CONTINUED)

Compensation (Continued)

3. Q. What is the compensation to which a police constable in a township having a police district is entitled?

   A. O.R.C. 505.49 would require the board of township trustees to establish salary schedules for the members of the district police force.

4. Q. Is the constable of the township or member of the township district police force entitled to keep the fees he receives pursuant to O.R.C. 509.15 for the services enumerated therein in addition to compensation allowed by law for services rendered as a police constable?

   A. No. A constable is not entitled to retain such fees, but is required instead to pay all such fees into the general fund of the township.

5. Q. May the compensation of a constable of the township or member of the township district be paid out of the gasoline tax fund?

   A. No. Compensation of township constables should not be paid out of the gasoline tax fund or any other road fund, in spite of the fact that major portions of the constable's time may be spent patrolling township roads. The authority given the board of county commissioners to appropriate annually from the road fund of the county such amount of money as is necessary to equip and compensate one or more deputies for the work of enforcing O.R.C. 5577.01 to 5577.14, inclusive, may not be interpreted to authorize the payment to township constables from any road fund.

Uniforms and Equipment

1. Q. May the township provide police constables or members of a township police district with automobiles, communication systems, uniforms and other equipment?

   A. Yes. O.R.C. 505.50 as to police district members and O.R.C. 509.01 as to other constables authorize such purchases.

2. Q. Is the uniform of a township constable or member of township police district required to be of any standard design or color?

   A. Sheriffs are required by law to wear a uniform of standard design and color. However, no similar provisions of law require that the uniforms of all township constables throughout the state of Ohio be of any standard design or color. The board of township trustees may, therefore, specify the type of uniform that either type of constable shall wear. However, a constable would be considered a police officer within the meaning of O.R.C. 4549.15, which requires officers on duty, for the main purpose of enforcing motor vehicle or traffic laws of this state to wear distinctive uniforms, and unless the uniform and design on motor vehicles used by either such township police constable are approved by the superintendent of the state highway patrol, both such police constables would be incompetent to testify in a prosecution against a person charged with a violation of the motor vehicle traffic laws.

II. CONTRACTS FOR POLICE PROTECTION (CONTINUED)

Uniforms and Equipment (Continued)

3. Q. May the township trustees use the description "township police" on motor vehicles and uniforms of township constables or members of township police district?

   A. Yes. However, if such constable is on duty for the main or exclusive purpose of enforcing the motor vehicle or traffic laws in the state of Ohio, the township trustees should obtain the approval of such description from the superintendent of the state highway patrol.

4. Q. Is a township permitted to spend township funds for the purchase of badges used by a township police district?

   A. Yes. O.R.C. 509.01 and 505.50 authorize the board of township trustees to provide such constables with uniforms, a badge might very well be considered a part of the uniform that could be furnished a constable.

5. Q. May a police cruiser be purchased for a constable of the township or police district without advertising for bids?

   A. Yes. O.R.C. 505.08 permits the board of trustees to spend up to $50,000 without competitive bid, if an emergency has been declared.

6. Q. Does the board of township trustees have the authority to enter into an agreement with a private company that would provide a motor vehicle displaying corporate advertising for use by township police for a nominal fee?

   A. A board of township trustees may enter into a contract to acquire, for the use of the township's law enforcement agency, vehicles displaying the designs, decals, and themes of corporate advertisers, although the board may not agree to terms that violate constitutional or statutory limitations. See OAG Op. 2003-035.

7. Q. In a township which has not established a township police district, is a board of township trustees authorized to purchase police equipment, buildings or sites and pay one-third of the purchase price at the time of purchase and cover the remainder of the purchase price by notes maturing in two and three years respectively?

   A. No. The authority to purchase police equipment, a building or site on the installment plan, as authorized by O.R.C. 505.53 is limited to a township police district.

8. Q. In a township which has not established a township police district, is a board of township trustees authorized by joint agreement to unite with another township in the joint purchase of police equipment?

   A. No. O.R.C. 505.43 authorizes a board of township trustees to enter into a contract with one or more townships, municipal corporations, joint police districts, or county sheriffs, for services of police departments use of police equipment, or the interchange of services of police department or use of police equipment. The section does not authorize the board of township trustees to enter into a joint purchase of equipment. In a township which has established a police district pursuant to O.R.C. 505.48, the board of township trustees is authorized to purchase police equipment, etc., by joint agreement between two or more contiguous townships also having established police district(s), and to prorate the expense of such joint action on such terms mutually agreed upon by the trustees in the affected townships. See O.R.C. 505.50.

III. DISCHARGING A TOWNSHIP OR POLICE DISTRICT CONSTABLE

1. Q. Do township police constables and police constables appointed to serve in a township police district serve at the pleasure of the board of township trustees?

   A. No. Effective November 24, 1967, O.R.C. 505.49 and 509.01 were amended and O.R.C. 505.491 and 505.495 were enacted to provide tenure for township police officers. Such police and constables may be removed or suspended only pursuant to O.R.C. 505.491 through 505.495.

2. Q. Does the township police chief or township district police chief serve at the pleasure of the township trustees?

   A. Yes. See O.R.C. 505.49.

3. Q. How are township police constables classified for purpose of tenure?

   A. The constables are divided into three different groups, each subject to different removal procedures. These are (1) Those constables who have not been awarded a certificate attesting to the satisfactory completion of an approved state, county, or municipal police basic training course, as required by O.R.C. 109.77, serve at the pleasure of the board of township trustees; (2) Those constables who have the required certificate may be removed only as provided in O.R.C. 505.491 to 505.495. Permissible grounds include bribery, misfeasance, malfeasance, nonfeasance, misconduct in office, neglect of duty, gross immorality, habitual drunkenness, incompetence, or failure to obey orders given by the proper authority. (3) The last group consists of township constables protected by the civil service provisions of O.R.C. Chapter 124, if a township has a population of ten thousand persons or more outside of a municipal corporation, its own police department with ten or more members, and civil service commission established under O.R.C. 124.40, it must comply with the procedures for the employment, promotion and discharge of police under O.R.C. Chapter 124. This does not apply, however, to police constables appointed under O.R.C. 509.01.

IV. POWERS AND DUTIES

1. Q. Do constables of a township or township police district have authority to make arrests on state highways outside the limits of municipalities for violations of the statutes enumerated in O.R.C. 4513.39?

   A. Yes. A member of the police force of a township police district under O.R.C. 505.48, and a township constable appointed pursuant to O.R.C. 509.01, who has received a certificate under O.R.C. 109.75, may make arrests for the violations enumerated in O.R.C. 4513.39(A), on those portions of all state highways, except those highways included as part of the interstate system as defined in O.R.C. 5516.01, which are located within the township police district, in the case of a township constable.

2. Q. May township constables make arrests on state highways outside municipalities for violation of a speed regulation as provided for in O.R.C. 4511.21?

   A. Township constables, whether members of a police district or township police department, may make arrests for violations of O.R.C. 4511.21, as authorized by O.R.C. 4513.39(B). See question above.

3. Q. What is the scope of a township constable's authority?

   A. O.R.C. 509.10 provides that, "Each constable shall apprehend on view or warrant, and bring to justice, all felons, disturbers, and violators of the criminal laws of this state, and shall suppress all riots, affrays, and unlawful assemblies which come to his knowledge, and shall generally keep the peace in his township." In addition, a township constable has authority to arrest for violations enumerated in O.R.C. 4513.39(A), as authorized in O.R.C. 4513.39(B).

4. Q. When may a township constable carry a firearm?

   A. Ohio's Concealed Carry Law permits peace officers to carry a concealed handgun while on or off duty without obtaining a license, subject to certain limitations on where the concealed handgun may be carried. For further information see O.R.C. 2923.12, OAG Op. 2004-028 and Ohio's Attorney General's website: http://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Law-Enforcement/Concealed-Carry-Publications/Concealed-Carry-Laws-Manual-(PDF)

5. Q. Does a township constable have authority to file a criminal affidavit in a county court against an owner of or persons having charge of animals such as horses, mules, sheep or goats, which are running at large in violation of O.R.C. 951.02, charging a misdemeanor for violation of O.R.C. 951.02?

   A. Yes. A violation of O.R.C. 951.02 is a criminal offense, punished as a fourth degree misdemeanor. See O.R.C. 951.99 and 509.05.

6. Q. May a constable arrest on view an owner or person having charge of a dog, charging a misdemeanor of the violation of O.R.C. 955.22 which relates to confinement of dangerous or vicious dogs?

   A. Yes. Violation of O.R.C. 955.22 is a criminal offense, punished as a minor misdemeanor. See O.R.C. 951.99

7. Q. May a volunteer fireman be appointed as a constable for control of traffic in a near fire?

   A. Yes. There is no incompatibility between the positions of police constable and volunteer fireman appointed for the special duty of policing traffic. In such a situation, the individual may serve as such constable with or without compensation, as the township trustees deem appropriate.

IV. POWERS AND DUTIES (CONTINUED)

8. Q. May a constable remove a vehicle which the constable finds parked illegally on a highway in violation of O.R.C. 4511.66?

   A. Yes. The constable may remove the vehicle pursuant to the authority conveyed in O.R.C. 4513.39(B) by following the procedure set forth in O.R.C. 4511.67.

9. Q. May a constable, upon complaint of a person upon whose land a tractor-trailer or other vehicle is parked without the owner's permission, remove such truck upon the complaint of the owner?

   A. Yes. As provided in O.R.C. 4513.60 the chief of police of a township or township police district may order to storage any motor vehicle, other than an abandoned junk motor vehicle as defined in O.R.C. 4513.63 upon the complaint of the landowner, when the vehicle has been left for more than 4 hours without the permission of the land owner.

10. Q. Is a township constable, within the limits of the township in which the constable has been appointed, required to arrest and detain a person found by him in the commission of a misdemeanor which is a violation of either the law of this state or an ordinance of a village, until a warrant can be obtained?

   A. Yes. See O.R.C. 2935.03.

11. Q. Does a township constable have authority to arrest a person for violation of a city ordinance?

   A. No. There is no statute which authorizes the constable to arrest for the violation of a city ordinance.

12. Q. When a township constable, without a warrant, arrests for a violation of a state statute or an ordinance of a village as provided in O.R.C. 509.10 and 2935.03 what procedure shall he follow?

   A. When a township constable has arrested a person without a warrant the constable shall, without necessary delay, take the person arrested before a court of magistrate having jurisdiction of the offense and shall file or cause to be filed an affidavit describing the offense for which the person was arrested. The affidavit must be filed either with the court or magistrate, or with the prosecuting attorney or other attorney charged by law with prosecution of crimes before such court or magistrate.

13. Q. Is a constable entitled to a fee when he arrests a person without a warrant as authorized in O.R.C. 509.10 and 2935.03?

   A. No. O.R.C. 509.15 provides for the taxation and collection of a fee only if a person is arrested pursuant to warrant.

14. Q. When arrest has been made by the constable without a warrant and he has taken the arrested one before a court or magistrate having jurisdiction and has filed the required affidavit, what disposition shall the constable make of the prisoner?

   A. Such is not the concern of the constable. Instead, it is the concern of the court which shall, in the event that bail is not made, if the matter is a state offense, commit the accused to a county jail; or, if the matter is an offense under the municipal ordinance, commit the accused to the municipal jail.

IV. POWERS AND DUTIES (CONTINUED)

15. Q. If a township police constable arrests a person for violation of a state statute, and such person is confined in a municipal jail pending trial, is the township which the police constable serves liable for the costs of confinement?

A. No. Under the provisions of O.R.C. 2937.32, the accused should be committed to the county jail in a state case and to the municipal jail in the case of an offense against the municipality. While O.R.C. 1905.29 allows the confinement of prisoners other than as provided by O.R.C. 2937.29 it is intended for emergency situations only, and the prisoners jailed thereunder are jailed only temporarily until they can be removed to the proper place of confinement. Furthermore, O.R.C. 1905.29 contains no provision that the magistrate reimburse the municipal corporation for costs incurred.

16. Q. When an affidavit or complaint, as provided in O.R.C. 2935.09, charging a person with a violation of a municipal ordinance is filed with the judge or clerk of a municipal court, may the judge or clerk of the municipal court direct that the warrant of arrest be issued by a township constable?

A. No. O.R.C. 2935.10 provides that in the case of ordinance violations, the warrant of arrest may be directed to be issued only to a police officer or marshal or deputy marshal of the municipal corporation.

17. Q. When an affidavit or complaint, as provided in O.R.C. 2935.09 charging a violation of a state statute is filed as authorized by O.R.C. 2935.10 with the judge or clerk of a municipal court, may the judge or clerk of the municipal court direct the warrant of arrest to be issued by a township constable?

A. No. Although O.R.C. 2935.10 provides that a warrant may be directed to be issued to any officer named in O.R.C. 2935.03, and a constable is listed in O.R.C. 2935.03 and 1901.23, a special statute provides as to a municipal court that:

"In any civil action or proceeding at law * * *, the court may issue summons, orders of interpleader all other writs and means and final process, including executions necessary or proper for the complete adjudication of the issues and determination of the action, to the bailiff for service in the county or counties in which the court is situated and to the sheriff of any other county against one or more of the remaining defendants." Service in criminal actions in the municipal court is of the court, to a police officer of the appropriate municipality or the sheriff of the appropriate county. The township constable is thus not enumerated. It may be noted, however, as provided in O.R.C. 1901.32, a police constable of a township which is located entirely within the limits of a municipal court is ex officio a deputy bailiff of the municipal court in and for the township for which he is commissioned township constable and shall perform such duties in respect to cases within his jurisdiction as are required of him by a judge of the municipal court or by the clerk or bailiff or deputy bailiffs thereof, without additional compensation.

IV. POWERS AND DUTIES (CONTINUED)

18. Q. May warrants, executions, etc., be issued by a municipal court to a township constable as bailiff of the municipal court if the township is not located entirely within the limits of the municipal court?

A. No. O.R.C. 1901.23 provides, in part, "All warrants, executions subpoenas, writs, and processes in all criminal and quasi-criminal cases may be issued to the bailiff of the court, a police officer of the appropriate county." In the enumeration in O.R.C. 1901.23 of the several officers to whom warrants, execution, etc., may be issued, there is found a clear implication that such warrants, etc., may not be issued to any police officers other than those named.

19. Q. What duties are required to be performed by any constable who is an ex officio deputy bailiff of the municipal court in and for the township within which he serves?

A. O.R.C. 1901.32 provides, in part, that one “shall perform any duties in respect to cases within the officer's or constable's jurisdiction that are required by a judge of said court or by the clerk or bailiff or deputy bailiff without additional compensation.”

20. Q. Is it the responsibility of the constable who made the arrest for a violation of a state law to transport the prisoner from the county jail to the municipal court and back for the various appearances in the municipal court or should the city police or county sheriff do this?

A. It is the responsibility of the constable only if that particular duty was assigned by the court. O.R.C. 1901.32 provides that the bailiff and deputy bailiffs shall perform for the municipal court, "services similar to those performed by the sheriff for the court of common pleas and shall perform any other duties that are requested by rule of court." A constable is a deputy bailiff of a municipal court only if the township is completely within the limits of the municipal court, and only such a constable could be directed by the court to transport the prisoner between the municipal court and the county jail for court appearances. However, for such service he may receive no compensation other than that fixed by the township trustees.

21. Q. Is it the responsibility of the sheriff or a township constable to transport a person convicted of a misdemeanor in a municipal court to the county jail or work house?

A. Yes. O.R.C. 2949.08 provides that the judge or magistrate shall order him into the custody of the sheriff or constable who shall deliver him with the record of his conviction to the jailer or keeper.

22. Q. Is a township constable, appointed pursuant to O.R.C. 509.01 a ministerial officer of the county court?

A. Yes. O.R.C. 509.05 provides that "In addition to the county sheriff, constables shall be ministerial officers of the county court in all cases in their respective townships, and in criminal cases, they shall be such officers within the county."

IV. POWERS AND DUTIES (CONTINUED)

23. Q. In view of the fact O.R.C. 1907.53 provides that the sheriff is a ministerial officer of the county court, may the county court issue to a constable of the township summons, orders of interpleader, and all other writs and mesne and final processes, including executions necessary or proper for the complete adjudication of the issues and determinations of the action (in a civil action or proceeding at law in which the subject matter of the action or proceeding is located within the territory, or a defendant resides or is served with summons within said territory)?

A. Yes. Since a constable is a ministerial officer of the county court, such a writ might, in the alternative, be issued by the county court to the township constable.

24. Q. What are some of the more important duties which the legislature has provided that either the sheriff or the constable shall perform as ministerial officer of the county court?

A. O.R.C. 1923.13 prescribes the form for a writ of execution. Such form is directed "To any constable of.....township; or to the sheriff of.....county." When reference is made in these sections to a constable, such reference is not to a constable of a court such as may be appointed under authority of O.R.C. 2301.12 and 2701.07, but, rather, refers to the township constable appointed pursuant to O.R.C. 509.01. It is evident that township constables, rather than specially appointed county court constables, are to serve as ministerial officers of the county court.

25. Q. Does a township constable's authority in serving any process, either civil or criminal, extend throughout the county?

A. Yes. Although the first paragraph of O.R.C. 509.05 refers only to "all cases in their respective townships," and might give rise to the inference that his civil jurisdiction is limited to the township, the language in the final paragraph states that " the authority of a constable in serving any process, either civil or criminal, and in doing his duties generally shall extend throughout the county."

26. Q. Is the language in O.R.C. 509.05 in the one instance stating that the township constable shall be ministerial officer of the county court in his own township inconsistent with the later language in O.R.C. 509.05 to the effect that "authority of a constable in serving any process, either civil or criminal * * * shall extend throughout the county * * * "?

A. No. The restriction in O.R.C. 509.05 to the effect that constables are the ministerial officers in all cases within their townships is not a restriction on the broader grant of authority which appears later in O.R.C. 509.05. Instead, it is indicative of the intent that the constables within the township where the process is to be served will normally accomplish such service. However, a summons may be directed to the constable of any township within the territorial jurisdiction of the county court and such constable may serve the summons anywhere within the county, whether it is within a municipality or elsewhere.

27. Q. May the constable of a township in the county court district attend, regardless of where such court sits, the county court?

A. Yes. Normally, however, as provided by O.R.C. 509.05 the constable in attendance during the progress of a trial of a county court will be the constable of the township in which the county court sits. The decision is up to the county court, since O.R.C. 1907.53 provides that "At the request of the county judge, a deputy sheriff or the constable shall attend the county court while a trial is in progress."

IV. POWERS AND DUTIES (CONTINUED)

28. Q. May the township constable, acting as ministerial officer of the county court, serve a summons within a municipality located outside the township or should the sheriff perform this duty?

A. A constable would be authorized to serve the summons, since he is authorized to make service throughout the county, including any municipalities located therein. There is no requirement that the sheriff serve the summons, although he may do so if it is directed to him.

29. Q. When it becomes the duty of a constable to take a person to the county jail and such constable delivers to the sheriff or jailer a certified copy of the execution, commitment, or other process whereby he holds such person in custody, shall the constable return the original to the county judge who issued it?

A. Yes. O.R.C. 509.11 requires the constable to return the originals of writs of commitment, executions, and other processes to the county court judge by whom such writs were issued.

30. Q. When a person arrested by a township law enforcement officer for violating the law of this state is booked and confined in a city jail prior to arraignment, initial appearance, or trial, who has custody of the person?

A. A person arrested by a township law enforcement officer for violating a law of this state and confined in a city jail prior to arraignment, initial appearance, or trial is in the custody of the city officials operating the jail. See OAG Op. 2004-024.

31. Q. When a person arrested by a township law enforcement officer for violating a law of this state is booked and confined in a city jail prior to arraignment, initial appearance, or trial, who is responsible for paying the booking fee and other costs of confinement?

A. Absent a contract between a county and city providing otherwise, a city is responsible for paying the booking fee and other costs of confinement when a person arrested by a township law enforcement officer is confined in the city's jail prior to arraignment, initial appearance, or trial. See OAG Op. 2004-024.

32. Q. When a person arrested by a township law enforcement officer pursuant to a bench warrant issued by a municipal court is booked and confined in a city jail, who is responsible for paying the booking fee and other costs of confinement?

A. Absent a contract between a county and city providing otherwise, a city is responsible for paying the booking fee and other costs of confinement when a person arrested by a township law enforcement officer pursuant to a bench warrant issued by a municipal court is confined in the city's jail.

IV. POWERS AND DUTIES (CONTINUED)

33. Q. May the township trustees charge a fee for responding to multiple false alarms?

A. Yes. After law enforcement officials have answered three false alarms from the same commercial or residential security alarm system within the township in the same calendar year, the township may charge for each subsequent false alarm from the same alarm system during that year. The charges are as follows:

4th False Alarm	$ 50
5th False Alarm	$100
All Subsequent False Alarms	$150

See O.R.C. 505.511.

34. Q. For what may these collected fees be used?

A. Fees collected for the responding to false alarms are to be deposited in a fund earmarked for use for police services. See O.R.C. 505.511.

35. Q. What may the township do if payment for responding to false alarms is not received in thirty days?

A. If payment of the bill is not received within thirty days, the township fiscal officer shall send a notice by certified mail to the manager and to the owner, if different, of the real estate of which the commercial establishment is a part, or to the occupant, lessee, agent, or tenant and to the owner, if different, of the real estate of which the residence is a part, indicating that failure to pay the bill within thirty days, or to show just cause why the bill should not be paid, will result in the assessment of a lien upon the real estate in the amount of the bill. If payment is not received within those thirty days or if just cause is not shown, the amount of the bill shall be entered upon the tax duplicate, shall be a lien upon the real estate from the date of the entry, and shall be collected as other taxes and returned to the township treasury to be earmarked for use for police services. See O.R.C. 505.511.

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SECTION M

ROADS

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I. ROADS

Classes of Roads

1. Q. What are the three classes of public highways of the state?

   A. The three classes are: (1) state roads which include the roads and highways of the state highway system; (2) county roads which include all roads which are, or may be, established as part of the county system of roads pursuant to O.R.C. 5541.01 to 5541.03, inclusive, and to be maintained by the board of county Commissioners; and (3) township roads which include all public highways other than state and county roads, and which are to be maintained by the board of township trustees. The board of county commissioners may assist the board of township trustees in maintaining all such roads.

2. Q. What is the duty of the county engineer relative to preparation of maps of roads in a county?

   A. The county engineer has the duty of naming and numbering all the public roads of his county, other than intercounty and state highways, as well as all the bridges and culverts on such roads. If the roads are of sufficient length, he or she shall also divide the road into sections which shall not exceed three miles in length and number such sections consecutively. He or she must then prepare a map which shall show and identify by number, location, and length each road and section thereof, all bridges and culverts, as well as the location of municipal corporations, school-houses, churches, lakes and rivers. The map is to be made in township units. A copy of the map of each township shall be submitted to the director together with a report showing plainly and definitely the exact location of such numbered roads and sections thereof, bridges, and culverts and such other and further information as the director requires. Upon the approval by the director of each map and report, copies shall be filed by the engineer in his office and in the office of the board of county commissioners and a copy of the map of each township is to be filed with the board of township trustees of such township. In conjunction with the preparation of maps, the engineer shall also keep a book in which is entered a description or identification of all roads, bridges and culverts, and as rapidly as new roads, bridges and culverts are located and numbered, these shall likewise be entered into the book. See O.R.C. 5543.04 to 5543.05

3. Q. What is the minimum width at which roads may be established?

   A. O.R.C. 5553.03 requires all public roads established by the county commissioners to be not less than thirty feet wide.

4. Q. If a township desires to have one of its township roads become a county road, how does it proceed?

   A. It must apply to the county commissioners for the specifications to be met, and bring the road up to such specifications.

Establishment, Alteration, Vacation
Who May Establish, Alter, Vacate

1. Q. Who has the power to locate, establish, alter or vacate roads?

   A. The county commissioners are specifically given this power by O.R.C. 5553.02. This power extends to and includes all roads, even in the case of the establishment of a new road which, after acceptance, will become a township road.

2. Q. Do the township trustees have any discretion in the location, alteration or vacation of roads?

   A. The only discretion which the trustees have is in the matter of straightening or changing existing roads in the course of improvement or in the relocating of roads at private expense.

I. ROADS (CONTINUED)

Establishment, Alteration, Vacation (Continued)
Who May Establish, Alter, Vacate (Continued)

3. Q. Are the township trustees authorized to construct, improve or maintain a road that has not been previously established as a public road or highway?

   A. No. Although under O.R.C. 5571.01 the trustees are given power to "construct, reconstruct, resurface, or improve any public road or part thereof" under their jurisdiction, they have such power only as to previously-established public roads and highways. The trustees have no power, either by statutory or common law, to establish roads or streets.

How Roads May be Established

1. Q. What are the four (4) ways in which it may be said that a public road is established?

   A. The four methods are (1) statutory dedication, (2) common-law dedication, (3) by prescription, and (4) statutory appropriation. See O.R.C. 5553.31, OAG Op. 86-094, OAG Op. 87-046, OAG Op. 88-080, and OAG Op. 94-032.

2. Q. What constitutes a common-law dedication of lands for road purposes?

   A. Two things are necessary. It must be shown (1) that the owner of the land in question intended to give it to the public, and (2) that such gift was accepted by the board of county commissioners on behalf of the public. See O.R.C. 5553.31, OAG Op. 86-094, and OAG Op. 99-005.

3. Q. When is there a valid statutory dedication of land for county road purposes?

   A. O.R.C. 5553.31 provides the sole statutory method by which land is dedicated for county road purposes. This section requires that there be placed on the proper road records of the county a definite description of the lands to be dedicated with a plat of such lands attached and signed by the party dedicating such lands. The approval and acceptance of the board of county commissioners must be endorsed on the plat. The board may not approve and accept the dedication of any land for road purposes until any lien attached to such land under O.R.C. 505.82(A) is satisfied.

4. Q. Can the completed dedication of a township road be effected by acceptance by the city, village, or county engineer in accordance with O.R.C. 711.091 without action by the county commissioners?

   A. No. See OAG Op. 60-1789 and OAG Op. 99-005.

5. Q. Is the approval of the county commissioners to a record plat necessary to constitute an establishment of the streets and roads in the subdivision for public use, notwithstanding the approval of the plat by the planning commission and subsequent acceptance of the streets and roads by the county engineer, as provided by O.R.C. 711.091?

   A. Yes. See OAG Op. 86-094.

I. ROADS (CONTINUED)

Establishment, Alteration, Vacation (Continued)
How Roads May be Established (Continued)

6. Q. Under the statutes effective since October 19, 1953, i.e., O.R.C. 711.04 and 711.041, does approval by a board of county commissioners of a plat containing the dedication of a public road or street, impose upon the board of township trustees the duty of maintaining or improving such road or street?

   A. No. The mere approval of the plat by the county commissioners does not constitute the establishment of any public street, road or highway dedicated on such plan. The approval of the plat must be accompanied by an acceptance of the streets dedicated thereon. See OAG Op. 86-094.

7. Q. Is the endorsement on a plat which reads "approved and accepted by the county commissioners" sufficient to constitute an acceptance of a road for public use, if the plat also bears the statement signed by the platters that they "do hereby dedicate the streets to the public use forever"?

   A. Yes.

8. Q. May the county commissioners establish as a road a private lane which commences on a county road and proceeds for three-hundred feet, dead ending at a land owner's residence, if no other land owners live on this private land?

   A. Yes. Although O.R.C. 5553.02 provides that " ... no public road shall be located or established, by the board of county commissioners, unless the location or establishment begins on a public road and terminates on a public road, or begins on a public road and services a public park, a state supported educational institution, public school, or a public recreation area, or begins on a public residences or businesses in the first five hundred feet and one private residence or business in each of the two hundred feet thereafter", the Attorney General has held that such provision does not apply to roads dedicated pursuant to O.R.C. 5553.31. See OAG Op. 86-094.

9. Q. What are the two conditions precedent in order to gain the acceptance of the county commissioners for a new road which will become a township road?

   A. The county commissioners will not give their approval until (1) the matter has first been submitted to the township trustees for their consideration; and (2) such streets must be laid out, graded, drained, graveled or otherwise improved and put into condition for year round travel.

What Constitutes a Township Road

1. Q. Where streets have been dedicated on a plat of a subdivision lying outside of, but within three miles of the municipality, who has the responsibility of maintaining such streets?

   A. If such plat has been approved by said municipal planning commission and the county commissioners have endorsed their approval of the dedication, the responsibility for the maintenance of such streets rests upon the county commissioners. See O.R.C. 5559.01 and 711.09. When the municipal planning commission, however, approves the plat of the subdivision, but no additional action has been taken to establish such streets as state or county roads, O.R.C. 5559.01 and O.R.C. 5535.01(C) provide that the township in which the streets are located is responsible for their maintenance. See OAG Op. 94-036.

I. ROADS (CONTINUED)

Establishment, Alteration, Vacation (Continued)
What Constitutes a Township Road (Continued)

2. Q. If county commissioners approved a plat containing the dedication of public roads, and lots were sold and houses built in the subdivision, but the subdivision did not improve the roads to an extent that they met the specifications of the county planning commission for township roads, would the township trustees have the power or duty to maintain such substandard roads or expend public funds thereon?

   A. No, under the law as it exists today, approval of the plat is not enough to create a public highway and in addition there must also be an acceptance of the road by the county commissioners. Under present law, if the specifications of the planning commission were not complied with, but the commissioners nevertheless approved the plat and accepted the road, the township trustees would likewise have the duty to maintain the roads.

Vacation of Township Roads

1. Q. If a public road, highway, street, or alley has been abandoned and not used for a period of twenty-one years, and a formal proceeding for vacation as provided in O.R.C. 5553.042 has not been taken, does a township lose all rights in such road, highway, street or alley?

   A. No. Although a township may lose all its rights in an abandoned road, highway, street or alley, such loss of rights does not automatically obtain, O.R.C. 5553.042 provides that a township shall lose all rights in and to any public road, highway, street or alley which has been abandoned and not used for a period of twenty-one years, but only after formal proceedings for vacation have been taken. A board of township trustees is, of course, free to request that the board of county commissioners vacate any road, pursuant to O.R.C. 5553.04 and/or O.R.C. 5553.045. In summary, therefore, a township may lose all rights in a road that has been abandoned or not used for twenty-one years only in two situations: first, where formal proceedings for vacation in accordance with O.R.C. 5553.04 to 5553.11 have been taken; and, second where an abutting landowner successfully maintains an action to acquire title to the road through adverse possession. If neither occurs, the duty of the township to maintain the road remains mandatory. Adverse possession is a method of acquisition of title to real property by possession for a statutory period under certain conditions. In order to establish title in this manner there must be proof of nonpermissive use which is actual, open, notorious, exclusive and adverse for the statutorily prescribed period. Adverse possession consists of actual possession with intent to hold solely for possession to the exclusion of others and is denoted by exercise of acts of dominion over land including making of ordinary use and taking of ordinary profits of which land is susceptible in its present state.

I. ROADS (CONTINUED)

Establishment Alteration, Vacation (Continued)
Vacation of Township Roads (Continued)

2. Q. What procedure does O.R.C. 5553.042 set forth for vacating a public road, highway, street, or alley that has been abandoned and not used for a period of twenty-one years?

   A. A petition must be filed with the board of county commissioners. The petition for vacation of a road may be filed by any abutting land owner. If the board finds that said public road, highway, street, or alley has been abandoned and not used for a period of twenty-one years, as alleged in the petition, the board of county commissioners shall by resolution order the road, highway, street, or alley vacated and such road, highway, street, or alley shall pass in fee, to the abutting land owners thereof, as provided by law, subject to the preservation of any existing right of way in, over, or under such roadway by any public utility or rural electric cooperative service facility, including any conduit, cable, wires, towers, poles, or other equipment or appliances of any public utility or rural electric cooperative located on, over, or under such roadway and for such period of time as such public utility or rural electric cooperative service facility continues to be used to render service to the public.

3. Q. What other statutory procedure is provided to vacate unused township roads?

   A. Unused township roads may be vacated pursuant to O.R.C. 5553.04 and O.R.C. 5553.045. The vacation action may be commenced by resolution of the county commissioners or township trustees, respectively, or, in the alternative, the vacation action may be commenced upon the filing of a petition signed by at least twelve freeholders residing in the vicinity of the road proposed to be vacated.

4. Q. Must all abutting landowners sign the petition?

   A. No. O.R.C. 5553.042 provides that the action may be commenced "* * * upon petition * * * filed by any abutting landowner, * * * "

5. Q. In a vacation proceeding under O.R.C. 5553.042, is notice to the public and a hearing required?

   A. No. O.R.C. 5553.042 does not specifically provide for notice and hearing. The county commissioners' primary concern in this matter is the determination of the relationship of the township to the road. Therefore, notice to the public and hearing are not necessary although the county commissioners in their discretion may give notice to the public and provide a hearing if they so desire. OAG Op. 66-065.

6. Q. Are the procedures set forth in O.R.C. 5553.042 applicable to both platted and unplatted areas?

   A. Yes. Neither O.R.C. 5553.042 nor any other statutes provide a limitation as to the matter of platting.

7. Q. Is it mandatory for the county commissioners to vacate the street if the street has been abandoned and not used within the meaning of O.R.C. 5553.042?

   A. Yes. If the commissioners acting pursuant to O.R.C. 5553.042 find the public road, street, highway or alley (1) has been abandoned and (2) not used for a period of twenty-one years, they must, by resolution, order it vacated. See OAG Op. 64-1517.

I. ROADS (CONTINUED)

Establishment, Alteration, Vacation (Continued)
Vacation of Township Roads (Continued)

8. Q. What constitutes "abandoned" under O.R.C. 5553.042?

   A. The commonly understood meaning of the word "abandon" is "to give up or cease to use." The county commissioners must examine the actions of the board of township trustees with respect to such road. A street is “abandoned” within the meaning of O.R.C. 5553.042 when the township fails to exercise control over it and otherwise manifests an intent to surrender its right to maintain it as a public way. See OAG Op. 64-1517.

9. Q. What constitutes "not used" under O.R.C. 5553.042?

   A. The term means not in use as a public road, highway, street or alley. To be considered "used" it must be used as a way open to the public at large for travel or transportation. See 1964 OAG Op. 1517.

10. Q. Would the use of the street by the abutting owners, their guests, milk trucks, meter readers and the like constitute a non-abandonment and use?

    A. No. Such use would not prevent a board of county commissioners from determining that the street has been abandoned and is not used, since these are all private uses. See OAG Op. 64-1517.

Improvement of Township Roads
Definition of Improvement

1. Q. What does improvement of road mean?

   A. By improvement is meant construction, reconstruction or resurfacing of any road. Improvement would also include the widening of a road.

2. Q. Would the hauling and spreading of stone on the traveled portion-of a township highway which was only a dirt road be considered road improvement or only road maintenance?

   A. If a dirt road is transposed into one of stone, it is clearly an improvement and not merely maintenance.

3. Q. Is the grading, reconstruction of ditches along the sides, straightening and widening of the traveled portion of a road, the cutting of small raises and filling dips in the traveled portions, and spreading stones on the reconstructed traveled portion of a township highway, all within the original boundary lines of said highway, to be considered construction, widening or reconstruction of a highway?

   A. Yes. The grading, widening, cutting and filling go beyond what is ordinarily considered to constitute "maintenance".

I. ROADS (CONTINUED)

Improvement of Township Roads (Continued)
Definition of Improvement (Continued)

4. Q. If a short, dead-end road served only two individuals, would the trustees be required by law to grade out and keep the road wide enough to permit its use by modern wide, farm equipment, such as drills, combines and the like, or does the requirement of keeping the road passable apply only to ordinary vehicles of travel?

   A. The township trustees have a mandatory duty to maintain and repair township roads for the safety and convenience of the traveling public, but only a discretionary duty to make road improvements. The widening of such a road would fall in the classification of an improvement, with the result that whereas the trustees would have no mandatory duty to widen such a road, they might, in their discretion, acting pursuant to O.R.C. 5571.01 proceed to widen such road. On the other hand, if the trustees did not feel that the road needed to be widened, they would be under no mandatory duty to undertake such an improvement, since the trustees are required to keep the roads passable only as to ordinary vehicular travel.

When a Road Shall be Improved

1. Q. What does maintenance of a road mean?

   A. The term maintenance is used throughout O.R.C. Title 55, but is not specifically defined. Where this term is not specifically defined, it must be given its natural, literal, common or ordinary meaning. The dictionary defines "maintenance" as "the action of maintaining.....The work of keeping something in proper condition." See OAG Op. 94-025.

2. Q. What are the two methods of procedure by which to secure construction, reconstruction or improvement of roads by the township trustees?

   A. (1) If a petition signed by at least 51% of the landowners or lot owners, residents of the county who are to be specifically taxed or assessed for such improvement is received by the township trustees, such board may decide by a majority vote that the public convenience and welfare require such construction, reconstruction or improvement. (2) If no petition is presented, the board of township trustees may determine to construct, reconstruct or improve a particular road provided all three trustees vote to adopt a resolution declaring the necessity for the improvement, O.R.C. 5573.01.

3. Q. Does the county engineer have the right to direct or order the township trustees to improve or repair certain roads or parts of roads in the township which for some reason the township trustees persist in ignoring?

   A. No. The power of the county engineer is limited to the supervision as to the methods to be followed in making such repairs and maintenance. The county engineer is not authorized to determine what roads shall be improved or the type of improvement that is to be made. O.R.C. 5571.02 expressly provides that the township trustees shall have control of the township roads and keep them in good repair. However, when the township trustees have lawfully determined to improve a road and set forth the type of improvement, the method to be employed in accomplishing the general purpose of the trustees would be under the supervision of the county engineer.

I. ROADS (CONTINUED)

Improvement of Township Roads (Continued)
Appropriation Rights

1. Q. What powers of appropriation for road purposes do township trustees have?

   A. The township trustees are given specific authority by O.R.C. 5579.01 in connection with any road improvement to appropriate (1) any drainage rights outside the line of a highway, or (2) any easement, (3) right, or (4) interest in any property desired for any proposed improvement.

2. Q. What procedure should be followed in making appropriations for road purposes?

   A. O.R.C. 5573.02 provides that where the trustees desire to appropriate property for road improvement, drainage, or easement, the board of trustees shall proceed in accordance with O.R.C. 163.01 to 163.22.

Payment of Cost of Improvement

1. Q. By what two methods may the compensation, damages, and cost of township road improvement be paid?

   A. (1) Payment may be made partially by assessment against real estate abutting on the improvement, real estate situated within one-half mile of either side thereof, and real estate within one mile of either side thereof according to the benefits accruing to such real estate with the balance to be paid from the proceeds of any levy for road purposes upon the grand duplicate of all the taxable property in the township, and from any funds in the township treasury available therefor. (2) The trustees, by unanimous vote, may order payment out of any road improvement fund available therefor, or out of any levy for road purposes on the grand duplicate of the township.

2. Q. If the trustees by unanimous vote and without a petition decide to improve a township road may the costs thereof be paid by assessment?

   A. Yes, but only by unanimous vote of the trustees. See O.R.C. 5573.07.

3. Q. Do the trustees have authority to borrow money in anticipation of the collection of special assessments for road improvements?

   A. Yes. O.R.C. 5573.14 authorizes township trustees to issue bonds in anticipation of collection of taxes and assessments not greater than the aggregate sum necessary to pay the estimated compensation, damages, and costs of such improvement.

I. ROADS (CONTINUED)

Improvement of Township Roads (Continued)
Duty of County Engineer

1. Q. How does the supervision required of the county engineer in the case of a road improvement differ from that required in the case of maintenance and repair?

   A. The county engineer has very little jurisdiction over the trustees in matters of maintenance and repair. O.R.C. 5543.01 specifically limits the engineer to advising and inspecting at the request of the trustees. However, in making new road improvements, the trustees may order the county engineer to make such surveys, plans, profiles, cross-sections, estimates and specifications as may be required for a specific improvement and also order him to make alternate surveys, plans and specifications. The engineer may, on his own initiative, also make alternate surveys, plans, profiles, cross-sections, estimates or specifications. When alternate plans are adopted, the county engineer and the board shall, after the opening of bids, agree on which plan shall be adopted for the construction of the improvement.

2. Q. If the trustees enter into a contract to widen a road, who shall supervise the project?

   A. O.R.C. 5575.07 provides that "the work of road improvement shall be done under the general supervision and direction of the county engineer." However, this section does authorize the county engineer to appoint some competent person to act as inspector during the construction of such improvement. "The person appointed as inspector shall receive, for each day actually employed at such work, a sum not to exceed four dollars, to be fixed by the engineer and paid out of any fund available for the construction of the improvement, upon the order of the board of township trustees with the approval of the engineer."

3. Q. If the township trustees contemplate improving a road pursuant to O.R.C. 5573.01 and the county engineer refuses to make such surveys, plans, profiles, cross-sections, estimates and specifications as may be required for the contemplated township road improvement or the alternate surveys, plans, etc., do the trustees have a way to compel him to do such?

   A. Yes. A mandamus action would be appropriate since the county engineer may not, in his discretion, refuse to prepare such but has a mandatory duty to prepare them if so ordered by the township trustees.

4. Q. Where the township trustees desire to improve a township road and preliminary to such improvements request the county engineer to survey the road for the purpose of determining its location and boundaries, may the county engineer charge the township for his services?

   A. No. If a survey of a road for the purpose of locating its boundaries is necessary for the improvement which is proposed to be made, although it is not strictly a part of the improvement proceedings, such work is closely enough related to the statutory duties of the county engineer as provided by O.R.C. 5573.01 that no charge would be authorized.

5. Q. Does the county engineer have authority to list engineering costs as a part of a cost estimate prepared at the order of the township trustees for any road improvement where services are performed by regular employees of the county engineer?

   A. No. There is no provision authorizing the payment by a township of fees for services rendered by a county engineer in connection with township roads, and no provision for making the cost of surveys, plans, etc., for a township road improvement a part of the cost of such improvement. See OAG Op. 56-7136.

I. ROADS (CONTINUED)

Improvement of Township Roads (Continued)
Duty of County Engineer (Continued)

6. Q. If the township trustees feel that a road should be improved by putting down four inches of stone, whereas the county engineer feels that it should be improved by laying down eight inches of stone, how shall the matter be determined?

   A. O.R.C. 5573.06 provides that " . . . the board of township trustees . . . shall order, by resolution, that such improvement be proceeded with, and shall adopt the surveys, plans, profiles, cross-sections, estimates, and specifications therefor, as reported by the county engineer or with such modification as the board and engineer agree upon . . . " This section would authorize the township trustees to order plans and specifications for road improvements prepared by the county engineer to be revised. The board of township trustees' action in this respect would be final and could not be interfered with unless such action amounted to fraud or constituted clear abuse of discretion, the proper action to keep the township trustees from proceeding would be an action for a permanent injunction.

7. Q. May a board of county commissioners require a county engineer to repair and maintain driveways, parking areas, and structures owned by a township and used by a non-profit recycling center?

   A. A board of county commissioners may require a county engineer pursuant to O.R.C. 315.14 to maintain and repair driveways and parking areas owned by a township, but may not require a county engineer to maintain and repair township buildings used by a non-profit recycling center. OAG Op. 2017-008

Estimates

1. Q. The trustees wish to proceed by contract in the widening of a short section of a road. Are the trustees required to have the county engineer prepare estimates of the cost of the work?

   A. Yes. Widening of a road falls into the category of an improvement as does construction and reconstruction, and resurfacing. The second paragraph of O.R.C. 5575.01(B) provides, in part, that "Before undertaking the construction or reconstruction of a township road, the board shall cause to be made by the county engineer an estimate of the cost of such work, which estimate shall include labor, material, freight, fuel, hauling, use of machinery and equipment and all other items of cost." Per O.R.C. 117.16, the Auditor of State is required to make available a force account project assessment form that is to be used by township officials to estimate or report the cost of a force account project. The required use of the assessment form is exempted for all maintenance and repair projects less than $15,000 or for force account construction or reconstruction projects less than $5,000/mile. Force account work shall be done under the direction of the township road superintendent or a member of the board. The Force Account Project Assessment Form can be found online in Appendix II of this manual or at:
   https://ohioauditor.gov/references/development/ForceAccountProjectAssessmentForm.pdf

I. ROADS (CONTINUED)

Improvement of Township Roads (Continued)
Estimates

2. Q. If the estimated cost of the construction or improvement of a township road does not exceed $5,000 per mile, and the township trustees decide to proceed by force account, is it necessary for the trustees to have the county engineer prepare an estimate of the cost of the work which estimate shall include labor, material, freight, fuel, hauling use of machinery and equipment, and all other items of cost?

   A. Yes. When proceeding to construct or reconstruct a township road, the estimate is required not only when the trustees proceed by contract, but also when they proceed by force account.

3. Q. The trustees wish to proceed by force account in the widening of a short section of a road. Are the trustees required to have the county engineer prepare estimates of the cost of the work?

   A. Yes. Estimates are required whether the improvement proceeding is by contract or by force account.

1. Q. What is the meaning of "force account" as the term is used in O.R.C. 5575.01?

   A. Force account is the procedure by which the trustees themselves purchase the material necessary for a highway maintenance or repair project, employ and pay out of the township funds the persons who apply such material, using township owned or leased equipment to do such. In such an instance no formal contract is entered into for the entire project. OAG Op. 39-816.

2. Q. When are the trustees required to proceed by either contract or force account?

   A. Construction or reconstruction, and maintenance and repair of roads, must be done by contract after advertising for bids pursuant to O.R.C. 5575.02. If the contract exceeds $15,000/mile, for construction/reconstruction, or the total project exceeds $45,000 for maintenance and repair, it must be let by competitive bidding. O.R.C. 5575.01

3. Q. What is the meaning of "contract" as the term is used in O.R.C. 5575.01?

   A. Under the contract procedure the township enters into an agreement with a person, company or corporation which undertakes to do a road project for the township at a price agreed upon between the township and such person, company or corporation. The person, company or corporation with which the township has contracted then purchases the necessary material, hires and pays the necessary labor, and uses its own equipment in performing the road project at a total price to the township which presumably will be great enough to cover the entire cost of the material, labor and equipment and furnish a profit to the company.

4. Q. May the township trustees proceed by contract when constructing, reconstructing or improving a township road?

   A. Yes.

5. Q. May the township trustees proceed by force account when constructing or reconstructing a township road?

   A. A. O.R.C. 5575.01 permits township trustees, if the board deems it for the best interest of the public instead of constructing a road by contract to proceed to construct the road by force account. However, if the total estimated cost of the work exceeds $15,000 per mile, the board must invite and receive competitive bids for furnishing all labor, materials and equipment, and shall consider and reject such bids before ordering the work done by force account."

I. ROADS (CONTINUED)

When Bidding is Necessary
Contract

1. Q. The trustees wish to proceed by force account in the widening of a short section of a road. The county engineer's estimate shows that the job will cost no more than $750. Is it necessary to advertise for bids?

   A. No. For this improvement project, the second paragraph of O.R.C. 5575.01 provides that advertising for competitive bids is required only where the total estimated cost of the work exceeds fifteen thousand dollars per mile.

2. Q. The trustees wish to reconstruct a mile and a half of road by force account and the county engineer's estimate shows that the total cost of this improvement project will be $15,250 per mile. Must the trustees advertise for bids?

   A. Yes. The second paragraph of O.R.C. 5575.01 which pertains to the construction, reconstruction or improvement of a township road provides that "Where the total estimate cost of the work exceeds fifteen thousand dollars per mile, the board shall invite and receive competitive bids for furnishing all labor, materials, equipment and doing the work, as provided in O.R.C. 5575.02." However the section does provide that after the trustees consider the bids, they may then reject them and proceed by force account. This section further provides, however, that such force account work "shall be performed in compliance with the plans and specifications upon which the bids were based."

3. Q. Are there any exceptions to the O.R.C. 5575.01 requirement that contracts for road improvements be let only after advertising and bidding as described in Question 2 (above)?

   A Yes. O.R.C. 505.08 provides that after adopting by a unanimous vote a resolution declaring a real and present emergency in connection with the administration of township services or the execution of duties assigned by law to any officer of a township, the board of township trustees may, by resolution, enter into a contract, without bidding or advertising, for the purchase of services, supplies, materials or equipment needed to meet the emergency if the estimated cost of the contract is less than fifty thousand dollars. Additionally, pursuant to O.R.C. 505.101, a “board of township trustees may, by resolution, enter into a contract without advertising or bidding, for the purchase or sale of materials, equipment, or supplies from or to any department, agency, or political subdivision of the state…”.

I. ROADS (CONTINUED)

When Bidding is Necessary (Continued)
Bidding Procedure

1. Q. By what method shall the township trustees advertise for bids if they decide to proceed with a road improvement?

   A. Bids must be advertised once, not later than two weeks prior to the date fixed for the letting of contracts, in a newspaper published in the county and of general circulation within such township, but if there is no such paper published in the county, then in one having general circulation in the township. The notice must state that copies of the surveys, plans, profiles, cross-sections, estimates and specifications for such improvement are on file with the board. The notice shall also state the time within which bids will be received.

2. Q. May the township trustees reject all bids for road improvement contract if they are not satisfied with any of the bids they receive as the result of advertising?

   A. Yes. O.R.C. 5575.03 so provides.

3. Q. If none of the bids received are within the estimated cost of a road improvement, should the lowest and best of the bids received be accepted?

   A. Yes, if the township trustees deem this appropriate. However, no contract for any road improvement shall be awarded at a price more than ten percent in excess of the estimated cost. If no bids are made that are less than one hundred ten percent of the estimate, the board of township trustees shall either readvertise at the original estimate, or request an amended estimate from the county engineer. See O.R.C. 5575.03.

4. Q. May a contract for road improvement be let in sections?

   A. The contract for road improvement may be let as a whole or in convenient sections, as the board determines. See O.R.C. 5575.02.

5. Q. O.R.C. 5575.02 requires a contract for road improvement to be awarded to the "lowest and best bidder." Has the legislature given the trustees the authority to take into consideration the ability of the various contractors to perform the contract?

   A. Yes. By requiring the contract to be let to the "lowest and best bidder," the legislature has given the trustees the authority to take into consideration the ability of the various contractors to perform the contract.

6. Q. Is the contract required to be let on the basis of lump sum bids?

   A. O.R.C. 5575.02 requires the contract for road improvement to be let upon the basis of lump sum bids unless the board orders that it be let on the unit price bids.

I. ROADS (CONTINUED)

Records of Fiscal Officer

1. Q. What record of the assignment of expense to a road or bridge is a fiscal officer required to keep?

   A. O.R.C. 5543.05 provides that The township fiscal officer shall, before he or she issues any warrant for money expended upon any road within the township, other than an intercounty or state highway, or on bridges or culverts on such roads, require of the engineer or board of township trustees the assignment of such expense to the road, bridge, or culvert in connection with which the expense was incurred. The fiscal officer may keep such records as are necessary to show clearly at the close of each year the amount of money expended from the township funds on each section of road, other than intercounty or state highways, within the township, and on each bridge and culvert on such roads. The board of township trustees may require the fiscal officer to keep additional records to document the assignment of expenses.

2. Q. How shall the fiscal officer assign the expense of general equipment which will be used in the entire township?

   A. O.R.C. 5543.05 states that if it is for use in the entire township, the expense thereof need not be assigned to any section of road or to any bridge or culvert***

3. Q. How shall the fiscal officer assign miscellaneous road expense?

   A. O.R.C. 5543.05 states that " * * * insofar as practicable, all items of expense shall be assigned to the specific section of road or to the particular bridge or culvert in connection with which they were incurred."

4. Q. What record is the township fiscal officer required by O.R.C. 5575.09 to keep of the construction, reconstruction, resurfacing or improvement of public roads?

   A. In a book provided by the township trustees, the fiscal officer is required to keep a complete record of the proceedings relative to the construction, reconstruction, resurfacing or improvement of public roads.

5. Q. How much shall the fiscal officer be paid to keep the record of road improvements pursuant to O.R.C. 5575.09?

   A. The fiscal officer is entitled to ten cents for each one hundred words plus a reasonable compensation as is allowed by the board of trustees for all other services he performs in connection therewith.

Road Districts Outside Municipal Corporation

1. Q. When may a road district outside a municipal corporation be created?

   A. Whenever a township has a municipality or part of a municipality located within its areas, the township trustees may, by resolution, erect (include) that portion of the township not included within the limits of the municipal corporation into a district, if in the opinion of the trustees it is expedient and necessary for the public convenience and welfare See O.R.C. 5573.21.

I. ROADS (CONTINUED)

Road Districts Outside Municipal Corporation (Continued)

2. Q. What is the purpose for which a road district may be created?

   A. A road district may be created for the purpose of constructing, reconstructing, resurfacing, improving, repairing and maintaining the public roads within the district. See O.R.C. 5573.21.

II. ROADS MAINTENANCE AND REPAIR

Duty to Maintain and Repair

1. Q. How much money should the trustees spend in maintaining and repairing the township roads?

   A. Although the township trustees have a mandatory duty to keep the roads in repair, the amount to be spent for maintenance and repair can only be determined by the trustees by an exercise of their sound discretion.

2. Q. May the trustees refuse to drag a graveled or unimproved township road?

   A. No. Under the provisions of O.R.C. 5571.12 the township trustees are charged with the duties of repairing and dragging township roads. In case the trustees fail to do such, they may be subject to a suit in mandamus to compel them to do so.

3. Q. If the board of township trustees contracts with the XYZ Company to oil a road, is it necessary that any one supervise this project?

   A. Yes. This project would be considered a maintenance project and O.R.C. 5575.01 provides that maintenance projects undertaken by contract "shall be performed under the supervision of a member of the board or the township road superintendent."

4. Q. If the township purchases oil, and uses township employees and township equipment to apply the oil to the road, is it necessary that anyone supervise the project?

   A. Yes. O.R.C. 5575.01 provides that all force account work shall be done under the direction of a member of the board or the superintendent.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Who Shall Supervise
Township Trustees

1. Q. What are the methods set forth in O.R.C. 5571.02 by which the township trustees may supervise the maintenance and repair of roads?

   A. (1) The township may designate one of the trustees to have charge of all maintenance and repair of roads within the township. (2) The township trustees may divide the township into three road districts permitting each trustee to have charge of the maintenance and repair of the roads within one of such districts. (3) The township trustees may appoint some competent person not a member of the board of township trustees to have charge of maintenance and repair of roads within the township. Such person would be known as the township highway superintendent and serve at the pleasure of the board of township trustees. If none of the methods listed above are chosen then, (4) the township trustees may proceed to act as a board on such matters. The method to be followed in each township shall be determined by the board of township trustees by resolution entered on its records.

2. Q. May the trustees enter into a contract with an individual to furnish material and maintain the township roads for a period of five years?

   A. No. The legislature has placed the maintenance and repair of township roads in the hands of the trustees who may take personal charge thereof or appoint a township highway superintendent to act in their place, but under their supervision and control. In the maintenance and repair of roads the trustees exercise a certain amount of discretion and, under the well settled principles that discretionary powers may not be delegated unless specific authority in law exists therefor, the only person other than the trustees themselves who the statutes contemplate may take charge of the maintenance and repair of township roads is the township highway superintendent appointed by the trustees and compensated from the township road fund.

3. Q. How should the township trustees proceed when making their determination as to the method by which roads shall be repaired and maintained?

   A. The township trustees shall agree by resolution, entered on the minutes of the meeting, which of the three methods outlined above they shall adopt for the maintenance and repair of roads. See O.R.C. 5571.02.

4. Q. May the county engineer perform any of the actual work in the repair, maintenance, or dragging of roads by boards of township trustees?

   A. No. O.R.C. 5543.01 specifically prohibits him from performing any duties although this section provides that upon request of the trustees, the county engineer may inspect any road designated by the trustees and advise as to the best methods of repairing, maintaining or dragging such road. Furthermore, trustees as well as any road superintendent are, in accordance with O.R.C. 5571.05, subject to the general supervision and direction of the county engineer, and must follow his direction as to the method of maintenance and repair.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Who Shall Supervise (Continued)

Road Districts

1. Q. When the trustees divide a township into three road districts under O.R.C. 5571.02 who determines the kind of work that shall be done on the road and the amount of money to be spent in each road district?

   A. The trustees, as a board, should determine the work that is to be done on the various roads in the township and appropriate the funds for each project. No one trustee has authority to determine what shall be done in his particular district or section. It is the duty of the board acting as a unit to make this determination, and the trustees individually merely supervise the work thus agreed to be done.

2. Q. If it is determined to divide the township up into three road districts, does each trustee have a right to spend one-third of the township road money for use in repairing and maintaining the roads in his district?

   A. No. When a trustee is assigned a certain section of the township, such assignment is for the purpose of inspection and supervision of roads and ditches in that section. The repair and maintenance is the responsibility of all the trustees and not of individuals assigned to that section. If it is readily apparent that one portion of the township at a particular time will need more repairs than another portion of the township then the need for such repair in one portion of a township should not be delayed if the money is available in the township road funds.

3. Q. Where the trustees have divided the township into three road districts with a trustee assigned to each road district, may either of two trustees or both of them hire labor to perform maintenance work on township roads situated in the road district over which the third trustee was given supervision?

   A. Two of the trustees, constituting a majority of the board may hire all labor in connection with maintenance work on township roads or may authorize one of its members to do such hiring either for the entire township or for the particular road district assigned to such member. See OAG Op. 41-4665.

4. Q. Does the adoption by the township trustees of a resolution which places each of the members of the township in charge of a designated road district authorize each member to hire labor in his assigned district?

   A. No. Dividing the township into road districts and placing one trustee in charge of each is merely a method by which the board's determinations may be carried through.

5. Q. If the trustees wish to give each trustee the authority to hire the employees for his own particular district, how should they proceed?

   A. The trustees should pass a resolution expressly giving such authority to each trustee.

6. Q. May road districts be changed by present or succeeding boards?

   A. Yes.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Who Shall Supervise (Continued)

Township Highway Superintendent

1. Q. Must the road superintendent be a qualified elector, and a resident of the township which employs him?

   A. No, not both. The road superintendent is an appointed officer of the township. An appointed officer has to be a qualified elector, but not a resident. Generally, any officer other than an elective officer is considered an employee. O.R.C. 9.481 generally prohibits townships from imposing residency requirements on employees. See page A-31, Question 1.

2. Q. What bond must be given by the road superintendent?

   A. He must give bond to the state, for the use of the township, in the sum of $2,000, conditioned upon the faithful performance of his duty. The bond must be approved by the board of township trustees, and be filed with the fiscal officer See O.R.C. 5571.04.

3. Q. May the road superintendent be hired at a fixed weekly, monthly or yearly salary?

   A. Yes. Although previously he could be paid only for the time actually employed in the discharge of his duties, O.R.C. 5571.04 was amended to delete this requirement.

4. Q. From what fund should a road superintendent be paid?

   A. O.R.C. 5571.04 provides that the township road superintendent shall be paid from the "township road fund." Payment would therefore be proper from the road and bridge fund, from the gasoline tax fund, and from the motor vehicle license fund.

Contract

1. Q. What is the definition of "force account" as opposed to "contract"?

   A. See questions 1 and 3 on page M-11 of this manual.

2. Q. May the trustees proceed by either contract and force account in the maintenance and repair of roads?

   A. Yes. See O.R.C. 5575.01.

3. Q. If the board of trustees is proceeding by contract in the maintenance and repair of roads when is it necessary to advertise for bids?

   A. Except as provided in O.R.C. 505.08 and 505.101, if the amount to be spent for a single project will exceed $45,000, it is necessary to advertise for bids. See O.R.C. 5575.01.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Contract (Continued)

4. Q. The trustees are planning to surface treat with oil about two and one-fourth miles of roads. There is a company which would furnish and apply the material for the sum of six and three fourths cents per gallon or approximately $2,270. Is it necessary to advertise for bids?

   A. No. An agreement for the furnishing and placing of materials on a road would be a proceeding by contract and the surface treatment is a maintenance operation. O.R.C. 5575.01 requires that if the trustees proceed by contract in the maintenance of roads bids must be advertised for if it is estimated that the cost will exceed forty-five thousand dollars.

5. Q. The trustees wish to contract for several road maintenance jobs which together would amount to more than $45,000, but, if taken separately, no one job would amount to $45,000. May the trustees setup each maintenance and repair job as a separate proposition and avoid advertising?

   A. Yes. Such procedure is in accordance with law provided all the jobs are separate jobs of work in different locations and this is not a case of splitting up one piece of work merely for the purpose of evading competitive bidding requirements. The trustees should pass separate resolutions for each job.

Force Account

1. Q. If the trustees are proceeding by force account in the maintenance and repair or construction/reconstruction of roads is it necessary to advertise for bids?

   A. Except as provided in O.R.C. 505.08 and 505.101 if the estimated cost exceeds $15,000.00 per mile for construction/reconstruction, or the total project exceeds $45,000 for maintenance and repair, it is necessary for the trustees to advertise for bids. See Questions 1 and 2 on page M-12 of this manual.

Contracting with County Commissioners for Repair and Improvement of Township Roads
Nature of Contract

1. Q. May the township trustees enter into an agreement with the county commissioners to have the county commissioners maintain or repair a township road?

   A. Yes. Such an agreement is authorized by O.R.C. 307.15. This section authorizes the board of county commissioners to contract to exercise any power, perform any function, or render any service on behalf of the township which such township may exercise, perform, or render.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Contracting with County Commissioners for Repair and improvement of Township Roads (Continued)
Nature of Contract (Continued)

2. Q. May the township trustees enter into an agreement with the county commissioners, to have the county commissioners improve a road, i.e., widen, construct, reconstruct, or resurface it?

   A. Yes. Such agreement is authorized by O.R.C. 307.15.

3. Q. May the county commissioners proceed by force account in doing work for a township under a contract authorized by O.R.C. 307.15?

   A. Yes. However, in road improvement projects, the county commissioners must comply with the provisions of O.R.C. 5543.19 including the making of estimates by the county engineer and the inviting and receipt of competitive bids when the total estimated cost of the work exceeds ten thousand dollars per mile.

4. Q. May a board of county commissioners and a board of township trustees rely on O.R.C. 9.482 or O.R.C. 307.15 to enter an agreement whereby the county will repair and maintain driveways, parking areas, and structures owned by a township, and used by a non-profit recycling center?

   A. Yes. A board of county commissioners and a board of township trustees may enter an agreement pursuant to O.R.C. 9.482 or O.R.C. 307.15 whereby the county will repair and maintain driveways, parking areas, and structures owned by a township, and used by a non-profit recycling center. OAG Op. 2017-008

Certificate of Fiscal Officer

1. Q. If the township trustees adopt a resolution to enter into an agreement with the county commissioners to repair, improve, or reconstruct a township road, must the township fiscal officer furnish a certificate of availability of funds in the amount of the contract price?

   A. Yes.

Advertising

1. Q. If the township trustees wish to have a road constructed by force account, must the township trustees first advertise for bids?

   A. It depends. If the total estimate of the construction or improvement of the road exceeds $15,000 per mile, the board of trustees must invite and receive competitive bids for furnishing all labor, materials and equipment before ordering the work done by force account. O.R.C. 5575.01.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Contracting with County Commissioners for Repair and Improvement of Township Roads (Continued)
Assessment of Costs

1. Q. If the township trustees enter into an agreement with the county commissioners pursuant to O.R.C. 307.15 to have the county engineer undertake a township road improvement by force account, may the costs thereof be assessed against the abutting landowners by one of the methods provided in O.R.C. 5573.07?

   A. Yes. See OAG Op. 60-1549.

Housing Machinery and Equipment
Authority to Purchase or Construct

1. Q. Do the trustees have authority to purchase or construct a building for the purpose of housing and storing road machinery and equipment?

   A. Yes. O.R.C. 5549.21 authorizes either the purchase or construction of such.

2. Q. Must the township trustees submit to the electorate the question of building a garage to house road equipment before proceeding to spend money for such?

   A. No. Pursuant to O.R.C. 505.262, the board of trustees, by unanimous vote, may adopt a resolution allowing the township to contract for the purchase of buildings for any lawful township purpose. Further, the board may, by resolution adopted by unanimous vote, issue the notes of the township to finance purchases and construction. See OAG Op. 90-010. The vote of the people to authorize the acquisition of property is required in many instances, i.e., for acquisition of public libraries, memorial buildings, parks, and under certain conditions, a town hall. However, it is required in such instances only because the statutes specifically provide that an election shall be held on the question. Nowhere do the statutes specifically require prior authorization to provide housing and storing facilities for machinery and tools. However, if it is necessary to issue bonds to finance the cost of the building, O.R.C. 133.09 would require the question of issuing bonds to be submitted to the electorate.

Acquisition of Site

1. Q. May the township trustees purchase a site upon which to erect a building to be used for storing and housing road machinery belonging to the township?

   A. Yes. The language in O.R.C. 5549.21 makes no specific reference to the acquisition of a site. Pursuant to O.R.C. 5735.27(A)(5), a township may expend motor vehicle fuel excise tax revenues to plan, construct, and maintain suitable buildings for housing road machinery and equipment. See OAG Op. 93-057.

   A board of township trustees may expend motor vehicle fuel excise tax revenues paid to the township pursuant to O.R.C. 5735.27(A)(3)(d) to purchase tools and supplies utilized for the repair and upkeep of a building constructed to house township road machinery and equipment, as well as to provide utility services such as electricity, natural gas, water, and telephone a building housing township road machinery and equipment. See OAG Op. 2015-036

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Housing for Machinery and Equipment (Continued)
Acquisition of Site (Continued)

2. Q. Do the trustees have authority to obtain land by appropriation procedures for use as a site upon which to construct a building for housing road equipment?

   A. No. The township trustees are not given any general grant of authority by statute to appropriate land. Power to appropriate is given in certain instances, such as a town hall, for a memorial, or for burial purposes, or for a firehouse. However, authority to appropriate land for a site for housing township road equipment is completely lacking and, therefore, unauthorized. *Board of Township Trustees v. Lambrix*, 60 Ohio App. 2d 295 (1978).

3. Q. May money from the general fund be used to purchase a site on which to construct a building to house road equipment?

   A. Yes. Payment for the site may also be made out of the road and bridge fund but not from the motor vehicle license tax fund.

Procedure

1. Q. May a building to house road equipment be constructed by the township trustees directly hiring the necessary labor and purchasing the necessary material?

   A. Yes. However, except as provided in O.R.C. 505.08, 505.101, and 5513.01, if the cost of the materials for construction of such building will exceed $50,000 the trustees must advertise for bids in purchasing the materials. There is no requirement for bidding for labor no matter what the cost. See O.R.C. 5549.21.

2. Q. If the board of township trustees proceeds to construct a building to house road equipment by purchasing the material and employing the necessary labor, may a single township trustee or the road superintendent alone purchase any of the material or hire any of the labor?

   A. Yes. O.R.C. 5549.21 would authorize the board of township trustees, when proceeding in effect by force account in the construction of a building to house road equipment, to adopt a resolution authorizing one of the members of the board of township trustees or the township highway superintendent to purchase material or hire labor at a price fixed by the board in such resolution. This can <u>only</u> be done by resolution, in the absence of the adoption of such a resolution, a single township trustee or the highway superintendent would have no such authority.

Bidding Requirements

1. Q. If a building is constructed to house road equipment, is it necessary to advertise for bids?

   A. Yes. Except as provided in O.R.C. 505.08, 505.101, and 5513.01 if the cost of the materials involved exceeds $50,000, the trustees must advertise for bids for the materials. However, the labor charges need not be included in determining such costs, and labor need not be advertised.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Housing and Machinery and Equipment (Continued)
Bidding Requirements (Continued)

2. Q. If the trustees purchase a building, already erected, for the purpose of housing and storing road machinery, is it necessary to advertise for bids?

   A. No. Although the trustees must comply with the advertising provisions of O.R.C. 5549.21 when proceeding to construct a building to house road machinery and equipment, there is no necessity to comply with such provisions for advertising when an existing building is to be acquired.

3. Q. What does the term "lowest, responsible bidder" mean as the term is used in O.R.C. 5575.01, which is a requirement for a contracting party with the board of trustees?

   A. The term does not necessarily require that the bid be the lowest, but includes also the necessity for a consideration of the skill, ability, and integrity of the bidder and the likelihood that the bidder will do faithful, conscientious work and fulfill the contract promptly according to the letter and spirit. See OAG Op. 40-2128.

Funds

1. Q. Is there any statutory limit to the amount of money that may be spent for the purpose of acquiring a site and constructing housing to store road equipment?

   A. No.

2. Q. From what funds may money be appropriated to purchase land and construct a building to house township road equipment?

   A. The general fund may be used for purchasing real estate or for acquiring a site and constructing and maintaining a building thereon. A permanent improvement road fund and motor vehicle fuel excise tax revenues may be used for the purchase of real estate or for acquisition of a site and construction of a building to house road equipment. See OAG Op. 67-122 and OAG Op. 93-057.

3. Q. If the township has sufficient money in the general fund, and the road and bridge fund with which to construct a building on a site now owned by the township, may the trustees construct out of such funds a building to be used to house road equipment, and also have a room partitioned off where the trustees can hold their meetings?

   A. Yes. However, road funds may not be used to construct a townhall. Therefore, the expense of such a dual purpose building attributable to that portion of the building which is to serve as a meeting hall may not be charged to either the gasoline tax fund or a road fund, but could properly be charged to the general fund.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Housing for Machinery and Equipment (Continued)
Issuance of Bonds

1. Q. May the township trustees issue bonds to finance the construction of a building for the purpose of storing road machinery, tools, and materials?

   A. Yes. Such a structure would be classed as a permanent improvement and, therefore, one for which bonds may be issued.

2. Q. Is it necessary to submit the question of issuing bonds for township purposes to a vote of the people?

   A. Yes. O.R.C. 133.09 provides, in part, that "a township shall not incur net indebtedness that exceeds an amount equal to five per cent of its tax valuation...and, except as specifically authorized by section 505.262 of the Revised Code or other laws, shall not incur any net indebtedness unless authorized by vote of the electors." A township that has adopted a limited home rule government under Chapter 504 of the Revised Code shall not incur net indebtedness that exceeds an amount equal to ten and one-half per cent of its tax valuation, or incur without a vote of the electors net indebtedness that exceeds an amount equal to five and one-half per cent of that tax valuation.

3. Q. The township trustees will need to issue only three thousand dollars in bonds in order to add a small addition to a building to house road equipment. Must they submit the question of issuing bonds for such purpose to the electors?

   A. Yes. O.R.C. 133.09 would prohibit township trustees from issuing bonds except pursuant to a vote of the electorate.

Purchase of Machinery and Equipment
Prior Authorization

1. Q. Are the trustees required to get the approval of the county commissioners before making purchases of machinery?

   A. No. See O.R.C. 5549.21.

Bidding

1. Q. Is it necessary to advertise for bids for the purchase of machinery and tools?

   A. Except where the purchase is made to meet an emergency as provided in O.R.C. 505.08, the purchase is from a governmental entity as provided in O.R.C. 505.101, or purchases as provided in O.R.C. 5513.01, if the amount exceeds $50,000 the trustees must advertise for bids, once not later than two weeks prior to the date fixed for letting the contract, in a newspaper published in the county or of general circulation in the township or if no such paper, then in a paper having general circulation in the township.

2. Q. To whom should the bid be let?

   A. O.R.C. 5549.21 provides that the purchase shall "be made from the lowest responsible bidder."

3. Q. What may be taken into consideration in determining the "lowest responsible bidder?"

   A. The experience of the bidder, his financial condition, his conduct and performance on previous contracts, his facilities and management skills, and his ability to execute the contract properly are all factors that are to be considered when determining the "lowest responsible bidder." See ORC 9.312(A).

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Purchase of Machinery and Equipment (Continued)
Bidding (Continued)

4. Q. May township trustees lease road equipment with the option to buy at the expiration of certain leasing periods?

   A. Yes. O.R.C. 5549.021 authorizes the trustees to "purchase or lease" machinery, materials and supplies. HB 97, 125th G.A. reversed 2000 Op., Attorney General No. 2000-019, which stated that O.R.C. 5549.021 does not allow a lease with an option to purchase. Under HB 97, township trustees may enter into a lease (including a lease with an option to purchase) for road equipment. The board of trustees is required to pay a minimum of three-twentieths (3/20) of the total cost if it enters into a lease with an option to purchase. But, if the township sells used equipment as part of a lease with an option to purchase, the cash down payment may be reduced by the amount of the sale price of the used equipment. A lease with an option to purchase must be competitively bid.

5. Q. What is the effect if machinery and equipment costing in excess of $45,000 is purchased without any attempt to comply with the law relative to advertisement for bids?

   A. The contract of purchase is void and title to the property remains in the seller.

6. Q. If a contract for purchase of machinery and equipment is voided as the result of a failure to comply with statutory requirements of bidding are the sellers entitled to any damages?

   A. There may be authority to the effect that under certain conditions the seller would be entitled to have his property restored to its original condition at the time it was delivered.

7. Q. Would it be legal for the township trustees to set up the specifications for the purchase of a particular piece of machinery in such detail that only one or two manufacturers could meet the specifications and bid for the contract?

   A. No. This would be destructive of competition and not permissible in any case where competition is actually required. Specifications which require the use of material within the control of only one concern are ordinarily regarded as illegal, as are specifications which are intentionally drawn as to be capable of fulfillment by only one manufacturer.

8. Q. May road machinery be purchased by the township trustees out of the general fund of the township?

   A. A township may use the general levy for the construction, reconstruction, resurfacing, or repair of roads and bridges in townships. Any other money in the general fund can also be used for legally permissible road and bridge and other purposes. O.R.C. 5705.05.

Funds

1. Q. What are the funds out of which road machinery may be purchased?

   A. Road machinery may be purchased from the road and bridge fund, the gasoline tax fund, the motor vehicle license tax fund, from any special fund derived from the proceeds of a tax levied for the purpose of road machinery, and from the general fund as long as the general levy for current expenses is not used.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Purchase of Machinery and Equipment (Continued)
Funds (Continued)

2. Q. If the road and bridge fund is low, may money from the general fund be transferred to the road and bridge fund to purchase materials, machinery and tools needed for road maintenance and construction?

   A. Yes. However, the transfer must be by resolution pursuant to O.R.C. 5705.14 and as long as the general levy for current expenses is not used.

3. Q. May property damage insurance on township road machinery and housing be paid from the road and bridge fund, the gasoline tax fund and the motor vehicle fund?

   A. Yes.

4. Q. Can a township transfer money from the general fund to the capital projects fund in order to buy a vehicle for the township road department?

   A. Yes, See O.R.C. 5705.13(C). This section enables townships to create reserve balance funds for capital projects for the acquisition, construction, or improvement of fixed assets. Fixed assets include motor vehicles.

Purchase or Installment

1. Q. May machinery, tools, trucks and other equipment for use in constructing, maintaining and repairing roads be purchased on installment by township trustees?

   A. No. O.R.C. 5549.02 no longer permits township trustees to purchase machinery, tools, trucks and other equipment for use in constructing, maintaining and repairing roads in installments.

2. Q. May a bank credit card be used to purchase road equipment?

   A. Yes, but the board must authorize such expenditure and the fiscal officer must certify existence of sufficient funds to pay. A credit card may not be used to defer payments and the entire balance must be paid on receipt of the statement. See OAG Op. 84-050.

Issuance of Bonds

1. Q. May the township trustees issue bonds to finance the purchase of machinery, tools, trucks, and other equipment for use in constructing, maintaining and repairing roads?

   A. Yes. O.R.C. 5549.021 allows for the issuance of bonds for these purposes, subject to O.R.C. Chapter 133.

2. Q. Is it necessary to submit the question of issuing bonds for purchasing road equipment to a vote of the people?

   A. Yes. O.R.C. 133.09 provides that "a township shall not incur net indebtedness that exceeds an amount equal to five per cent of its tax valuation and, except as specifically authorized by O.R.C. 505.262 or other laws, shall not incur any net indebtedness unless authorized by vote of the electors."

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Purchase of Machinery and Equipment (Continued)
Issuance of Bonds (Continued)

3. Q. The township trustees will need to issue only three thousand dollars in bonds in order to purchase road equipment. Must they submit the question of issuing bonds for such purpose to the electors?

   A. Yes. O.R.C. 133.09 would prohibit township trustees from issuing bonds except pursuant to a vote of the electorate.

Issuance of Securities

1. Q. May trustees issue securities to purchase machinery and equipment?

   A. Yes, per O.R.C. 505.262.

2. Q. What is required for the trustees to issue securities pursuant to O.R.C. 505.262 for the purchase of machinery and equipment?

   A. The issuance of securities requires the following:

      a. Resolution of the board of township trustees which has been approved by unanimous vote;

      b. The resolution must provide for the levying and collecting of an annual tax sufficient to pay the interest and principal on the securities;

      c. Securities issued must be signed by the board of township trustees and attested to by the signature of the fiscal officer of the township;

      d. In the year of issuance, the County Auditor must certify that the debt service charge for the purchase and for any other purchase or construction already undertaken does not exceed 1/10 of the township's total revenues from all sources; and

      e. If the County Auditor certifies as indicated in d above, the county budget commission shall include a debt charge in the township's annual tax budget if the township omits such a debt charge from its budget.

3. Q. What is the maximum maturity for such securities?

   A. The securities may not have a final maturity exceeding 10 years, pursuant to O.R.C. 133.20.

4. Q. How are the securities to be repaid?

   A. O.R.C. 505.262 indicates that the resolution authorizing the issuance of the securities shall provide for levying and collection annually by taxation, amounts sufficient to pay the interest on and principal of the securities.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Purchase of Machinery and Equipment (Continued)
Issuance of Securities (Continued)

5. Q. From what fund should repayments be made?

   A. The repayment of the securities should be made from a debt service fund established for this purpose.

6. Q. May the securities contain a clause permitting prepayment?

   A. Yes, per O.R.C. 505.262(A).

Leasing Machinery and Equipment

1. Q. Do the township trustees have authority to acquire equipment for the maintenance and repair of roads by lease?

   A. Yes. Under authority of O.R.C. 5549.21 the township trustees may lease such machinery and tools as are necessary for use in constructing, reconstructing, maintaining and repairing roads or culverts within the township.

2. Q. If the township trustees need heavy machinery for a day or so, and get it from the county commissioners, may the county commissioners charge the trustees for the use of it?

   A. Yes. When the township trustees require heavy machinery and borrow this machinery from the county, the county generally makes the charge for such machinery based upon the size of the machinery used, the cost of operation, and expense for the use of such machinery.

3. Q. May the township trustees lease road machinery to the county engineer when the county commissioners have authorized him to improve a county road by force account?

   A. Yes. The common purpose which they will thus be entering upon is one which they are specifically authorized to accomplish jointly. In addition, specific authority is now given by O.R.C. 5549.02.

4. Q. May a township lease machinery, tools, trucks, and other equipment from another township, a municipality or the county for use in constructing, maintaining and repairing roads?

   A. Yes. O.R.C. 5549.02 authorizes the lease of equipment for road purposes from one or more political subdivisions.

5. Q. Upon what terms may road machinery, tools and equipment be leased from another subdivision?

   A. Very broad discretion is given the board of township trustees because O.R.C. 5549.02(B) provides, in part, that the lease may be "... on such terms as are mutually agreed upon."

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Purchase of Machinery and Equipment (Continued)
Leasing Machinery and Equipment (Continued)

6. Q. May the boards of trustees of any two or more townships, or the legislative authorities of any two or more political subdivisions, or any combination thereof unite in the joint purchase, maintenance, use, and operation of machinery, tools, trucks, and equipment for use in constructing, maintaining, and repairing roads?

   A. Yes. They may prorate the expense on such terms as are mutually agreed upon, as provided in O.R.C. 5549.02.

7. Q. May the township trustees give permission to a local church to use the township truck, if the church furnishes the driver and gasoline?

   A. No. No power is specifically given by statute to the trustees to lease to private individuals, organizations and corporations. The township trustees have only such powers as are specifically given them by statute or such powers as are necessary to carry into effect the specific powers given by statute. The power to lease to private individuals cannot be implied from any power given the trustees.

Sale of Machinery and Equipment

1. Q. If the trustees wish to sell machinery, equipment, or tools, used for the construction, reconstruction, maintenance or repair of roads which the township finds by resolution that they do not need, and wish to trade such in on the purchase of other machinery, equipment or tools, must the sale of the old equipment be at auction?

   A. No. When the machinery or equipment is traded in on new equipment pursuant to O.R.C. 5549.21 the procedure of auction as provided for in O.R.C. 505.10 is not applicable.

2. Q. If the trustees have old equipment which they wish to trade in on new equipment, the entire purchase price of which does not exceed $5,000 is it necessary to advertise the sale of the old equipment?

   A. No. O.R.C. 5549.21 creates an exception to the method of sale by advertisement and auction provided by O.R.C. 505.10 under O.R.C. 5549.21 advertisement for bids for the purchase of new equipment is required only if the entire purchase price of the new equipment exceeds $50,000 and the statute specifically authorized a trade in of old equipment on the purchase price and required notice to competitive bidders of its willingness to accept offers for the purchase of old machinery and equipment as a part of the advertisement for bids only in an instance in which the purchase price of the new equipment will exceed $50,000.

3. Q. If the purchase price of the new equipment will exceed $50,000 and the township has old equipment which it wishes to trade in on the new equipment, how should the advertising of the sale of old equipment be handled?

   A. The board should give notice to competitive bidders of its willingness to accept offers for the purchase of the old machinery, equipment or tools. The notice of the willingness of the board to accept offers for the purchase of the old machinery must be made a part of the advertisement for bids.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Annual Meeting of County and Township Authorities

1. Q. When and where is the annual meeting of county and township authorities connected with the construction and repair of roads and bridges to be held?

   A. The meeting is held at the call of the county engineer at a time and a place within the county approved by the director of transportation. See O.R.C. 5543.06.

2. Q. What is the purpose of the annual meeting?

   A. The purpose of the meeting is to permit the county engineer, or such other person as may be designated by the director of highways to instruct such persons as to the best and most economical methods of repairing and maintaining the roads and bridges of the county so as to provide a uniform system of highway work for each county.

3. Q. Would it be proper for the county engineer to call the fiscal officer of the township to attend the annual meeting of county and township authorities connected with the construction and repair of roads and bridges?

   A. Yes. The fiscal officer has many duties closely connected with the construction of roads which would clearly authorize his attendance at such meeting.

4. Q. Are township trustees who attend the annual meeting of township and county authorities connected with the construction and repair of roads and bridges entitled to their actual and necessary expenses in attending such meeting in addition to their regular per diem?

   A. Yes. The statute specifically provides that they shall receive their actual and necessary expenses in addition to their regular per diem. See O.R.C. 5543.06.

5. Q. From what fund would the per diem and expenses of attendance at such a meeting be paid?

   A. The necessary expenses should be paid by the county treasurer from the road fund of the county on itemized vouchers approved by the engineer. The per diem should be paid from the township treasury.

Annual Estimate
Purpose

1. Q. When shall the county engineer make his annual estimate for the board of township trustees of each township, setting forth the amount required by the township for the construction, reconstruction, resurfacing, or improvement of the public roads of the township?

   A. The county engineer shall make his estimate on or before June 1 of each year.

2. Q. What is the purpose of the annual estimate?

   A. The estimate relates to the year beginning on the first day of March, of the next succeeding year and is for the information of county commissioners and board of township trustees in making their annual tax levies.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Annual Estimate (Continued)
Purpose (Continued)

3. Q. What authority do the township trustees have to reduce or increase the amount of any items contained in the annual estimate prepared by the county engineer?

   A. Pursuant to O.R.C. 5575.10 the trustees may increase or reduce any items contained in such estimate.

Taxes Levied Pursuant to

1. Q. At what time are the township trustees required to make levies for the purpose set forth in the estimate required by O.R.C. 5575.10?

   A. The trustees shall make levies for such purposes at the first meeting after the county engineer files such estimate with the township board.

2. Q. What are the purposes for which the levies should be made?

   A. The levies should provide a fund for the purposes set forth in the county engineer's annual estimate and create a fund for dragging, maintenance and repair of roads.

3. Q. Upon what property may the above tax be levied?

   A. Such tax may be levied on the property in the township outside of any municipal corporation.

Funds Available for Road Purposes, Including Housing and Machinery
General Fund

1. Q. May a township use the proceeds of "inside millage levied for current operating purposes" to pay for road purposes?

   A. Yes. O.R.C. 5705.05 states that the general levy (inside millage) for current operating expenses can be used for road purposes. In addition, any other money in the general fund may be: 1) used for road or any other purposes; or, 2) may be transferred to any other authorized fund of the township including the Capital Equipment Fund. Such a transfer must be made by resolution of the board of township trustees, O.R.C. 5705.14.

2. Q. The trustees contemplate purchasing a road scraper, and also tar and stone for road repairs. The three road funds will not provide sufficient funds to pay all contemplated expenditures. The township has adequate money in the general fund to cover the expenditures. How may the trustees make use of such funds for these road purposes?

   A. If there is a surplus in the general fund, under the provisions of O.R.C. 5705.14 the trustees may make a transfer from the general fund to the road and bridge fund.

3. Q. May land on which to construct a road be acquired out of the general fund?

   A. Yes. O.R.C. 5705.05 and 5705.06 permit use of the general levy inside the ten-mill limitation for road purposes.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Funds Available for Road Purposes, Including Housing and Machinery
Taxes Levied for Roads

1. Q. May the township trustees levy a general property tax within the ten-mill limitation for road purposes?

   A. Yes. O.R.C. 5705.06(F) permits a township to levy within the ten-mill limitation for construction, reconstruction, resurfacing, and repair of roads, excluding state roads and bridges on such roads including the township's proportion of the cost of the construction and improvement, maintenance, and repair of county roads and bridges.

2. Q. If a village lies wholly or partially within the limits of a township, are the inhabitants of such village subject to taxation for road purposes?

   A. Yes. When the boundaries of a municipality are not the same with those of the township, the territory of the municipality does not cease to be a part of the township. The fact that the inhabitants of the village may have limited interest in the township road system outside their corporation is immaterial. See OAG Op. 90-048.

Motor Vehicle Gasoline Tax Fund and Motor Vehicle License Tax Fund
Uses Specifically Provided by Statute

1. Q. May gasoline and motor vehicle license tax money be used for constructing, reconstructing and widening township roads and highways within the existing right of way?

   A. Yes. O.R.C. 5735.27 includes these purposes among the ones for which gasoline tax money may be used, and O.R.C. 4503.02, includes these purposes among ones for which motor vehicle license tax money may be used.

2. Q. May gasoline tax money and motor vehicle license tax money be used for maintenance of township roads?

   A. Yes. Maintenance of the township roads is one of the purposes specifically permitted by both statutes.

3. Q. May the expense of materials and labor necessary in constructing, widening within the right of way, and reconstructing of roads be paid out of the gasoline tax fund and motor vehicle license tax fund?

   A. Yes.

4. Q. May road machinery and equipment necessary for maintaining, constructing, reconstruction and widening or roads be purchased out of the gasoline and motor vehicle license funds?

   A. Yes. O.R.C. 5735.27 specifically authorizes such and, although O.R.C. 4503.02 does not specifically authorize such, power has been implied from the specific statutory authority given to construct, reconstruct, improve and maintain.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Motor Vehicle Gasoline Tax Fund and Motor Vehicle License Tax Fund (Continued)
Uses Specifically Provided by Statute (Continued)

5. Q. May buildings suitable for housing road machinery and equipment be constructed and maintained from gasoline tax money and motor vehicle license tax money?

   A. O.R.C. 5735.27 specifically authorizes gasoline tax money to be used for the construction and maintenance of suitable buildings for housing road machinery and equipment, but does not authorize the acquisition of a site or purchase of real estate for such purpose, or the purchase of a building already constructed. Motor vehicle license tax money may not be used to purchase or construct a building to house road equipment. See OAG Op. 64-1499 and OAG Op. 93-057.

6. Q. May the township trustees pass a resolution permitting the board of county commissioners to spend the township's share of the gasoline tax money and motor vehicle license tax money, or any portion thereof, for the improvement of roads within the township?

   A. Yes. By express statutory authority, gasoline tax money may be used for such roads as are designated in the resolution authorizing the county commissioners to spend the money, and implied authority can be found to use motor vehicle license tax money in the same fashion. See O.R.C. 5735.27.

7. Q. May the costs apportioned to the townships under the provisions of O.R.C. 4907.472 (Railroad Crossing Protection) be paid from the gasoline tax fund?

   A. Yes.

Uses Connected with Improvement

1. Q. May a township which has constructed gravel roads, using bonds to pay for the same, and having adequate money both in the gasoline tax fund and the motor vehicle license fund, apply such money to the redemption of the bonds?

   A. No. Neither the proceeds of the gasoline tax nor the motor vehicle license tax may be expended except for the purpose for which the taxes were levied. Bonds that have been issued, even though they were issued for road purposes, are simply obligations of the township and their status is no different from any other bonded indebtedness of the township. See OAG Op. 32-4015.

2. Q. May the township trustees use the gasoline tax fund or the motor vehicle license tax fund to construct sidewalks within the road easement but outside the portion of the road traveled by motor vehicles?

   A. No. The construction of sidewalks is not closely enough related to the purposes set forth in O.R.C. 5735.27 and 4503.02. General fund money should be used for sidewalks. See OAG Op. 37-880.

3. Q. May the cost of bridges, culverts and bridge abutments be paid out of the gasoline and motor vehicle license tax funds?

   A. Yes. The words "highways" and "public roads" include bridges, culverts and abutments. Therefore, both motor vehicle license and gasoline tax money may properly be expended for the purpose of constructing or maintaining bridges, culverts or abutments. See OAG Op. 33-1385.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Motor Vehicle Gasoline Tax Fund and Motor Vehicle License Tax Fund (Continued)
Uses Connected with Improvement (Continued)

4. Q. May gasoline and motor vehicle license tax funds be used if the township trustees proceed by force account in the construction, reconstruction, improvement or widening of township roads within the existing right of way?

   A. Yes.

Uses Connected with Maintenance

1. Q. May both gasoline tax money and motor vehicle tax money be used for labor, equipment, and chemicals in connection with brush and weed control?

   A. Yes. Pursuant to O.R.C. 5579.04 and 5579.08 the township trustees have a mandatory duty to destroy brush and weeds growing along public highways. Although these sections direct that the cost of such work shall be paid from the township road fund, they do not provide that no other funds shall be used for that purpose. Since keeping the highways free of brush and weeds is a part of the maintenance of roads, and both gasoline tax and motor vehicle tax money may be used for road maintenance, both funds may be used for cutting weeds and brush.

2. Q. May gasoline tax money and motor vehicle license tax money be spent to purchase necessary equipment and employ necessary labor for the removal of ice and snow from public roads and highways?

   A. Yes. Even though the cost of the removal of snow is directed to be paid out of the township road fund, there is no provision forbidding the payment for such work from other available funds. Keeping the highways of the township free from obstruction by snow and ice is a part of the proper maintenance of such highways and, therefore, the cost may be paid from the funds allocated to townships by O.R.C. 5735.27, 5571.08, and 4503.02.

3. Q. In using gasoline tax money or motor vehicle license tax money for either the purpose of maintaining or constructing, reconstructing, including widening within the right of way of public roads and highways in a township, must the work be done by contract or may it also be done by force account?

   A. Such work may be done either by contract or by force account. O.R.C. 5575.01.

Uses Incidental to Purchase of Machinery

1. Q. Where the township trustees have purchased road machinery by the installment plan pursuant to O.R.C. 5549.02 may the notes issued for the balance of the purchase price be paid at maturity from gasoline tax funds or motor vehicle license tax funds?

   A. Yes. Since either fund may be used for the purchase of road machinery or equipment, retirement of notes issued for such purposes would be authorized.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Motor Vehicle Gasoline Tax Fund and Motor Vehicle License Tax Fund (Continued)
Uses Incidental to Payment for Labor

1. Q. Pursuant to O.R.C. 4127.07 a township is required to pay premiums to the public-work relief employees' compensation fund. When the premium covers persons employed in connection with the construction, maintenance, widening or reconstruction of township roads, may the cost thereof be taken from the gasoline tax fund or the motor vehicle license tax fund?

   A. Yes. Such expenditure is one required as part of the cost of labor and as a direct result of keeping the roads in condition for the traveling public.

2. Q. If a township trustee drives a tractor or a grader on the roads, may his compensation for such be paid out of either fund?

   A. Yes. Each trustee shall certify the percentage of time spent working on matters to be paid from the township general fund and from other township funds in such proportions as the kinds of services performed, as the board may specify by resolution. See O.R.C. 505.24

Unauthorized Uses

1. Q. May the township trustees purchase out of the gasoline tax fund a building already constructed suitable for housing road equipment?

   A. No. O.R.C. 5735.27 merely authorizes the construction of a building to house road equipment and does not authorize the purchase of a building already constructed.

2. Q. May buildings suitable for housing road machinery and equipment be purchased or constructed out of the motor vehicle license tax fund?

   A. No.

3. Q. May gasoline tax money or motor vehicle license tax money be used to place markers on the right of way lines which will serve as a guide in determining the exact boundary lines of the right of way and thus avoid dispute and litigation concerning the title of property adjacent to the right of way?

   A. No. Such use is not closely enough related to physical maintenance to be defined as an authorized expenditure. See OAG Op. 36-6128.

4. Q. May the gasoline tax fund or motor vehicle license tax fund be used to purchase, install and maintain traffic control signals as the term is defined in O.R.C. 4511.01(RR)?

   A. Yes. The cost to purchase, erect and maintain traffic lights and signals may be paid out of the gasoline tax fund and the motor vehicle license tax funds.

5. Q. May expenditures be made from the gasoline tax fund or motor vehicle license tax fund for the purpose of placing monuments in the right of way?

   A. No. See OAG Op. 36-6128.

II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

Motor Vehicle Gasoline Tax Fund and Motor Vehicle License Tax Fund (Continued)
Unauthorized Uses (Continued)

6. Q. May the cost of placing street lighting at dangerous intersections be paid from the gasoline tax fund or the motor vehicle license tax fund?

   A. No. The expense of installing street lighting as provided in O.R.C. 515.01 is a general fund expenditure.

Provision Against Transfer

1. Q. Is it necessary to establish a special fund into which to pay gasoline tax money and a special fund into which to pay motor vehicle license tax money?

   A. Yes. Both the gasoline tax money and the motor vehicle license tax money are within the category of revenue derived from a source other than the general property tax which the law requires to be used for a particular purpose. Pursuant to O.R.C. 5705.09(F) it is necessary to establish a special fund for each of such revenues.

2. Q. May the township trustees transfer money from either the gasoline tax or motor vehicle license tax fund to the general fund or the road and bridge fund?

   A. No. Article XII, Section 5a of the Constitution of Ohio would prohibit such transfer by resolution, court order, or otherwise.

3. Q. A township has a balance of approximately $12,000 in its gasoline tax fund, but the township has no township roads. Since the general fund of the township is practically depleted, may the gasoline tax money be transferred to the general fund?

   A. No. O.R.C. 5735.27 provides the sole purposes for which the gasoline tax fund may be used. Transfers out of this fund are not authorized. Nor does the fact that there are not township roads in the township give rise to the conclusion that such funds may not be expended for a lawful purpose, since in accordance with O.R.C. 5735.27, the township trustees may pass a resolution authorizing the board of county commissioners to spend the township's share of such funds or any portion thereof for the improvement of county roads within the township. A similar prohibition against transfer would apply in the case of money in the motor vehicle license tax fund.

4. Q. May the township trustees issue and sell bonds and use the proceeds thereof to build and improve township roads, and provide for the retirement of such bonds out of gasoline tax money or motor vehicle license tax money?

   A. No. In order to use either fund for the purpose of retiring bonds there would have to be a transfer from the gasoline tax fund which is a special fund to the bond retirement fund. The unexpended balance in any special fund, with the exception of a permanent improvement fund may not be transferred to the bond retirement fund until after the termination of the activity, service, or other undertaking for which such special fund existed until all obligations incurred and payable from such special fund have been met. This condition will not occur with either the gasoline tax fund or the motor vehicle license tax fund. If either fund has received the proceeds of borrowing for road purposes, then repayment of the debt may be made directly from the fund itself.

III. DUTIES RELATING TO HIGHWAYS

Animals

1. Q. Do the township trustees have authority to act if a woman permits her cow to run at large, destroying property?

   A. A person finding an animal at large in violation of O.R.C. 951.02, may, and a law enforcement officer of a county, township, city or village, on view or information, shall take and confine such animal, forthwith giving notice thereof to the owner or keeper, if known, and if not known, by publishing a notice describing such animal at least once in a newspaper of general circulation in the county, township, city or village wherein the animal was found. If the owner or keeper does not appear and claim the animal and pay the compensation prescribed in O.R.C. 951.13 for so taking, advertising, and keeping it, within ten days from the date of such notice, such person or the county shall have a lien therefore and the animal may be sold at public auction as provided in O.R.C. 1311.49 and the residue of the proceeds of sale shall be paid and deposited by the treasurer in the general fund of the county. See O.R.C. 951.11.

2. Q. If Mr. X's cattle get out on the public highway and into the field of a neighbor who has no fence, may the neighbor require the trustees to shut up the cattle?

   A. Yes. O.R.C. 951.11 provides that township trustees on view or information shall take up and confine any of the animals enumerated in O.R.C. 951.02, including cattle, in violation of O.R.C. 951.11.

3. Q. Which animals may the township trustees or highway superintendent take up and confine as provided by O.R.C. 951.11?

   A. The animals which the township highway superintendent or township trustees may take up and confine are horses, cattle, mules, swine, sheep, goats, llamas, alpacas, or geese running at large or in a street, lane, alley, public road, highway, or unenclosed land.

4. Q. Shall either the township highway superintendent or township trustees take up and confine dogs running at large?

   A. No. Stray dogs are now the responsibility of the county dog warden. See O.R.C. 955.12.

5. Q. Who shall remove dead animals found within the right of way of a township road?

   A. The township trustees and the board of health have a concurrent duty to remove any dead animals from the highway. The duty of the trustees arises from the fact that they must maintain township roads in such a condition that the roads are reasonably safe for the traveling public. The duty of the board of health arises from the fact that the dead animal will become offensive to the public or a menace to health. Any expense which the board of township trustees might incur in removing a dead animal from the highway should be paid from any township road fund available for maintenance of township roads.

6. Q. May the constable file a criminal affidavit charging a violation of O.R.C. 951.02 in an instance in which a cow is running at large?

   A. Yes. A violation of O.R.C. 951.02 is a misdemeanor.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Boundary Line Roads

1. Q. How shall a road which is a boundary between two townships or between a township and a municipality be improved, repaired and maintained?

   A. O.R.C. 5579.03 provides that whenever a road is established as a part of the line or boundary between two townships or a township and municipal corporation the trustees of such adjoining township or the trustees and the legislative authority of such municipal corporation shall meet at a designated place as soon after the first Monday of March as is convenient, and apportion such roads between the townships or township and municipal corporation as justice and equality require. Thereafter the boards of the township and the legislative body of a municipal corporation are to improve and maintain their respective portions of the road.

2. Q. May the township delegate its responsibility to the city for joint road improvement?

   A. Yes. However, terms and conditions as to payment should be agreed upon in advance.

3. Q. May a municipality likewise delegate to a township its responsibility of repairing boundary line roads?

   A. Yes.

4. Q. Where, pursuant to O.R.C. 5579.03 two townships have apportioned between them a township road, one-half of which lies in each township, under which agreement each is assigned the entire width of one-half such road, may one of the townships proceed to hard-surface that portion of the road under its jurisdiction without the agreement of the trustees of the other township?

   A. Yes. O.R.C. 5573.15 would permit the two township boards to cooperate in the joint construction, reconstruction and resurfacing of roads along the line between such townships. However, it is not mandatory that they proceed by this method. Townships are, of course, given the power to resurface and improve township roads, so if the apportionment of the road has been made pursuant to O.R.C. 5579.03 each township would in the alternative have jurisdiction to resurface or improve the portion of the road under its control without the consent of the board of trustees of the other township. See OAG Op. 56-6547.

Briars, Brush, and Noxious Weeds

1. Q. Who has the duty of removing brush, briars and weeds along a township road?

   A. The township trustees are charged with the duties of cutting all brush, briars and weeds growing along township highways. This is a part of maintenance and a mandatory duty which may be enforced with a writ of mandamus. See O.R.C. 5579.04.

2. Q. When are the township trustees required to cut briars, brush and noxious weeds growing along township highways?

   A. The weeds are to be cut or otherwise destroyed between the first and twentieth days of June, the first and twentieth days of August, and, if necessary between the first and twentieth days of September of each year, or whenever necessary to prevent or eliminate a safety hazard. See O.R.C. 5579.04 and 5579.08.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Briars, Brush, and Noxious Weeds (Continued)

3. Q Would township trustees be liable in the event that they sprayed weeds along township roads and the spray, either through inadvertence or negligence, spread to the field of the adjoining farmers destroying crops and causing the death of animals?

   A. No. O.R.C. 5571.10 has been repealed. Therefore, township trustees would not be individually liable.

4. Q. Do the trustees have the power to compel landowners to cut noxious weeds on their own property?

   A. Yes. Upon receiving written information that noxious weeds, wild parsnip, wild carrot, oxeye daisy, wild mustard, or other harmful weeds are growing on land in a township, the board of township trustees shall notify the owner, lessee, agent or tenant having charge of the land on receipt of the information of the obligation to cut or destroy the weeds within 5 days, or show the board why there is no need to do so. If the landowner, lessee, agent, or tenant having charge of the land fails to comply, the board of township trustees shall cause the weeds to be cut or destroyed. The cost shall be paid out of the township general fund from monies not otherwise appropriated, and the cost shall be entered upon the tax duplicate, and become a lien upon the land from the date of entry. See O.R.C. 5579.05.

5. Q. Can the township trustees compel a railroad company to cut or destroy weeds in the right of way of the railroad?

   A. Yes. O.R.C. 4959.11 requires the manager or superintendent of a railroad to cut the weeds within the limits of the right of way of a railroad between the first and twentieth day of June, the first and twentieth day of August, and, if necessary; between the first and twentieth day of September.

6. Q. If, after giving notice to a railroad to cut the weeds within the right of way of the railroad, the railroad company does not cut the weeds, what should the trustees do?

   A. O.R.C. 4959.11 provides that "In default of such destruction, and for five days thereafter, the board of township trustees*** shall cause it to be done, and shall have a right of action against such company for the amount of such work, with one hundred per cent penalty and costs of action." Also, O.R.C. 4955.36 authorizes the board of township trustees, if the railroad refuses to pay, to certify the amount to the county auditor to be collected as other taxes and assessments.

Bridges

1. Q. Who has the primary duty of building bridges on township roads?

   A. The duty of constructing and keeping in repair any necessary bridges over streams and public canals, whether on or connecting state, county or township roads, except only such bridges as are wholly in municipal corporations, rests primarily with the county commissioners. See O.R.C. 5591.21.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Bridges (Continued)

2. Q. May the township trustees assist in the construction of bridges upon township roads?

   A. Although it is the mandatory duty of the county commissioners to keep in repair bridges on township roads, the township trustees are authorized to spend money for such maintenance and repair, and to cooperate with the county commissioners in such undertakings if they so desire. See O.R.C. 5571.02.

3. Q. Do the township trustees have any duty to keep bridges on township roads in good repair?

   A. The township trustees have a mandatory duty to maintain and keep township roads in repair. This duty to keep township roads in repair carries with it the mandatory duty to keep bridges on township roads in good repair. See OAG No. 47-1651.

4. Q. When the streets have been dedicated on a plat of a subdivision lying outside of, but within three miles of the municipality, with the approval of the planning commission of the municipality as provided in O.R.C. 5559.01 and such roads have been accepted by the county commissioners, may the county commissioners assist the township trustees in the maintenance of such streets, even though they have not been made a part of the county system?

   A. Yes. O.R.C. 5559.01 authorizes the county commissioners to help maintain such streets. The commissioners may not, however, spend in excess of fifty per cent of the money levied or collected during the year as taxes from such territory.

County-Township Road Cooperation

1. Q. May the county contribute to the repair and maintenance of the roads under the control of the township, or to repair and maintain a driveway and parking area on township property?

   A. Yes. They may do so by agreement with the township trustees pursuant to O.R.C. 9.482 or O.R.C. 307.15. OAG 2017-008.

2. Q. May a county use the proceeds of a county motor vehicle license tax for such contribution?

   A. Yes. This is an authorized expenditure of such funds. OAG No. 76-074, OAG 2017-008.

3. Q. May a board of county commissioners contribute funds to a township to be used by the township trustees in the maintenance of township roads?

   A. Yes. See O.R.C. 5535.08.

4. Q. May a board of township trustees maintain or repair an intercounty highway or state highway within the limits of the township?

   A. O.R.C. 5571.02 so provides. However, approval thereto of the board of county commissioners or director of transportation must be obtained.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

County-Township Road Cooperation (Continued)

5. Q. Do the township trustees have authority to maintain and keep up a county road passing through an unincorporated village?

   A. Yes. O.R.C. 5535.01 defines township roads to "include all public highways other than state or county roads," and places upon the township trustees the duty of maintaining all township roads. The trustees, therefore, have no duty to maintain any portion of a county road. On the other hand, O.R.C. 5535.08 would authorize the county and township "by agreement between the board of county commissioners and the board of township trustees" to contribute to the repair and maintenance of county roads.

6. Q. Under what conditions may the county sell road materials for the construction, maintenance and repair of township roads or township buildings to the township?

   A. O.R.C. 307.15 authorizes the board of county commissioners to enter into an agreement with the board of township trustees whereby the board of county commissioners or any county official designated by the board of county commissioners may purchase at the request of the township any materials for the construction, maintenance, or repair of any township road or for the maintenance or repair of any township building. Any purchase pursuant to such agreement may not, however, exceed one thousand dollars. O.R.C. 307.15 would require the county to sell any such material to the township at cost to the county. However, the cost may include not only the purchase price, but any expenses incurred in such purchase.

Culverts

1. Q. Do the township trustees have any duty to keep culverts on township roads in good repair?

   A. Yes. The township trustees have the mandatory duty to keep township roads in good repair. Since the culverts are a part of the township road, the trustees have the same mandatory duty to keep the culverts in good repair that they have to maintain and keep township roads in repair.

2. Q. Do the county commissioners have any power and duty to keep culverts on township roads in good repair?

   A. The county commissioners are required to maintain and keep in repair only such culverts OR township roads as they deem necessary. The duty to maintain and keep in repair any culverts on township roads that the county commissioners did not deem necessary would come back to the township trustees as a part of their duties to maintain township roads.

3. Q. In order to install a culvert in an existing ditch that provides drainage for a county or township road, what must a property owner first do?

   A. The board of township trustees, by resolution, may require any person to obtain a permit before installing a driveway culvert or making any excavation in a township highway or highway right-of-way within its jurisdiction. See O.R.C. 5571.16.

4. Q. May a board of township trustees require a property owner who constructs a new driveway or replaces an existing driveway, to use a township road crew to complete a culvert installation?

   A. No. A board of township trustees may not require a property owner who constructs a new driveway or replaces an existing driveway that enters a township road to use a township road crew to complete a culvert installation. (OAG No. 2002-009 followed). OAG No. 2011-028.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Donations

1 Q. What authority do township trustees have to accept donations of labor or material for a proposed road improvement?

A. O.R.C. 5575.06 authorizes township trustees to accept donations of labor or material for a proposed road improvement, and further provides that, in determining which road shall be first improved, the board, when acting by unanimous vote and without a petition, shall take into consideration the amount of the donations.

2. Q. If the board accepts donations of labor and material for a proposed road improvement and takes into consideration the amount of such donations in determining which road is to be improved first, does the board of township trustees have any method whereby it may enforce the donation?

A. The board may require the person donating labor or material to enter into a contract that such labor will be performed and material furnished at the time required by the board. This section would authorize the board of township trustees to bring a suit for damages for breach of contract, if the terms of the contract are not fulfilled. See O.R.C. 5575.06.

Excavation and Obstructions

1. Q. What authority does the board of township trustees have to require a person, firm or corporation to obtain a permit before making an excavation in a township highway?

A. Authority to require a person, firm or corporation to obtain a permit is set forth in O.R.C. 5571.16. This section would require applications for permits to be made to the township fiscal officer upon forms to be furnished by the board. A fee of up to fifty dollars shall accompany an application as a condition to granting such permit for an excavation project to install six or more poles for the purpose of providing electric or telecommunications service or to install a pole associated with underground electric or telecommunications service, which shall be returned to the applicant if the application is denied. The board of township trustees may require the applicant to submit plans indicating the location, size, type, and duration of the excavation contemplated, the method of excavation, refilling and resurfacing to be followed and placement of warning devices. In addition, as a condition to granting such application, the board of township trustees may require the applicant to indemnify the township against liability or damages as a result of the excavation and may require the applicant to post a bond, with surety to the satisfaction of the board conditioned upon the performance of all conditions of the permit so granted.

2. Q. Where landowner "A" has placed upon his property a dam of dirt so that the water which heretofore had flowed off the land of landowner "B" into a ditch along one of the county roads and through a tile onto the property of landowner "A" now backs up and fills the ditch, and backs upon the road, is it the duty of the county commissioners or the township trustees to remove such an obstruction?

A. If there is a township highway superintendent, it is his duty to remove the obstruction; but, if there is no road superintendent, the duty would fall upon the trustees. Since O.R.C. 5589.06 places such a duty upon the trustees as to "public highways" the duty to cause such removal would arise even in the instance in which the road obstructed is a county road. When the township is divided into road districts, the trustee in charge of the district in which the obstruction is located is the person whom the trustees should order to remove the obstruction if the offending party does not.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Excavation and Obstructions (Continued)

3. Q. What procedure should be followed in an instance in which a landowner has built a fence within the right of way of a duly established township road and refuses to move the fence back at the request of the township trustees?

   A. Action for removal of such structure may be undertaken by the board of county commissioners pursuant to O.R.C. 5547.03. This section provides that a person occupying any part of a highway with any structure other than by virtue of a franchise legally granted shall remove it from the highway. Specifically, the section provides that "If, in the opinion of the engineer, such persons*** have obstructed any such highway, bridges, or culverts, or if any of their properties are, in his opinion so located that they do or may interfere with the proposed improvement, maintenance, or repair the board shall notify such person, partnership, or corporation directing the removal or relocation of the obstruction or property, and, if they do not within five days proceed to so remove or relocate and complete the removal or relocation within a reasonable time, the board may do so by employing the necessary labor. The expenses incurred shall be paid in the first instance out of any moneys available for highway purposes, and not encumbered for any other purpose, and the amount shall be certified to the proper officials to be placed on the tax duplicate against the property of such person, partnership, or corporation, to be collected as other taxes and in one payment, and the proper fund shall be reimbursed out of the money so collected, or the amount thereof may be collected from such person, partnership, or corporation, by civil action by the state on the relation of the board."

4. Q. If, in the above situation, the fence has occupied the road for a number of years, does the township thereby forfeit the right to have the fence removed at this time?

   A. No. It has been determined that the statute of limitations does not run in favor of one who maintains a fence around a part of a public highway. See Sullivan v. Columbus, 12 Ohio Dec. 650 (1902).

5. Q. What other remedy might be available if a landowner occupies a township road with a fence?

   A. O.R.C. 5589.01 prohibits any person from building a fence or any structure on a highway. Pursuant to O.R.C. 5589.99, any person violating this section is guilty of a third degree misdemeanor. (See Matthews v. St, 25 Ohio State 536 (1874).

6. Q. Can the trustees require a property owner to remove fence from the line of his property facing the road if such fence causes the snow to drift upon the township roads?

   A. Yes. O.R.C. 5571.14 authorizes the trustees or a township highway superintendent to declare any object a nuisance (not just fences) that is bounding a township road and located wholly or partly on the land belonging to the road that interferes with snow or ice removal from, the maintenance of, or the proper grading, draining or dragging of a township road or causes the snow to drift on a road. If the owner refuses or neglects to comply with the order to remove, the board or superintendent is authorized to have the fence removed and to certify the cost of removal to the county auditor to be entered on the tax duplicate and collected as other taxes.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Excavation and Obstructions (Continued)

7. Q. Does the township have authority to allow a telephone company to construct telegraph or telephone lines upon, along, and beneath the public roads, highways, and waters in the unincorporated area of a township?

   A. Yes. O.R.C. 4931.03 grants authority to a telephone company to locate lines within public ways in the unincorporated territory of a township.

8. Q. Does a board of township trustees have authority to restrict or regulate the installation of an interstate natural gas pipeline in the right-of-way of township roads?

   A. A township may not exercise a statutory power or duty in a manner that regulates an interstate natural gas pipeline facility for which a certificate or public convenience has been issued under 15 U.S.C.A. § 717f, unless that power or duty falls outside the extensive federal regulatory scheme governing the interstate transportation of natural gas. See 2002 Op. Att'y Gen. No. 2002-017.

Lighting Public Places and Streets

1. Q. When are the trustees authorized to provide lighting within the township?

   A. Lighting may be provided in two instances: (1) when, pursuant to O.R.C. 515.01 the trustees have determined that the public safety or welfare requires it, or (2) when, pursuant to O.R.C. 515.02 a petition has been filed with the trustees by the property owners to be benefited by such lighting.

2. Q. What two methods have been provided by O.R.C. 515.01 by which the trustees may provide artificial lighting?

   A. The township may either install a lighting system or contract with a person or corporation to furnish lights.

3. Q. How shall street lighting be paid for?

   A. If the street lighting is installed as the result of the bringing of a petition, the cost shall be paid by special assessment. See OAG No. 60-1924. If the lighting is installed as a result of the trustees determination that the public safety or welfare requires it, the cost is to be paid from the general fund of the township. See O.R.C. 515.01.

4. Q. A township has a contract with an electric utility company to operate eight lights at $50 per month at two dangerous road intersections. From what fund should this bill be paid?

   A. When the township determines that it is necessary for the public welfare that certain areas be lighted, the cost of such is to be paid from the general fund. If, on the other had, the lighting was installed upon petition of the landowners benefited by the lighting; the cost of the lighting should be paid from the assessment fund into which the taxes levied for such purposes were paid. See OAG No. 60-1924.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Lighting Public Places and Streets (Continued)

5. Q. May the cost of lights installed along a township road upon a finding that such are necessary for the public safety and welfare be paid for out of the gasoline tax fund?

   A. No. O.R.C. 515.01 provides that the cost of installing and operating lighting for the public safety and welfare shall be paid from the general fund.

6. Q. When the township has determined that the public safety and welfare requires street lighting and has installed such paying for it out of the general fund, may the township reimburse the general fund for the cost of such lighting by assessing the abutting property owners?

   A. No. The cost of lighting may be assessed against the abutting landowners only in the event that the lighting is installed as a result of a petition having been filed requesting such.

7. Q. What shall the township trustees do if assessments have been levied for lighting petitioned for pursuant to O.R.C. 515.02 but the assessments have not yet been paid into the township treasury and the township has no received the bill for the lighting?

   A. O.R.C. 515.08 provides that "After the levy of such special assessment the board may, at any time during any year in which installments thereof become due, pay out of the general fund of the township the full amount of the contract price for that year, provided such amount does not exceed the aggregate amount of the installments due for that year." This statute, then, would authorize the township trustees to meet the contemplated problem by making payment from the general fund. Upon receipt of the money from the levy of the assessment, the township general fund should be reimbursed in the amount so expended.

8. Q. Do the township trustees have authority to install a street lighting system in a small incorporated village located within the township?

   A. No. Trustees have authority to furnish street lighting only in the unincorporated districts of the township, when such lighting is installed as provided in O.R.C. 515.01, upon a finding that it is necessary for the public welfare and safety or is installed pursuant to O.R.C. 515.02 upon petition with costs assessed against the landowners.

9. Q. Do the township trustees have authority to install street lighting on a county road located within the township?

   A. Yes. The trustees have the power to provide artificial lights for any part of the township which is outside the boundaries of a municipal corporation, even though it is a county highway.

10. Q. Do township trustees have authority to install lighting on a state highway?

    A. Since O.R.C. 515.01 authorizes lighting for the public safety to be installed on "any road, highway, or public place, or building under its supervision or control," the township trustees would have authority to install lighting on a state highway upon a finding that such lighting was necessary for the public safety and welfare. However, O.R.C. 5515.01 would require that a permit to use or occupy any portion of the state highway system be obtained from the director of transportation.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Lighting Public Places and Streets (Continued)

11. Q. If the landowners petition the trustees for street lighting for undedicated streets of the township, may the trustees make assessments for such and install the lighting on the undedicated portion?

    A. No. Lighting to be paid by assessment may be installed only on streets and public ways and may not be installed on undedicated streets. Owners of property abutting on private ways are not even eligible to sign such a petition.

12. Q. If the township trustees, pursuant to O.R.C. 515.01 determine that the public safety or welfare require it, may the trustees install street lighting on an undedicated street?

    A. Yes. Upon the making of such a determination, the trustees may install street lighting on any territory within the township.

13. Q. If it is determined that lighting equipment is needed for an unincorporated district within the township, is there a bidding requirement for the purchase of the lighting equipment?

    A. Yes, if the equipment will cost more than $50,000, the contract must be open to competitive bidding. See O.R.C. 515.01.

14. Q. If it is determined that lighting equipment needs to be improved in an unincorporated district within the township, is there a bidding requirement for the purchase of the lighting equipment?

    A. Yes, if the improvements will cost more than $50,000, the contract must be open to competitive bidding. See O.R.C. 515.01 and 515.07.

Mailbox Approaches

1. Q. Is a board of township trustees authorized to construct and maintain mailbox approaches on the berm of township roads?

    A. Yes. See O.R.C. 5571.01(B).

2. Q. Is a board of township trustees authorized to construct or maintain mailbox approaches on county roads?

    A. No. O.R.C. 5555.021 authorizes the county commissioners to construct and maintain mailbox approaches on county roads. Furthermore, the power given the trustees to construct and maintain mailbox approaches is limited by O.R.C. 5571.01(B) to roads under the jurisdiction of the board of township trustees.

3. Q. Is it mandatory that a board of township trustees construct and maintain approaches within the berm of a township road?

    A. No. The language of O.R.C. 5571.01(B) is permissive.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED

Naming and Numbering Roads

1. Q. May a township trustees erect and maintain road signs at any intersection which includes a township road?

   A. Yes. O.R.C. 5571.01 specifically authorizes such. However, the sign posts must be approved by the director of transportation if one of the intersecting highways of this section is a state highway.

2. Q. Out of what fund shall the sign posts above referred to be paid?

   A. O.R.C. 5571.01 provides that they shall be paid from the township road fund.

Parking

1. Q. Do the township trustees have any control over vehicle parking in the township?

   A. Yes. O.R.C. 505.17 permits the trustees to make necessary parking regulations. This authority is, however, limited to such portion of the township as is outside the limits of a municipality. Furthermore, any parking regulations or orders are subject to the limitations found in O.R.C. 4511.01 to 4511.76, inclusive, and O.R.C. 4513.02 to 4513.37, inclusive.

2. Q. If parking regulations and orders are established by the board of township trustees, how should the public be advised of this?

   A. The regulations and orders must be posted by the township fiscal officer in five conspicuous public places in the township for thirty days before becoming effective and published in a newspaper of general circulation in the township for three consecutive weeks. See O.R.C. 505.17.

3. Q. May the trustees regulate parking on a state highway?

   A. No, except in limited situations. Trustees have no authority to control parking on a state highway unless the regulations are approved by the director of transportation. See O.R.C. 505.17(C).

4. Q. If parking regulations are adopted by the township trustees and signs posted giving notice of the parking regulations, at what intervals must such signs be posted?

   A. O.R.C. 4511.09 provides that the department of transportation shall adopt a manual for a uniform system of traffic control devices. Any signs and markers and their placement must, therefore, be in conformity with the uniform manual adopted by the department of transportation.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Parking (Continued)

5. Q. How shall township parking regulations and orders be enforced?

   A. Township parking regulations and orders may be enforced in two ways. If the township resolution establishing the regulation or order is to be enforced as a criminal violation, then the violation of such regulation is a minor misdemeanor, and fines collected shall be paid into the township general fund. If the township resolution establishing the regulation is to be enforced in a noncriminal manner as provided in O.R.C. Chapter 4521, then the penalties will be assessed as a civil penalty, and the trustees shall, in the resolution, adopt a fine for violation, and prescribe additional penalties for failure to answer the charges in a timely manner. Fines adopted for the noncriminal violations shall not exceed the fine established by the municipal or county court having jurisdiction over the entire or majority of the township as established by Traffic Rule 13(c), and in no case shall any fine adopted or additional penalty prescribed exceed one hundred dollars, plus costs and other administrative charges, per violation.

6. Q. How does the board of township trustees institute the noncriminal method of regulation enforcement?

   A. O.R.C. Chapter 4521 sets forth the procedure for the establishment and enforcement of the noncriminal regulation. The board of township trustees adopts the noncriminal procedure by resolution specifying that a violation of the regulatory resolution shall not be considered a criminal offense for any purpose, that a person who commits the violation shall not be arrested as a result of the commission of the violation, and that the violation shall be handled pursuant to O.R.C. Chapter 4521.

7. Q. What are the procedures established by O.R.C. Chapter 4521 for noncriminal parking infractions?

   A. O.R.C. Chapter 4521 sets forth the type of parking ticket to be issued; the answer requirements; provisions for parking violations bureaus; manner of hearings and notice requirements; and, other requirements. Before a township proceeds in this fashion careful consideration should be given to each item, and it is suggested the township consult the chapter and their legal representative before pursuing the noncriminal procedure.

Private Driveways

1. Q. Who has the duty to construct and keep in repair private approaches and driveways from public roads to private lands?

   A. The owners of the land on which such driveway is constructed has this duty.

2. Q. What section of the law prohibits trustees from using township equipment on private lanes?

   A. There is no statutory provision which specifically prohibits township trustees from so using township equipment. However, trustees have only such powers as are specifically given them by statute plus such implied powers as are necessary for the trustees to carry out their specific duties. No statute specifically authorizes the trustees to use township equipment on private lands, and its power cannot be implied from the express power that trustees have to maintain roads, or from any other statutory provision. Moreover, O.R.C. 5543.16 requires landowners to construct and maintain private approaches and driveways from public approaches and driveways from public roads.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Private Driveways (Continued)

3. Q. Is the construction and repair of private approaches and driveways under the control of the county engineer?

   A. Yes. O.R.C. 5543.16.

4. Q. Do the director of transportation and county engineer have any authority to construct private driveways and assess the cost thereof against the owner of the land along which they are constructed?

   A. Yes. They are authorized to do such in a case where the approaches of the owners of abutting real estate are unsuitable to a projected road improvement or so constructed as not to afford proper drainage after its completion. O.R.C. 5543.16.

5. Q. If the approach or driveway of an abutting property owner is destroyed in the process of the construction, improvement, maintenance, or repair of any road, must the private owner be compensated therefor?

   A. Yes. In lieu of compensation, however, the engineer may reconstruct such driveway at public expense. O.R.C. 5543.16.

6. Q. May trustees maintain mailbox approaches?

   A. Yes. However, the mailbox approaches must be on township roads. O.R.C. 5571.01(B) provides: "The board of township trustees may construct, improve, maintain, or repair the berm of any road under its jurisdiction, in order to provide a hard surface or other improved approach to rural mailboxes located on public highways."

7. Q. If it is necessary to lay a culvert pipe under a private drive in order to carry the water in a ditch from one side of the drive to the other, do the township trustees have the duty of furnishing and installing such pipe?

   A. No. The duty of the property owner to keep approaches and driveways in repair carried with it the duty of installing such pipe.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Private Driveways (Continued)

8. Q. May the township trustees perform certain services for a board of education such as grading the gravel driveways leading from a public highway over the school grounds, removing snow from school parking lots, mowing grass on school lawns, on school premises?

   A. No. Except for school bus turnarounds, a board of township trustees has no authority or duty to furnish such service to a school district, although the trustees may provide footbridges as authorized by O.R.C. 505.46. Furthermore, with the exception of school bus turnarounds (O.R.C. 3327.12) and the cooperative action between public authorities pursuant to O.R.C. 5549.02 there is no statute which purports to authorize the township trustees to perform services or furnish materials to any other public body. During an emergency, in which the township trustees have adopted a resolution granting the board emergency powers for a specific period of time, not more than six months, the board may clear snow and ice from undedicated streets pursuant to O.R.C. 505.82 keeping a record of the costs incurred by the township. The charges shall be based on these costs and shall be in an amount sufficient to recover these costs. The board shall notify, in writing, each owner of the road or bank of the amount of service charges and shall certify the charges to the county auditor. In lieu of collecting service charges from owners for the removal of snow or ice from an undedicated road by the board of township trustees, the board may enter into a contract with a developer whereby the developer agrees to pay the service charges for the snow and ice removal instead of the owners. Also, it should be noted that there is general authority for a county and township to cooperate in road matters (O.R.C. 307.15), and townships do have the authority to improve or repair a village street which is part of the township system of roads.

School Bus Turnarounds

1. Q. What authority does a board of township trustees have to maintain school bus turnarounds?

   A. O.R.C. 3327.12 provides that upon the request of a board of education, "...the township trustees may maintain turnaround points on township roads..." or may "...maintain turnaround points located on private property after an investigation by such board of education has determined that such maintenance is necessary for the use of such private property as a turnaround point for school buses. Such board of education may provide the cost of the materials utilized for any such maintenance."

2. Q. Would the trustees have authority to construct a turnaround point for use of all vehicles, including school buses at a point where a highway dead ends?

   A. Yes. Since the turnaround would be for the benefit of the general traveling public, the trustees would have such authority. The question of the necessity of public convenience of such a turn would have to be determined by the trustees by an exercise of their sound discretion.

3. Q. Does the board of education have the power to provide school bus turnarounds?

   A. Yes. O.R.C. 3327.12 provides: "The board of education of a city, local, or exempted village school district may maintain school bus turnaround points.

4. Q. May a township lease road equipment to a school district to enable it to construct a school bus turn-around?

   A. Yes.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Sidewalks

Construction

1. Q. Who has the duty of constructing sidewalks, curbs, or gutters along the public highways outside a municipal corporation?

   A. O.R.C. 5543.10 requires the county engineer to do such.

2. Q. When shall the county engineer construct such sidewalks, curbs, or gutters?

   A. The county engineer shall construct sidewalks, curbs, or gutters when pursuant to a petition brought by a majority of the abutting property owners, he is ordered to do so by either the county commissioners or the board of township trustees or when the township trustees or county commissioners, without a petition, but by unanimous vote of the board order such. See O.R.C. 5543.10.

3. Q. May the township trustees order the construction of sidewalks on county or state highways located within the township but outside a municipality?

   A. Yes. The words "public highway" as used in O.R.C. 5543.10 would include state and county, as well as township roads. However, in the case of construction of sidewalks along a state highway, the permission of the director of transportation to occupy a portion of the state highway would have to be obtained, as provided in O.R.C. 5515.03.

4. Q. May the county commissioners and township trustees cooperate in the construction of sidewalks along a state highway?

   A. Yes. O.R.C. 5543.10 and 5543.11 do not in specific terms authorize the county commissioners to join with the township trustees in the construction of sidewalks along a public highway located within the township. However, since either board is authorized by O.R.C. 5543.10 and 5543.11 to effect the construction of a sidewalk on the same public highway, it is conceivable that the proceedings of the two boards might be so coordinated as to constitute a joint construction of one sidewalk. If such a joint procedure is undertaken, the better practice would be for each board to be responsible for a certain portion of the sidewalk. Subsequently, each board would be liable to maintain the portion it constructed.

5. Q. May property owners construct sidewalks in front of their property and along the public highway?

   A. Yes. The director of transportation, county engineer, or board of township trustees may grant permission to property owners to do such. The county engineer may establish the grade and width of sidewalks and designate the character of construction. He also has general supervision of the sidewalks, and sidewalks constructed by property owners should conform to his instructions.

6. Q. What type of notice must the trustees give to the abutting property owners prior to making assessments for sidewalks, curbs, or gutters?

   A. Notice must be given by two publications in a newspaper of general circulation in the county at least ten days prior to the date fixed in the notice for the making of such assessments. The notice should state the time and place at which abutting property owners will be given an opportunity to be heard concerning the assessments. See O.R.C. 5543.10.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Sidewalks (Continued)

Construction (Continued)

7. Q. If the trustees without a petition and by unanimous vote decide to order sidewalks to be constructed, do the property owners have any voice in the matter?

   A. Yes. The trustees must give notice by publication for three successive weeks in a newspaper of general circulation within the county stating the intention of the trustees to construct such sidewalks and fixing a date for hearing on the improvement.

8. Q. How shall the cost of constructing such sidewalks, curbs, or gutters be paid?

   A. The expense may be paid by the county or township, or by the county or township and abutting property owners in such proportion as determined by the board of county commissioners or board of township trustees. The board of county commissioners or board of township trustees may assess part or all of the cost of such sidewalks, curbs, or gutters against the abutting property owners, in proportion to benefits accruing to such property. See O.R.C. 5543.10.

9. Q. How shall the cost of the sidewalks, curbs, or gutters be paid if the township trustees, without petition but by a unanimous vote, order a sidewalk to be constructed along a public highway?

   A. None, all, or any part of the cost may be assessed against the abutting property owners and any part not paid by the abutting property owners may be paid from the general fund of the township. See O.R.C. 5543.10.

10. Q. May the services of the county engineer or any of his regularly employed assistants in engineering, inspection, or superintendence of a sidewalk improvement be included in the cost for assessment purposes?

    A. No. However, the expenses of assistants specially employed for a particular project may be included.

Maintenance

1. Q. What are the two bases upon which the township may be said to have a duty to maintain sidewalks located on pubic roads within the township but outside a municipality?

   A. The sidewalks (1) must either have been constructed on order of the township trustees pursuant to authority given by O.R.C. 5543.10 and 5543.11 or the sidewalks (2) must be located on township roads. Where a sidewalk is located outside a municipality, the governmental entity which is currently responsible for the repair and maintenance of a particular highway is responsible for the repair and maintenance of sidewalks appurtenant to the highway. See OAG No. 86-080.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Sidewalks (Continued)
Maintenance (Continued)

2. Q. If a plat is approved by the county commissioners and all the public roads and ways designated on the plat are accepted by the county commissioners pursuant to O.R.C. 5553.31 as streets and alleys for the use of the public, with no reference being made to sidewalks, and such roads so dedicated and accepted became township roads, if the sidewalks are originally built by the abutting landowners, do the township trustees have any duty to maintain the sidewalks?

   A. Yes. The township trustees are required by law to maintain the sidewalks along such of the streets as are not part of the state or county highway system. Although the township did not construct the sidewalks, the sidewalks are on township roads and the duty to maintain township roads carried with it the duty to maintain sidewalks located thereon. See OAG No. 42-4712.

3. Q. In the situation outlined above, does the county have a concurrent duty to maintain the sidewalks?

   A. No. Assuming the sidewalks were not built by the county commissioners originally, and assuming, in addition, that the sidewalks in question are not located along county roads, the county commissioners could not be required to maintain the sidewalks.

4. Q. If the county and township trustees jointly construct sidewalks along a state highway located within the townships, pursuant to O.R.C. 5543.10 who has the duty to maintain the sidewalks constructed along the state highway?

   A. Because the county and township jointly constructed the sidewalks, the county and township have a joint duty to maintain the sidewalks. The authority to construct the improvement carried with it the incidental duty to repair and maintain the sidewalk.

5. Q. If a person walking on a sidewalk constructed within the right of way of a township road injures himself because the sidewalk is in poor repair, would the township trustees be liable?

   A. No.

6. Q. May the cost of maintenance and repair of sidewalks be assessed against the abutting property owners?

   A. Yes. O.R.C. 5543.10 authorizes a board of county commissioners or board of township trustees, by a unanimous vote, to order the repairs or maintenance of such sidewalks and to assess none, all, or any part of the cost against abutting property owners.

7. Q. May the cost of maintenance and repair of sidewalks be paid out of the general fund?

   A. Yes.

8. Q. Must the repair and improvement of sidewalks be under the direction of the county engineer?

   A. Yes. O.R.C. 5543.10.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Sidewalks (Continued)
Maintenance (Continued)

Snow Removal

1. Q. What is the duty of the trustees with reference to removal of snow from public highways?

   A. The trustees are required to keep the township roads within the township free from obstruction by snow. See O.R.C. 5571.08.

2. Q. What authority do the township trustees have as to the purchase of equipment for removal of snow and ice?

   A. O.R.C. 5501.41 authorizes the trustees to purchase the necessary equipment, including snow fences, employ the necessary labor, and make all contracts necessary to enable the removal of snow and ice.

3. Q. Can the trustees require a property owner to remove fence from the line of his property facing the road if such fence causes the snow to drift upon the township roads?

   A. Yes. O.R.C. 5571.14 authorizes the trustees or a township highway superintendent to declare any object a nuisance (not just fences) that is bounding a township road and located wholly or partly on the land belonging to the road that interferes with the proper grading, draining or dragging of a township road or causes the snow to drift on a road. If the owner refuses or neglects to comply with the order to remove, the board or superintendent is authorized to have the fence removed and to certify the cost of removal to the county auditor to be entered on the tax duplicate and collected as other taxes.

4. Q. May equipment for snow removal, snow fences, and the necessary labor be paid for out of the gasoline tax fund?

   A. Yes. O.R.C. 5571.08 specifically authorizes payment from such fund as well as from road funds of the township.

5. Q. What authority do township trustees have to erect snow fences or other devices upon lands adjacent to township roads to prevent the drifting of snow in or upon the highway?

   A. The trustees may not personally enter upon the land and erect the fences but they may authorize the county engineer or anyone acting under his authority to enter upon and erect such devices, or to remove any fence or other obstruction which causes snow to drift upon the highways. See O.R.C. 5543.12.

6. Q. Must the landowner be compensated in some way if snow fences are erected on his property to prevent snow from drifting on township roads?

   A. O.R.C. 5543.13 provides that when lands are entered upon for the purpose of erecting snow fences, the county engineer shall agree with the owners of the land, subject to the approval of the board of township trustees, as to the amount of compensation and damages to be sustained by the owner. In the event that the owner and engineer are unable to agree as to the amount of compensation and damages, the amount shall be determined under O.R.C. 163.01-163.22.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Sidewalks (Continued)
Snow Removal (Continued)

7. Q. Do township trustees have the authority to clean snow from the drives of a public school located within the township?

   A. No. Although it might very well be that the township trustees would wish to clear the snow off the driveway of a public school in order to be able to furnish fire protection to the school should the occasion arise, the duty of the township trustees to furnish fire protection to property located within the school district cannot be extended to include authority to clear snow from such driveways in order to get to the buildings in case of fire. See OAG No. 61-2080.

Traffic Control on Township Roads
Devices

1. Q. What is a traffic control device?"

   A. As defined by O.R.C. 4511.01(QQ.) a traffic control device is any flagger, sign, signal, markings or devices for the purpose of regulation, warning or guiding traffic, placed on, over, or adjacent to a street highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

2. Q. Do the township trustees have the authority to erect any such traffic control devices on township roads?

   A. Yes. O.R.C. 4511.11 provides that township trustees shall place and maintain such devices on township roads as are necessary to indicate and carry out the provision of O.R.C. 4511.01 to 4511.76, inclusive, and O.R.C. 4511.99, local traffic ordinances or to regulate, warn, or guide traffic.

3. Q. Would a sign which warned of the nearness of a railroad crossing be a traffic device that the township trustees would have authority to place on a township road?

   A. Yes.

4. Q. Do township trustees have authority to designate through highways and erect signs at intersections of through highways?

   A. Yes. O.R.C. 4511.65 provides that township trustees may designate "any intersection as a stop or yield intersection and shall erect like signs at one or more entrances to such intersection."

5. Q. May a board of township trustees prohibit “thru trucks” from operating on all roads that the township is responsible for maintaining in order to prevent excessive traffic and damage to the road surface?

   A. No. A board of township trustees of a non-home rule township has no authority under O.R.C. 4511.07, 4511.11, 5571.02, or other statute to prohibit “thru trucks” from operating on all roads that the township is responsible for maintaining in order to prevent excessive traffic and damage to the road surface. See OAG Op. 2010-008.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Traffic Control on Township Roads (Continued)
Devices (Continued)

6. Q. If the township trustees have just blacktopped the streets in an unincorporated village, is there any way that they can prohibit large trucks from using such streets?

   A. If any remedy is possible, it must come through the board of county commissioners. O.R.C. 5577.08 lodges in the board of county commissioners the authority to classify "the improved county and township roads and all other improved roads within their respective counties, except state highways, with reference to the maximum weights and speeds permitted on such roads." Certain factors are to be considered by the county commissioners in making this classification, i.e., "nature of the roadbed, construction, and any other factors which are material in the proper classification of such roads."

7. Q. May a township be required to pay any part of the cost of installing flashing red lights at a railroad crossing located on a township road?

   A. Yes. O.R.C. 4907.47 and 4907.49 authorize the public utilities commission to apportion the cost of installing crossing signals between the "railroad and the public." One factor the commission must consider in apportioning the cost is the "benefits to the public resulting from the reduction of hazard at the crossing,..."

8. Q. Out of what funds may payments for the township's portion of the cost of such railroad crossing signals be made?

   A. O.R.C. 4907.47 and 4907.49 both provide that the part of the cost apportioned to the township may be paid from any funds levied and made available for highway or street purposes. Furthermore, O.R.C. 4503.02 and 5735.27 were amended to authorize motor vehicle license and motor vehicle gas tax money to be used for such purpose. In addition, bonds may be issued (O.R.C. 5561.13) or the township may apply to the Director of Transportation for moneys from the grade crossing protection special account (O.R.C. 5523.311).

9. Q. Do township trustees have authority to install traffic control signals as defined in O.R.C. 4511.01(RR)?

   A. No. O.R.C. 5555.02 provides that the board of county commissioners shall have authority to purchase, lease or erect and maintain traffic control signals as defined in O.R.C. 4511.01(RR) at such intersections of public highways outside municipal corporations as are necessary for the protection of the public traveling on such highways.

Speed

1. Q. Do the township trustees have authority to set the speed at which traffic shall move on township roads?

   A. No. The speed at which traffic shall move is set by statute and the trustees have no authority to set a different speed. However, they may apply to the director of highways for a modification of the speed if they can prove that the speed is unsafe.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Traffic Control on Township Roads (Continued)
Speed (Continued)

2. Q. If the trustees think that the speed set by statute on a particular township road is greater than is reasonable and safe, how should they proceed in order to get the speed modified?

   A. The trustees must first find, on the basis of an engineering and traffic investigation, that the speed set by O.R.C. Chapter 4511 is not reasonable and safe. They must then pass a resolution requesting the director of highways to determine and declare a reasonable and safe speed limit. If the director alters the speed limits as set by O.R.C. 4511 the altered speed limit shall become effective only at such time as signs giving notice thereof are erected by the trustees at the place where the speed has been altered.

Trees

1. Q. May the board of township trustees authorize the owners of property adjoining township roads, at the owners' expense, to locate and plant trees and shrubs along township roads?

   A. Yes. However, O.R.C. 5529.11 provides that permission must be granted in writing and is subject to the approval of the township trustees as to kind, size, and location.

2. Q. May a board of township trustees, as a part of the plans or specifications for a proposed improvement, provide for planting of trees or shrubbery along or upon the public highway embraced within the proposed improvement?

   A. Yes. See O.R.C. 5529.12.

3. Q. If trees and shrubs growing within the right-of-way of a township road are in such a condition that they interfere with traffic, would O.R.C. 5543.14 require the trustees to obtain the consent of the abutting landowners to cut?

   A. No. O.R.C. 5543.14 does not require compensation to the abutting landowner for trimming or removing trees or shrubs that have grown on or encroached onto a right of way of the township roads. Consent of the abutting landowner applies only to the care of trees and shrubs, the retention of which does not interfere with traffic. See Ohio Bell Tel. Co. v. Watson Co., 112 Ohio St. 385 (1925).

4. Q. Does a board have authority to remove growth not within the right-of-way easement but on abutting private property?

   A. No. The only authority to remove such without the owner's consent is if the growth physically impedes or physically overhangs the road in such a way as to cause a dangerous condition to users of the road.

5. Q. Do the township trustees have the right to cut down a tree standing within the right-of-way of a township road when the presence of the tree constitutes a hindrance to travelers on the road?

   A. Yes. O.R.C. 5571.02 places upon the township trustees the duty to maintain and keep the township roads in the township in good repair. The presence, on a road, of trees which interfere with travel over the road renders that road in a state of disrepair and requires the township trustees, in order to fully perform their duty, to remove the trees.

III. DUTIES RELATING TO HIGHWAYS (CONTINUED)

Traffic Control on Township Roads (Continued)
Trees (Continued)

6. Q. If township trustees remove trees within the limits of a township road when the presence of such trees constitutes a hindrance to travelers on the road may they make use of such trees in building a township garage?

   A. No. Although the trustees have the right and duty to remove trees which constitute a hindrance to travelers on the road, this right does not carry with it the privilege of exercising ownership over the trees after they are cut. The reason for this is that the title to the right of way is in the abutting owner, subject to the public easement to use the right of way for travel, unless, of course it is shown from the records of the county that complete title was obtained. If the public has an easement, when the tree is cut, such tree becomes the property of the owner of the land upon which the tree stood.

7. Q. If a tree is located on private property adjacent to a township road, do the township trustees have authority to remove the dead branches of a tree which overhangs the road creating a dangerous situation?

   A. The property owner has the primary duty to remove dead branches on a township road if the tree is located on private property outside the right of way of a township road. It would only be in an emergency situation that the board of township trustees itself might enter upon the private property and remove such dangerous branches, i.e., if it should appear imminent that the branches might fall. Even in such an emergency situation, the township trustees should be extremely hesitant to proceed to remove the branches. Although the township trustees have a secondary duty to eliminate this dangerous condition, the board should first institute nuisance abatement proceedings under O.R.C. 3767.03 to compel the property owner to remove the danger.

Village-Township Road Cooperation

1. Q. May the township trustees spend money from the three road funds of the township for the purposes of reconstructing or improving village streets within a village located in the township if the improvement is done in cooperation with the village authorities?

   A. No. Although O.R.C. 5535.08 permits a township to spend funds of the township which it has available for road construction, improvement, or repair upon roads inside a village, a distinction must be made between a village street and a township road. O.R.C. 723.01 gives municipalities the duty of caring for, supervising, controlling and maintaining public highways within a municipality. Since the board of township trustees is authorized to perform only those highway projects involving pubic roads under its jurisdiction, only such roads within a municipality as are a part of the township highway system, such as a township road running through, into, or from a municipal corporation may be repaired or improved by the township in cooperation with a municipality. See OAG No. 56 - 1917.

2. Q. May a village expend funds available for street improvements upon roads outside the village?

   A. Yes. O.R.C. 5535.08 so provides if the roads are such as lead to the village.

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SECTION N

TOWNSHIP MERGERS

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I. Merging Townships

1. Q. Can one township merge with another township to create a new township?

   A. The territory of one or more townships may be merged with that of a contiguous township to create a new township. The new township shall have all of, and only, the rights, powers, and responsibilities afforded by law to townships (O.R.C. 523.01).

2. Q. How is the process of merging one or more townships into one township started?

   A. A resolution for a merger under this chapter may be proposed by initiative petition by the electors of each township being proposed for merger, and adopted by election by these electors under the same circumstances, in the same manner, and subject to the same penalties as provided by sections 731.28 to 731.40 and 731.99 of the Revised Code for municipal corporations, except that all of the following apply:

   (1) Each board of township trustees shall perform the duties imposed on the legislative authority of the municipal corporation under those sections;
   (2) Initiative petitions shall be filed with the township fiscal officer of each township proposed for merger, who shall perform the duties imposed under those sections upon the city auditor or village clerk;
   (3) Initiative petitions shall contain the signatures of not less than ten per cent of the total number of electors in a township proposed for merger who voted for the office of governor at the most recent general election in the township for that office;
   (4) Each signer of an initiative petition shall be an elector of the township in which the election on the proposed resolution is to be held.

   The merger shall take effect one hundred twenty days after certification by the board or boards of elections that the merger has been approved by the electors of each township proposed for merger (O.R.C. 523.02).

3. Q. How are the electors of each township informed about the potential merger?

   A. The boards of township trustees of two or more townships, by adopting resolutions by a majority vote of the board of township trustees of each township, may cause the appropriate board of elections for each township to submit to the electors of each township the question of merger under section 523.01 of the Revised Code. The question shall be voted upon at the next general election occurring not less than ninety days after the certification of the resolutions to the appropriate board of elections.

   In submitting to the electors of each township the question of merger, the board of elections shall submit the question in language substantially as follows:

   "Shall the townships of …..... (Names of all of the townships to be merged) be merged to create the new township of …..... (Name of the new township)?"

   The merger shall take effect one hundred twenty days after certification by the board or boards of elections that the merger has been approved by the electors of each township proposed for merger (O.R.C. 523.03).

I. Merging Townships (Continued)

4. Q. What information is contained in the merger agreement?

A. Within one hundred twenty days after approval of the merger by the electors under section 523.02 or 523.03 of the Revised Code, each board of township trustees of the townships merged, by adopting a joint resolution approved by a majority of the members of each board, shall enter into a merger agreement that contains the specific terms and conditions of the merger. At a minimum, the merger agreement shall set forth all of the following:

(1) The names of the former townships that were merged;
(2) The name of the new township;
(3) The place in which the principal office of the new township will be located or the manner in which it may be selected;
(4) The territorial boundaries of the new township;
(5) The date on which the merger took effect;
(6) The governmental operations and organization for the new township, including a plan for electing officers at the next general election that is held not later than ninety days after the merger agreement is finalized;
(7) A procedure for the efficient and timely transition of specific services, functions, and responsibilities from each township and its respective offices to the new township;
(8) Terms for the disposition of the assets and property of each township, if necessary;
(9) The liquidation of existing indebtedness for each township, if necessary;
(10) A plan for the common administration and enforcement of resolutions of the townships merged, to be enforced uniformly within the new township;
(11) A provision that specifies whether there will be any zoning changes as a result of the merger, if applicable;
(12) A plan to conform the boundaries of an existing special purpose district with the new township, to dissolve the special purpose district, or to absorb the special purpose district into the new township. As used in this division, "special purpose district" has the meaning in division (F) of section 523.06 of the Revised Code.

A copy of the joint resolution and the merger agreement shall be filed with the township fiscal officer of the new township. The merger agreement shall take effect on the day on which such filing is made.

If no merger agreement, or if only a partial merger agreement, is entered into within the time period prescribed by division (A) of this section, the new township shall comply with and operate under a merger agreement that contains the terms and conditions required by section 523.06 of the Revised Code (O.R.C. 523.04).

I. Merging Townships (Continued)

5. Q. How are the assets and real property combined?

A. A new township created under this chapter shall succeed to the following interests of each township merged:

(1) All money, taxes, and special assessments, whether in the township treasury or in the process of collection;
(2) All property and interests in property, whether real or personal;
(3) All rights and interests in contracts, or in securities, bonds, notes, or other instruments;
(4) All accounts receivable and rights of action;
(5) All other matters not included in this section that are not addressed in the merger agreement.

A new township created under this chapter is legally obligated for all outstanding franchises, contracts, debts, and other legally binding obligations for each township merged into the new township. A new township created under this chapter is legally responsible for maintaining, defending, or otherwise resolving any and all legal claims or actions of each township merged into the new township (O.R.C. 523.05).

6. Q. What is the result of a partial merger?

A. If a merger agreement is not entered into under section 523.04 of the Revised Code, the merger agreement shall contain all of the terms and conditions specified in this section. If a partial merger agreement is entered into under section 523.04 of the Revised Code, this section applies only to the extent any term or condition that is required by section 523.04 of the Revised Code to be addressed in the merger agreement is not addressed therein.

The terms and conditions of a merger agreement to which this section applies shall be as follows:

All members of each board of township trustees shall serve as board members of the new township. At the first general election for township officers occurring not less than ninety days after a merger is approved, the electors of the new township shall elect three township trustees with staggered terms of office. The first terms of office following the election shall be modified to an even number of years not to exceed four to allow subsequent elections for the office to be held in the same year as other township officers.

The township fiscal officer of the largest township, by population, shall be the township fiscal officer for the new township. At the first general election for township officers occurring not less than ninety days after the merger, the electors shall elect a township fiscal officer, whose first term of office shall be modified to an even number of years not to exceed four to allow subsequent elections for that office to be held in the same year as other township fiscal officers.

Voted property tax levies shall remain in effect for the parcels of real property to which they applied prior to the merger, and the merger shall not affect the proceeds of a tax levy pledged for the retirement of any debt obligation. Upon expiration of a property tax levy, the levy may only be replaced or renewed by vote of the electors in the manner provided by law, to apply to real property within the boundaries of the new township. If the millage levied inside the ten-mill limitation of each township merged is different, the board of township trustees of the new township shall immediately equalize the millage for the entire new township.

I. Merging Townships (Continued)

For purposes of the retirement of all debt obligations of each township merged, the township fiscal officer shall continue to track parcels of real property and the tax revenue generated on those parcels by the tax districts that were in place prior to the merger, and shall provide that information on an annual basis to the board of township trustees of the new township. Debt obligations that existed at the time of the merger shall be retired from the revenue generated from the parcels of real property that made up the township that incurred the debt before the merger.

(1) With respect to any agreement entered into under Chapter 4117. of the Revised Code that covers any of the employees of the townships merged under this chapter, the state employment relations board, within one hundred twenty days after the date the merger is approved, shall designate the appropriate bargaining units for the employees of the new township in accordance with section 4117.06 of the Revised Code. Notwithstanding the recognition procedures prescribed in section 4117.05 and division (A) of section 4117.07 of the Revised Code, the board shall conduct a representation election with respect to each bargaining unit designated under this division in accordance with divisions (B) and (C) of section 4117.07 of the Revised Code. If an exclusive representative is selected through this election, the exclusive representative shall negotiate and enter into an agreement with the new township in accordance with Chapter 4117. of the Revised Code. Until the parties reach an agreement, any agreement in effect on the date of the merger shall apply to the employees that were in the bargaining unit that is covered by the agreement. An agreement in existence on the date of the merger is terminated on the effective date of an agreement negotiated under this division.

(2) If an exclusive representative is not selected, any agreement in effect on the date of the merger shall apply to the employees that were in the bargaining unit that is covered by the agreement and shall expire on its terms.

(3) Each agreement entered into under Chapter 4117. of the Revised Code on or after the effective date of this section involving a new township shall contain a provision regarding the designation of an exclusive representative and bargaining units for the new township as described in division (E) of this section.

(4) In addition to the laws listed in division (A) of section 4117.10 of the Revised Code that prevail over conflicting agreements between employee organizations and public employers, division (E) of this section prevails over any conflicting provisions of agreements between employee organizations and public employers that are entered into on or after the effective date of this section pursuant to Chapter 4117. of the Revised Code.

I. Merging Townships (Continued)

(5) "Employee organization" and "exclusive representative" have the same meanings as in section 4117.01 of the Revised Code.

If the boundaries of the new township are not coextensive with a special purpose district, the new township shall remain in the existing special purpose district as a successor to the original township, unless the special purpose district is dissolved. The board of township trustees of the new township may place a question on the ballot at the next general election held after the merger to conform the boundaries, dissolve the special purpose district, or absorb the special purpose district into the new township on the terms specified in the resolution that places the question on the ballot for approval of the electors of the new township. "Special purpose district" means any geographic or political jurisdiction that is created under law by a township merged.

Zoning codes that existed at the time of the merger shall remain in effect after the merger, and the townships that existed before the merger shall be treated as administrative districts within the new township for the purposes of zoning (O.R.C. 523.06).

7. Q. What is the result of disapproval of a merger?

A. If a merger is disapproved by a majority of those voting on it in the townships proposed to be merged, an identical merger shall not be considered for at least three years after the date of the disapproval.

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SECTION O

GLOSSARY

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ANNUAL BUDGET--A budget applicable to a single fiscal year (January 1 through December 31).

APPROPRIATION--An authorization granted by a legislative body to make expenditures and to incur obligations for specific purposes. Note- An appropriation is usually limited in amount and as to the time when it may be expended.

APPROPRIATION ACCOUNT--A budgetary account set up to record specific authorizations to spend. The account is credited with original and any supplemental appropriations and is charged with expenditures and encumbrances.

APPROPRIATION EXPENDITURE--An expenditure chargeable to an appropriation. Note: Since virtually all expenditures of governmental units are chargeable to appropriations, the term EXPENDITURES by itself is widely and properly used.

APPROPRIATION LEDGER--A subsidiary ledger containing an account for each appropriation. Each account usually shows the amount originally appropriated, encumbered, transfers to or from the appropriation, amounts charged against the appropriation, the unencumbered balance, and other related information. If allotments are made and a separate ledger is maintained for them, each account in the appropriation ledger usually shows the amount appropriated, transfers to or from the appropriation, the amount allotted, and the unallotted balance.

BLANKET CERTIFICATION--The procedure by which a township fiscal officer issues a certificate against an appropriation fund for an amount established by resolution of the Township Trustees for a period not to extend past the fiscal year, and whereby a purchase order is used to post a charge against the appropriation fund without the necessity of issuing a certificate each time an item is needed. Each blanket certification must be closed out at the end of the fiscal year, December 31, 20__. See “Super Blanket Certification”

BUDGET--A plan of financial operation embodying an estimate of proposed expenditures for a given period and the proposed means of financing them. Used without any modifier, the term usually indicates a financial plan for a single fiscal year, Note: The term "budget" is used in two senses in practice. Sometimes it designates the financial plan presented to the appropriating body for adoption and sometimes the plan finally approved by that body.

BUDGETARY ACCOUNTS--Those accounts which reflect budgetary operations and conditions, such as estimated revenues, appropriations, and encumbrances, as distinguished from proprietary accounts.

BUDGETARY CONTROL--The control or management of a governmental unit or enterprise in accordance with an approved budget for the purpose of keeping expenditures within the limitations of available appropriations and available revenues.

CASH BASIS--The basis of accounting under which revenues are recorded when received in cash and expenditures are recorded when paid.

CONTROL ACCOUNT OF CASH JOURNAL--Used as a check on the financial or fiscal affairs of the township.

DEBT--An obligation resulting from the borrowing of money or from the purchase of goods and services. Instruments of debt include bonds, notes, and floating debt.

DEBT LIMIT--The maximum amount of gross or net debt which is legally permitted.

DEFICIT--(1) The excess of the liabilities and reserves of a fund over its assets. (2) The excess of expenditures over revenues during an accounting period, or, in the case of Enterprise and Internal Service Funds, the excess of expense over income during an accounting period.

DISBURSEMENT--An expenditure of paying out of money from the appropriation account.

DOUBLE ENTRY--A system of bookkeeping which requires for every entry made to the debit side of an account, a corresponding entry for that amount be made to the credit side of another account.

ENCUMBER--A charge against a specific appropriation item which sets aside appropriated funds for the obligation established by purchase order.

ENCUMBRANCES--Obligations in the form of purchase orders, contracts, or salary commitments which are chargeable to an appropriation and for which a part of the appropriation is reserved. They cease to be encumbrances when paid or when the actual liability is set up.

EXPENDITURES--Where the accounts are kept on the cash basis (q.v.), the term designates only actual cash disbursements for these purposes. Note: Encumbrances are not expenditures.

FIDELITY BOND--A written promise to indemnify against losses from theft, defalcation, and misappropriation of public funds by government officers and employees.

FISCAL YEAR--The calendar year of twelve months for the township beginning January 1 and ending December 31 to which the annual budget applies.

FORCE ACCOUNT--A method employed in the construction and/or maintenance of work whereby a governmental unit's own personnel are used instead of an outside contractor. Note: This method also calls for the purchase of materials by the governmental unit and the possible use of its own equipment.

FUND--An independent fiscal and accounting entity with a self-balancing set of accounts recording cash and/or other resources together with all related liabilities, obligations, reserves, and equities which are segregated for the purpose of carrying on specific activities or attaining certain objectives In accordance with special regulations, restrictions, or limitations.

FUND ACCOUNTS WITHIN CASH JOURNAL--Any one specific fund comprising specific sums of money set aside for particular purposes. For instance, General, Road and Bridge, Gasoline Tax, and Motor Vehicle License Tax Funds.

FUND ACCOUNT NUMBER --A numeric code established to identify a fund account.

GENERAL FUND--A fund used to account for all transactions of a governmental unit which are not accounted for in another fund. Note: The General Fund is used to account for the ordinary operations of a governmental unit which are financed from taxes and other general revenues.

GENERAL OBLIGATION BONDS--Bonds for whose payment the full faith and credit of the issuing body are pledged.

GRANT--A contribution by one governmental unit to another unit. The contribution is usually made to aid in the support of a specified function (for example, education), but it is sometimes also for general purposes.

INTER--FUND TRANSFERS--Amounts transferred from one fund to another subject to legislative approval, and, in many cases, court approval (O.R.C. 5705.14, 5705.15 and 5705.16).

INTRA--FUND TRANSFERS--Amounts transferred from one account to another within the same fund by amendment of the appropriation resolution.

JOURNAL--A book of original entry used in the double entry system for the recording of all transactions with an indication of the special accounts to which they belong.

LEDGER--A book of final entry in which a record of debits, credits, and all money transactions are kept. Ledger records expenditure transactions.

LEVY--To assess or to levy (assess, exact, raise, or collect) a tax. The township trustees are the taxing authority, with the county auditor the assessor, and the township collector is the county treasurer.

MINUTE BOOK--A journal in which the official records of the proceedings are kept. For instance, minutes of the township officers meetings.

PUBLIC OFFICE--The right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is vested with some portion of the sovereign functions of government for the benefit of the public.

PUBLIC RECORD--A record of some act or transactions concerning the public, affording information to the public, or open to public inspection.

RECEIPTS--This term, unless otherwise qualified, means cash received.

RECEIPTS--REVENUE--Public moneys from taxes, fines, fees, levies. These moneys are collected by the township, state, or county. Some are apportioned or distributed by the state or county.

RECEIPTS LEDGER--JOURNAL--This records the receipt of public moneys from the various sources of revenue coming to the township within each specific account of each specific fund.

REQUISITION--A written order, usually from one department to the purchasing officer or to another department, for specified articles or services.

RESERVE BALANCE ACCOUNTS--O.R.C. 5705.13(A) allows a taxing authority of subdivision to establish a reserve balance account for each of the following three purposes: 1. for budget stabilization, 2. for the payment of claims and deductibles under an individual or joint self-insurance program, or 3. for the payment of claims, assessments, and deductibles under a self-insurance program, individual retrospective ratings plan, group rating plan, group retrospective rating plan, medical only program, deductible plan, or large deductible plan for workers' compensation. The reserve must be established by a resolution that states the purpose and size of the reserve and the fund in which the reserve is to be created. Expenditures of the reserve have to be for the purpose for which the reserve was established. There may be more than one reserve balance account for budget stabilization in either the general fund or in one or more special fund for operating purposes of the township. The amount of money reserved in *each* account (under O.R.C. 5705.13) in any fiscal year cannot exceed 5% of the revenue credited in the preceding fiscal year to the fund in which the account is established. O.R.C. 5705.132 allows a township to establish a reserve balance account to accumulate current available resources for any purpose for which the board may lawfully expend money of the township other than for the purposes for which a reserve balance account may be established under O.R.C. 5705.13. The amount of money reserved in *all* accounts (under O.R.C. 5705.132) in any fiscal year cannot exceed 5% of the total of the township's revenue from all sources for the preceding fiscal year and any unencumbered balances carried over to the current fiscal year from the preceding fiscal year.

RESOLUTION--A special or temporary order of a legislative body; an order of a legislative body requiring less legal formality than an ordinance or statute.

STATUTE--A particular law enacted and established by the will of the legislative department of government. For Instance, state government. Also, it is used to designate written law, as compared to unwritten law.

STATUTORY AUTHORITY--That which is required by specific wording of the statute or law; also, conforming to statute.

"SUPER" BLANKET CERTIFICATION OF THE AVAILABILITY OF FUND--Section 5705.41(D) of the Ohio Rev. Code authorizes the use of "super" blanket certification by all subdivisions. There is no dollar amount limit to the super blanket certification. The certification is authorized to be outstanding for any period up to the end of the fiscal year and more than one certificate is permitted to be outstanding at one time. The certification must identify a specific vendor, if desired. A list of obligations incurred and expenditures made under each certification must be maintained by the fiscal officer. The permitted purposes of the certification are: the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser by on behalf of the subdivision; fuel oil, gasoline, food items, roadway materials and utilities; and any purchases exempt from competitive bidding under O.R.C. 125.04 and any other specific expenditure that is recurring and reasonably predictable operating expense.

TAX--To impose a tax; to enact or declare that moneys shall be paid by persons liable for the support of government. For instance, a township levy for fire protection.

TAXING AUTHORITY--The board of trustees of a township.

TAXING DISTRICT--The township.

TAX ASSESSOR--The county auditor is for all property both real and personal in his county.

TAX COLLECTOR--The county treasurer is for all the moneys to be collected on the several tax duplicates of the county.

TAX ANTICIPATION NOTES--Notes issued in anticipation of collection of taxes, usually retirable only from tax collections, and frequently only from the proceeds of the tax levy whose collection they anticipate.

THEN AND NOW CERTIFICATION--O.R.C. 5705.41(D)(1) provides that if prior certification of funds by the fiscal officer was not obtained before the contract or order involving the expenditure of money was made, then the fiscal officer may instead certify: That there was at the time of the making of such contract or order and at the time of the execution of such certificate a sufficient sum appropriated for the purpose of such contract and in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances. The fiscal officer is certifying that there were appropriations available and funds in the treasury or in the process of collection at the time the contract or order was made (then), and there are still sufficient appropriations and funds in the treasury or in the process of collection at the time the certificate is being issued (now).

TAX RATE--The amount of tax stated in terms of a unit of the tax base, for example, 25 mills per dollar of assessed valuation of taxable property.

TOWNSHIP--A township is a body politic, a subdivision of the state, and partakes of state sovereignty. Its officers are elected to administer the affairs of township government as representatives of the people. All public funds in its possession and control can be spent only for the purposes authorized by statute and in the manner provided by statute.

TRANSACTION--Act of conducting any business, management, or affairs of township.

TREASURY--A place where public revenues are kept recorded in the books of account after depositing them, and the record of where money is disbursed to defray the expenses of government.

TRUST FUND--A fund consisting of resources received and held by the governmental unit as trustee to be expended or invested in accordance with the conditions of the trust.

UNENCUMBERED APPROPRIATION--That portion of an appropriation not yet expended or encumbered.

VOUCHER--A written document which evidences the propriety of transactions and usually indicates the accounts which are to be recorded.

WARRANT--An order drawn by the legislative body or an officer of a governmental unit upon its treasurer directing the latter to pay a specified amount to the person named or to the bearer. It may be payable upon demand, in which case it usually circulates the same as a bank check; or it may be payable only out of certain revenues when and if received, in which case it does not circulate as freely.

WARRANTS PAYABLE--The amount of warrants outstanding and unpaid.

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APPENDIX I

OHIO AUDITOR OF STATE
GENERAL INFORMATION

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ORGANIZATIONAL CHART

Administrative

Information Technology
Uniform Accounting Network
Finance
Human Resources

Audit

Financial Audit
Medicaid/Contract Audit
Center for Audit Excellence
Local Government Services

Ohio Performance Team

Legal

Open Government Unit

Public Integrity Assurance Team

Policy and Legislative Affairs

Public Affairs

Field Operations

ADMINISTRATIVE DIVISION

The **Administrative Division** is the managing arm of the Ohio Auditor of State's office. The Chief of Staff heads the division and reports directly to the Auditor of State. This division is responsible for the day-to-day management and policy decisions of the office.

Information Technology develops and maintains the technology of the Auditor of State's office. Because many Auditor of State employees regularly work at off-site client locations, they rely on convenient, timely access to the office's computer network.

The **Uniform Accounting Network (UAN)** provides townships, villages, and libraries with a complete computer system (hardware and software), along with training and support. UAN's accounting, payroll, and ancillary (cemetery and inventory tracking) applications help to reduce the time necessary for entities to process accounting transactions and maintain the related accounting records. UAN also fosters timely and useful information for the governing body. Currently, 90 percent of the state's more than 1,300 townships are using UAN, as are more than 700 villages, libraries and special districts.

ADMINISTRATIVE DIVISION CONTACTS

Toll Free ..... **(800) 282-0370**
Fax ..... **(614) 466-4490**

Chief of Staff ..... Brenda Rinehart
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Chief Financial Officer ..... William Collier
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Director of Human Resources ..... Cindy Sovell-Klein
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Director of Uniform Accounting Network ..... Tim Moloney
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UAN Support Line ..... **(800) 833-8261**
UAN Email Support ..... UAN_Support@ohioauditor.gov

AUDIT DIVISION

The Auditor of State is the constitutional officer responsible for auditing all public offices in Ohio – more than 5,900 entities. This includes cities, villages, schools, universities, counties, fire districts, townships, cemeteries, libraries, state and county agencies, and commissions.

The office strives, through financial audits of public and quasi-public entities, to ensure that public funds are spent appropriately and lawfully, in accordance with state and local law. The Audit Division is managed by the Chief Deputy Auditor, who reports directly to the Auditor of State. It is made up of several smaller sections, which include the Financial Audit Section, the Medicaid/Contract Audit Section, the Center for Audit Excellence and the Local Government Services Section (LGS).

The Auditor of State's office employs more than 700 auditors located in seven regional offices, including the main office in Columbus: Akron/Canton, Athens, Cincinnati, Columbus, Cleveland, Dayton, and Toledo. Additionally, the State Region, located in Columbus, audits state agencies, boards, and commissions. Each regional office is managed by a chief auditor who oversees the audits performed by the office within their region.

The **Financial Audit Section** is responsible for conducting financial audits of all public and quasi-public entities as required under Ohio law. Generally, the Auditor of State's office is required to perform these financial audits at least once every two fiscal years. The office must review the methods, accuracy, and legality of the accounts, financial reports, records, files, and reports of public entities. The Financial Audit Section also determines if the entity has complied with the law, rules, ordinances, and orders pertaining to the office. The Financial Audit Section staff is headquartered out of the seven regional offices but spends most of its time in the field at local audit sites.

The **Center for Audit Excellence** is made up of the office's Quality Assurance Section, Accounting and Auditing Support Section, Audit Administration Section, and Training Section. These sections develop auditing standards based on current laws and guidelines, and ensure that Auditor of State employees are up-to-date on these standards. This group also ensures that Auditor of State audits are performed in a manner that complies with all auditing standards. Additionally, this section provides financial management training sessions for local officials.

The **Medicaid/Contract Audit Section** focuses its audit work on Medicaid providers; compliance audits of county agencies under interagency agreements with the Ohio Department of Job and Family Services and the Ohio Department of Developmental Disabilities; and program audits aimed at assessing the efficiency and effectiveness of state programs such as child support enforcement, home health care, nursing homes, and food stamps.

The **Local Government Services Section (LGS)** serves as a consulting and fiscal advisory group to all governmental agencies and subdivisions. The section provides an array of services including, but not limited to, financial forecasts, GAAP conversion assistance, annual financial report processing, record reconstruction and reconciliation, fiscal caution, watch or emergency assistance, and financial management training for elected officials. Publications such as accounting manuals and policy bulletins are distributed to assist local governments in performing their duties and to keep them up to date on their legal requirements.

AUDIT DIVISION CONTACTS

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Assistant Chief Deputy Auditor ..... Marnie Fredrickson
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Chief of Quality Assurance, Center for Audit Excellence ..... W. Brad Blake
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Chief Auditor, Medicaid/Contract Audit Section ..... Kristi Erlewine
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Chief Auditor, State Region/ISA ..... Debbie Liddil
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Chief of Local Government Services ..... Unice Smith
ussmith@ohioauditor.gov

AUDITOR OF STATE – GENERAL INFORMATION

REGIONAL OFFICES:

Regional Office	Chief Auditor	Counties Served	Phone
Central	Stacie Scholl slscholl@ohioauditor.gov	Ashland, Crawford, Delaware, Fairfield, Franklin, Holmes, Knox, Licking, Madison, Marion, Morrow, Pickaway, Richland, Union, Wayne	(800) 443-9275
East	Joey Jones jjones@ohioauditor.gov	Carroll, Columbiana, Jefferson, Mahoning, Portage, Stark, Summit, Trumbull	(800) 443-9271
Northeast	Daniel Stuetzer djstuetzer@ohioauditor.gov	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina	(800) 626-2297
Northwest	Stephen D. Flickinger sdflickinger@ohioauditor.gov	Defiance, Erie, Fulton, Hancock, Henry, Huron, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, Wood, Wyandot	(800) 443-9276
Southeast	Dave Shoemaker dmshoemaker@ohioauditor.gov	Athens, Belmont, Coshocton, Gallia, Guernsey, Harrison, Hocking, Jackson, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Tuscarawas, Vinton, Washington	(800) 441-1389
Southwest	Loren Crisp lscrisp@ohioauditor.gov	Adams, Brown, Butler, Clermont, Clinton, Fayette, Hamilton, Highland, Lawrence, Pike, Ross, Scioto, Warren	(800) 368-7419
West	Donna Waldron dkwaldron@ohioauditor.gov	Allen, Auglaize, Champaign, Clark, Darke, Greene, Hardin, Logan, Mercer, Miami, Montgomery, Preble, Shelby, Van Wert	(800) 443-9274

LOCAL GOVERNMENT SERVICES REGIONAL CONTACT INFORMATION:

Toll Free (all regional contacts) ..... (800) 345-2519

LGS Regional Staff	Chief Project Manager	Counties Served
Northeast	Nita Hendryx nrhendryx@ohioauditor.gov	Ashland, Ashtabula, Carroll, Columbiana, Coshocton, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Knox, Lake, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, Wayne
Northwest	Belinda Miller blmiller@ohioauditor.gov	Allen, Auglaize, Champaign, Crawford, Defiance, Delaware, Fulton, Hancock, Hardin, Henry, Logan, Lucas, Marion, Mercer, Morrow, Ottawa, Paulding, Putnam, Sandusky, Seneca, Union, Van Wert, Williams, Wood, Wyandot
Southeast	Robert Burlenski raburlenski@ohioauditor.gov	Athens, Belmont, Fairfield, Gallia, Guernsey, Hocking, Jackson, Jefferson, Lawrence, Licking, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Vinton, Washington
Southwest	April Davis acdavis@ohioauditor.gov	Adams, Brown, Butler, Clark, Clermont, Clinton, Darke, Fayette, Franklin, Greene, Hamilton, Highland, Madison, Miami, Montgomery, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Warren
Special Projects	Tracie McCreary tlmccreary@ohioauditor.gov	Administrative projects and support to regions

OHIO PERFORMANCE TEAM

The **Ohio Performance Team (OPT)** was created to build upon the office's long-standing reputation for conducting detailed performance audits. Performance audits provide elected officials and government employees with an objective, third-party analysis of their operations to help them improve performance, reduce costs, facilitate decision making and increase public accountability. OPT conducts performance audits of Ohio's state agencies, local governments and school districts.

OHIO PERFORMANCE TEAM CONTACTS

Toll Free..... (**800) 282-0370**

Director..... Scott Anderson
saanderson@ohioauditor.gov

Deputy Director.....Joe Rust
jcrust@ohioauditor.gov

LEGAL DIVISION

The Auditor of State's **Legal Division** is primarily responsible for providing legal advice to field auditors and assisting in determinations of whether or not the entity being audited is complying with all applicable laws. The legal staff can also help public offices comply with state and federal requirements. Such information can be found in bulletins, informal opinions, and at Auditor of State conferences. The Legal Division also provides continuing education to elected officials and government employees through specific training programs and conferences on government issues.

The **Open Government Unit** serves local officials by providing training and resources to help them better understand their obligations under the Ohio Public Records Act and the Ohio Open Meetings Act. Public officials are required to attend this training during their term in office. The Assistant Legal Counsel and a full-time paralegal serve as the office's experts on public records and open meetings. At the request of local officials, the office offers training seminars and other educational resources on the Sunshine Laws.

LEGAL DIVISION CONTACTS

Toll Free ..... **(800) 282-0370**
Fax ..... **(614) 466-4333**

Chief Legal Counsel ..... Mark Altier
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Assistant Legal Counsel ..... Kristen Martin
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Assistant Legal Counsel ..... James Harding
Southwest and State Regions, Medicaid, Performance jsharding@ohioauditor.gov

Assistant Legal Counsel ..... Kourtney Selogy
West Region krselogy@ohioauditor.gov

PUBLIC INTEGRITY ASSURANCE TEAM

The **Public Integrity Assurance Team (PIAT)** promotes clean, ethical government, exposes corruption and wrongdoing where it exists, and assists law enforcement and prosecutors in the pursuit of justice.

The team brings together the former Special Audit Section, Special Investigations Unit and portions of the Auditor of State's legal staff as a one team with a single mission. Comprised of forensic auditors, investigators and attorneys, the team has decades of experience and working relationships with law enforcement at the local, state and federal levels. Their expertise allows them to take a case from an initial complaint through conclusion. In cases where local officials have conflicts that make them unable to conduct investigations, the Public Integrity Assurance Team brings independence.

PUBLIC INTEGRITY ASSURANCE TEAM CONTACTS

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Deputy Director.....Randall Turner
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POLICY AND LEGISLATIVE AFFAIRS DIVISION

The **Policy and Legislative Affairs Division** serves as a link between the Auditor of State's office and the Ohio General Assembly. The division communicates the duties and needs of the office to state legislators and provides them with the necessary information to make well-informed decisions on legislation impacting the Auditor of State's office. Staff members also work with stakeholder groups on policy initiatives to convey the needs and interests of Ohio's local governments and schools.

POLICY AND LEGISLATIVE AFFAIRS DIVISION CONTACTS

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Legislative Liaison .....Katherine Bloom
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PUBLIC AFFAIRS DIVISION

The **Public Affairs Division** is responsible for all internal and external communications and publications for the Auditor of State's office. The division also serves as a liaison between the Auditor of State's office and the news media. Public Affairs issues news releases and manages the content of the office's website, ensuring that the public – through the news media and the internet – has timely, accurate information about the activities of the office.

The Auditor of State's **Field Operations** consist of liaisons in each of the regional offices around the state. The main role of the Field Operations team is to serve as a link between the Auditor of State's office, local officials and the general public. The regional liaisons work closely with other Auditor of State staff to provide assistance and information for the benefit of taxpayers.

PUBLIC AFFAIRS DIVISION CONTACTS

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State Liaison Director ..... Michelle Stys
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APPENDIX II

TOWNSHIP
ACCOUNTING MANUAL

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GOVERNMENTAL FUND ACCOUNTING

The activity of analyzing, recording, summarizing, reporting, and interpreting the financial transactions of governments.

FUND

A fund is a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and balances, which are segregated for the purposes of carrying restrictions, or limitations.

FUND TYPES

In governmental accounting, all funds are classified into eight generic fund types: General, Special Revenue, Debt Service, Capital Projects, Permanent, Enterprise, Internal Service, and Trust and Agency.

General Fund The general fund should be used to account for and report all financial resources not accounted for and reported in another fund. (GASB 54 ¶29)

Special Revenue Funds Special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects. The term *proceeds of specific revenue sources* establishes that one or more specific restricted or committed revenues should be the foundation for a special revenue fund. (GASB 54 ¶30)

Debt Service Funds Debt service funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditure for principal and interest. Debt service funds should be used to report resources if legally mandated (i.e. debt payable from property taxes). Financial resources that are being accumulated for principal and interest maturing in future years also should be reported in debt service funds. (GASB 54 ¶34)

Capital Projects Funds Capital projects funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditure for capital outlays, including the acquisition or construction of capital facilities and other capital assets. Capital projects funds exclude those types of capital-related outflows financed by proprietary funds or for assets that will be held in trust for individuals, private organizations, or other governments. (GASB 54 ¶33)

Permanent Funds Permanent funds should be used to account for and report resources that are restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting government's programs – that is, for the benefit of the government or its citizenry. Permanent funds do not include private-purpose trust funds, which should be used to report situations in which the government is required to use the principal or earnings for the benefit of individuals, private organizations, or other governments. (GASB 54 ¶35)

Enterprise Fund - A fund used report any activity from which a fee is charged to external users for goods or services. Examples of Enterprise Funds are those for water, gas, and electric utilities; airports; parking garages; and transit systems.

Internal Service Fund - A fund used to account for the financing of goods and services provided by one department or agency to another department or agencies of a government, or to other governments, on a cost - reimbursement basis.

Trust and Agency Funds - Funds used to account for assets held by a government in a trustee capacity or as an agent for individuals, private organizations, and/or other governments. Examples are private purpose trust funds, and agency funds.

FINANCIAL SYSTEM - GENERAL

The system of accounting for expenditures and revenues can be divided into two groups: source documents and journals/ledgers. The source documents are receipts, requisitions, purchase orders, vouchers and checks. The journals/ledgers are cash journal, receipt ledger and appropriation ledger.

Receipts

The Township receives money in the form of checks and cash. The money may be received through the mail, from citizens or vending machines. A receipt is prepared for all revenue received. One receipt could include various sources of money, however, all pertinent information should be included when multiple sources are included on a single receipt. All receipts received for the day are recorded on a deposit slip, the money and deposit slip are deposited into the bank. The receipt(s) are posted to the cash journal and the receipt ledger.

Expenditures

Note: The requisition is not a required procedure, however, it is included here to reflect a complete system.

When a department determines that a product or a service is needed, they complete a requisition and submit it to a supervisor or purchasing agent for approval. If it is not approved the requisition is returned to the requesting department. Otherwise a three part purchase order is prepared by the purchasing agent. One copy of the purchase order is returned to the requesting department to be used as a receiving report when the product or service is received, another is sent to the vendor, and the third is used as a posting mechanism for the fiscal officer. The fiscal officer posts the purchase order in the appropriation ledger. The purchase orders are numbered and contain information regarding the entity name, vendor name, description of item, appropriation code, amount and quantity. In addition, the purchase order allows the fiscal officer to certify that funds are available or in process of collection to make payment. Then , the purchase order is matched to the requisition and placed in the open purchase order file numerically or alphabetically, whichever is appropriate. When the merchandise is received, the receiving requesting department returns the purchase order to the fiscal officer with the date the product or service was received noted on the purchase order. The fiscal officer matches the requisition/purchase order/receiving report and the invoice and prepares the voucher. Once the voucher is approved by the appropriate person, a check is prepared and sent to the vendor. The check is posted to the cash journal and the appropriation ledger.

BUDGET-OHIO BUDGETARY LAW

Overview

The budgetary process is prescribed by provisions of the Ohio Revised Code and entails the preparation of budgetary documents within an established timetable (see Appendix III). The major documents prepared are the tax budget, the certificate of estimated resources, and an appropriations resolution; all of which are essentially prepared on the cash basis of accounting. The certificate of estimated resources and the appropriation resolution are subject to amendment throughout the year with the legal restriction that appropriations cannot exceed estimated resources, as certified by the County Budgetary Commission. All funds, other than agency funds, legally are required to be budgeted and appropriated.

The budgeting process involves planning the goals of the township and the action that needs to be taken to achieve those goals. Planning is not only for the next year, but for future years. The purchase of new furniture, expanding inventory, improvements to buildings, and increases in staff should be considered.

Except for the certification of estimated resources, the law does not specifically state who is responsible for preparing the various budgetary documents. It could be the fiscal officer, trustees, department supervisors, or any combination of them. In practice, the fiscal officer monitors compliance with Ohio budgetary law and plays a key role in the completion for the various documents.

Tax Budget

The township must complete and adopt a tax budget each year for the ensuring year by July 1. The express purpose of the tax budget is to reflect the need for existing or increased tax rates and to obtain an apportionment from the undivided local government fund. If a budget is not prepared, the township has no mechanism to demonstrate the need for an apportionment from the undivided local government fund for the next year. In addition, the budget serves as a planning tool for the township trustees.

The tax budget (see Appendix III) contains a section that consists of four columns for receipts and expenditures of the General Fund. The first two columns contain the two previous years actual receipts and expenditures. The third column is the financial information for the current year. This will be made up of part actual and part estimated receipts and expenditures. The final column represents the budget for the next year. The last column estimates should be based on historical and/or specific plans for the next year. Previous years' information can be obtained from the annual financial reports prepared each year and/or the tax budget prepared the previous year. A similar schedule should be prepared for all other funds receiving property taxes. The information needed for all other funds is presented in a separate schedule at a summarized level.

The tax budget also contains two schedules that contain information on the township's tax levies. The information needed to complete this section includes: authority and or purpose of the levy, date of vote, tax years effected, maximum rate authorized to be levied, and County Auditor's Estimate of Yield of Levy. This information should be available from the resolution requesting such levy(s) and the county auditor.

There are public hearing requirements before the adoption of the tax budget by the township trustees. The township must have at least one public hearing before they adopt the budget. Notice of this hearing must be given at least ten days in advance of the hearing in the official publication of such subdivision or a newspaper having a general circulation in the township. Also, two copies of the budget shall be filed in the office of the fiscal officer for public inspection at least ten days before its adoption by council.

After the budget is adopted by council on or before July 15, it is to be submitted to the County Auditor on or before July 20.

BUDGET-OHIO BUDGETARY LAW

The county budget commission reviews the budget to determine if revenue estimates are accurate for tax levies and undivided local government support fund. In addition, the commission reviews other revenue estimates to establish their reasonableness. On or before the first day of September, the budget commission should return to the township an Official Certificate of Estimated Resources (see Appendix III). This document presents the total estimated resources of each fund of the township for the ensuing year. In addition, the county auditor provides an estimate of the tax rates to be levied by the township.

The township, by resolution, shall authorize the necessary tax levies (inside and out side the ten-mill limitation) and certify them to the county auditor by October 1, each year. This resolution is referred to as "A Resolution Accepting the Amounts as Rates as Determined by the Budget Commission."

Certificate of Estimated Resources

The first certificate of estimated resources, referred to as "The Official Certificate of Estimated Resources", is prepared by the county budget commission and is based on information in the tax budget completed in July. This certificate includes the estimated unencumbered fund balances and estimated revenues for each fund. These amounts added together represent the estimated resources for each fund and the maximum amount the may be appropriated for that fund.

On or about the first day of each fiscal year, the fiscal officer of each township is to certify to the county auditor the actual unencumbered fund balance and estimated revenue for each fund. The form used to certify this information is "The Certificate of Cash Balances, Encumbrances, and the Total Amount Available for Expenditures." The form is completed by the fiscal officer and filed with the county auditor as soon after December 31 as possible. The first page of this form is a summary of all funds by fund type. The second page starts the individual funds. The budget commission, taking into consideration the balances and revenues to be derived from taxation and other sources, certifies and issues to the township an amended official certificate of estimated resources.

Since the official certificate of estimated resources was prepared several months before year end, the estimated revenues presented in the official certificate may need to be revised. The certificate may be amended further during the year if the fiscal officer determines, and the County Budget Commission agrees that more or less revenue will be received than originally estimated. The County Budget Commission, upon review, will issue a new amended certificate of estimated resources.

Three primary reasons exist under Ohio law for a local government to request the issuance of an amended certificate of estimated resources (Ohio Revised Code Section 5705.36). These reasons are as follows:

A) The fiscal officer determines the revenue to be collected will be greater or less than the amount included in an official certificate;

B) The fiscal officer determines that revenue to be collected will be greater than the amount in official certificate and council intends to a appropriate and expend the excess revenue; and,

C) The fiscal officer determines that revenue to be collected will be less than the amount included in an amended certificate and the deficiency will reduce available resources below the level of current appropriations.

BUDGET-OHIO BUDGETARY LAW

O.R.C. 5705.36 does not require the fiscal officer to obtain an amended certificate of estimated resources which matches actual resources for the year (a "zero variance"). Citations for noncompliance with this provision will not be issued by the Auditor of State's Office on the basis of a variance between amounts in the most recent amended certificate of estimated resources and the amount of actual resources, unless it appears that the fiscal officer knowingly disregarded a significant variance and that, had a "reduction" certificate been obtained, the effect would have been to prevent the making of expenditures or the incurrence of obligations in excess of actual resources.

Appropriations

An Annual Appropriation resolution must be passed by April 1 of each year for the period January 1 to December 31. The appropriation ordinance identifies the amounts that the township trustees expect to spend on each line item for the year. (Salaries - trustees, supplies - administration, insurance). The township must have appropriations adopted to legally spend money. However, the total amount appropriated for each fund must be less than or equal to the total estimate resources for that fund.

A temporary appropriation ordinance to control expenditures may be passed on or around January 1 or each year for the period January 1 to March 31. The township may choose to adopt a temporary appropriation measure because the appropriated budget has not been completed and/or the estimates in the official certificate of estimated resources are not sufficient to support the anticipated appropriations and must be amended.

The temporary appropriation amounts can be an estimate of what will be spent for up to the first three months. However, the permanent appropriations should be an estimated of what will be spent for the entire year. For example:

1. The township expects to spend $100 each month for supplies-administration. The temporary appropriations would include $300 and the permanent appropriations would include $1,200.

2. Both the temporary and permanent appropriations should be recorded in the appropriations ledger.

The total appropriations for each fund cannot exceed the total on the amended official certificate of estimated resources. This is the "budget" mechanism that attempts to prevent overspending. However, there may be carryover appropriations for outstanding encumbrances. These are covered by "encumbered" cash which is not included in the Amended Official Certificate of Estimate Resources.

The permanent appropriations may be amended throughout the year by an ordinance adopted by council. However, the total appropriations should never exceed the amount for each fund as presented on the Amended Official Certificate of Estimated Resources. An example of an Annual Appropriation Ordinance is presented in Appendix V.

BUDGET-OHIO BUDGETARY LAW

Budgeted Level of Expenditures

Budget information for a township is normally presented at various levels of detail. The tax budget, for example, presents expenditures at both the fund, program/activity level and fund level. The appropriation resolution may present expenditures at the fund, program/activity, and object (two digits) level for each fund. The township management, in preparing a budget, will generally estimate the expenditures at the full object level (all three digits) for each program and activity. When the information is presented to the township trustees council it is generally summarized at a higher level such as program and activity and two digits of object (111 personal services, 410 office supplies).

The level of detail presented in an appropriation resolution that is adopted by the township trustees is referred to as the "legal level of control". The level of detail maintained by the fiscal officer in the accounting system is called the "management level of control." The significant difference between the two levels of control is how the amounts can be increased or decreased during the year. Any change in the amount appropriated by the township trustees can only be changed by a resolution approved by the township trustees. In contrast, the level controlled by the fiscal officer can be changed with the approval of an appropriate official.

In the following example it is assumed the appropriations are adopted at the fund, program, activity, and two digits of object level. An increase or decrease in object levels within the program/activity level must be approved by the township trustees. A increase or decrease in an object code that does not effect the total appropriated by the township trustees can be approved by management.

The following is an example that requires the approval of the township trustees.

Accounts to be Decreased	Amounts	Accounts to be Increased	Amounts
1000-110-410	$1,500	1000-120-342	$1,500
1000-110-211	1,000	1000-120-341	1,000

The following is an example that may be approved by management.

Accounts to be Decreased	Amounts	Accounts to be Increased	Amounts
1000-110-311	750	1000-110-312	750
1000-120-342	500	1000-120-341	500

In Ohio, the legal level of control is the level at which the appropriation measure is passed by the township trustees. The township trustees, pursuant to resolution, have the ability to establish its legal level of control at the beginning of each year coinciding with the adoption of its annual appropriation resolution. Once established, the legal level of control should be the same throughout the year.

Auditors are required to determine the legal level of control and assure that the entity's financial statements and schedules properly report budgetary accountability at that level. Auditors are required to test budgetary compliance throughout the year as well as at the end of the year. In determining the legal level of control, auditors will use the level of detail set forth in the township's appropriation resolution.

BUDGET-OHIO BUDGETARY LAW

Delegation of Authority to Set Appropriations

The legislative body of a local government may not delegate its authority to establish appropriations. The appropriation process is a function of the legislative authority that must be performed by those specific individuals elected to fulfill that responsibility. However, other officials of the local government may be given the authority to allocate or reallocate funds within a legally adopted appropriation.

Reserve Balance Accounts

The board of township trustees, as provided in O.R.C. 5705.13, may establish reserve balance accounts for each of the following three purposes: 1) for budget stabilization, 2) for the payment of payment of claims and deductibles under a self-insurance program, or 3) for the payment of claims, deductibles, and assessments under a retrospective ratings plan for workers' compensation. The reserve must be established by a resolution that states the purpose and size of the reserve and the fund in which the reserve is to be created. Expenditures of the reserve have to be for the purpose for which the reserve was established and no more than three reserve balance accounts can be established at one time, one for each purpose.

O.R.C. 5705.13(A), as revised by House Bill 513, permits a township to have more than one reserve balance account for budget stabilization and to establish those accounts in either the general fund or in one or more special funds for operating purposes of the township. The amount of money reserved in *each* account in any fiscal year cannot exceed 5% of the revenue credited in the preceding fiscal year to the fund in which the account is established, or in the case of a reserve balance account of a county or of a township, the greater of that amount or one-sixth of the expenditures during the preceding fiscal year from the fund in which the account is established. The reserve balance is not to be considered part of the unencumbered balance when certifying available balances at year-end. The reserve for budget stabilization may be reduced or eliminated at any time by the taxing authority.

A reserve balance account created for a self-insurance program or for a retrospective ratings program for workers' compensation may be created in the general fund or in the internal service fund established for the operation of the program. If rescinded, the accumulated resources are returned to the fund from which they came.

In addition, O.R.C. 5705.13 (B) allows a board of township trustees to establish a special revenue fund for accumulating cash for paying termination benefits or for paying salaries when the number of pay periods exceeds the usual and customary number for a year. Termination benefits are defined in this Section as payments for accumulated sick leave and vacation leave, or for payments in lieu of taking compensatory time off, upon termination of employment or retirement. Money may be transferred to this fund from any fund from which the termination or salary payments could lawfully be made. The reserve must be established by resolution and the taxing authority may rescind the fund at any time with the accumulated resources being returned to the fund from which they came. Amounts accumulated in this fund should be reasonable based on the taxing authority's estimated liability for benefits. Townships on the alphanumeric chart of accounts should use fund 14. Auditor of State approval is not required to create this fund.

BUDGET-OHIO BUDGETARY LAW

O.R.C. 5705.13 (C) allows a taxing authority to create one or more capital projects funds to accumulate resources for the acquisition, construction, or improvement of fixed assets, including motor vehicles. Each fund must be created by resolution. The resolution must identify the asset(s) to be acquired, the amount needed to be accumulated, the period over which the amount will be accumulated (with a limit of ten years from the date of the resolution), and the sources of the resources. Money may be transferred to the capital projects fund from any other fund that could acquire the fixed assets. If a contract for the fixed asset(s) has not been entered into before the ten year period expires, the money is returned to the fund from which it was transferred or that was originally intended to receive it. The taxing authority may rescind a capital projects fund at any time with the accumulated resources being returned to the fund from which they came. O.R.C. 305.23, 505.83, and 505.831 have been repealed. These code sections authorized townships and counties to set-aside money for the purchase of certain specific fixed assets. Any money currently accumulated under these code sections should be moved by resolution to a new capital projects fund authorized by O.R.C. 5705.13(C). The new capital projects fund will now be subject to the restrictions and requirements of O.R.C. 5705.13; however, the money must still be spent for the purpose for which it was being set aside and it must still be obligated within ten years from the date the first set-aside occurred. Townships on the alphanumeric chart of accounts should use fund 21. Auditor of State approval is not required to create these funds.

O.R.C. 5705.132 permits a board of township trustees, by resolution, to establish a reserve balance account to accumulate currently available resources for any purpose for which the board may lawfully expend money of the township other than for the purposes for which a reserve balance account may be established under O.R.C. 5705.13. Money may be transferred to the reserve balance account from another fund or account of the township only if money in that fund or account may lawfully be expended for the purpose for which the reserve balance account is created. A reserve balance account created under this section may not exist for more than five fiscal years beginning with the first fiscal year in which money is credited to the account. The total amount of money to the credit of all reserve balance accounts established under this section at any time in any fiscal year shall not exceed five percent of the total of the township's revenue from all sources for the preceding fiscal year and any unencumbered balances carried over to the current fiscal year from the preceding fiscal year. Money in a reserve balance account shall be expended only for the purpose for which the account is established. More than one reserve balance account may be established under this section.

The resolution establishing a reserve balance account shall state the specific purpose for which the account is established, the fund within which the account is established, the fund or account from which money shall be transferred to the account, and the number of years the account will exist. The resolution shall specify the maximum total amount of money that may be credited to the account during its existence and the maximum amount of money to be credited to the account each fiscal year the account exists. The board, by subsequent resolution, may change the amount to be credited and the source from which money is transferred, subject to the limitations of this section.

Amounts set-aside in reserve balance accounts are excluded from consideration when calculating local government money allocations. O.R.C. 5705.29 has been amended to permit the budget commission to require documentation of the reasonableness of the balances. Any amount determined to be unreasonable will be considered revenue for purposes of local government money allocations and for determining whether to reduce tax rates.

A sample tax budget can be found in Appendix III.

CERTIFICATE OF TOTAL AMOUNT FROM ALL SOURCES AVAILABLE FOR EXPENDITURES AND BALANCES

The purpose of this form is twofold: (1) report the actual unencumbered fund balances and (2) adjust estimated revenues if necessary.

The Official Certificate of Estimated Resources which is prepared by the county budget commission is based on the budget which is completed in July. This budget includes estimated unencumbered fund balances. These amounts have been added to estimated revenues to arrive at estimated resources for the year. It is important to include the actual unencumbered fund balance to further clarify the total estimated resources for the year.

Since the budget was prepared five to six months before year end, the estimated revenue at that time may have changed. The township may be receiving additional grants, patron fees or tax levy revenues. The estimated revenues on this form may be adjusted to reflect such changes. This further defines estimates to present a more accurate picture of what will happen during the year. The budget commission reviews these changes in estimated revenues to ascertain that the revenues are reasonable.

The form should be completed by the fiscal officer and filed with the county auditor as soon after December 31 as possible. In certifying to the county auditor the balances that exist at the end of the year, the fiscal officer shall first deduct from such balances any funds which have been encumbered for the payment of obligations which are unliquidated and outstanding. In addition, the fiscal officer shall exclude the following: 1) outstanding advances; 2) principal of nonexpendable** trust funds (O.R.C. 5705.131); and 3) reserve balance accounts (O.R.C. 5705.13). The first page is a summary of all funds by fund type. The second page starts the individual funds.

Column (1) - Cash balance as of December 31, xxxx - The cash balance for each fund according to the cash journal.
Column (2) - Encumbrances as of December 31, xxxx - The total encumbrances outstanding at year end.
Column (3) - Reserve Balance Accounts as of December 31, xxxx – The total reserve balance account balances at year end.
Column (4) - Advances not Repaid - Record all advances that have not been repaid as of the end of the year. A positive amount would be entered for the fund that loaned the money and a negative amount would be entered for the fund that received the loan.
Column (5) - Carryover balance Available for Appropriation - The sum of column (1) less column (2) plus or minus column (3).
Column (6) - Total Amount from all Sources Available for Expenditures - The estimated revenues for each fund based on the official certificate plus or minus any changes the township feels necessary due to changes in revenue sources since the budget was completed. If the figures have changed you should note the reasons at the bottom of the form or attach separate documentation.
Column (7) - Total Amount Available plus Balances - The final column is the sum of column (5) plus column (6). This represents the amount that can be appropriated for a particular fund.

Once the individual fund information has been completed, simply combine all funds for each fund type and complete the front page of the document. A sample certificate can be found in Appendix III.

**For recording and reporting purposes, nonexpendable trust funds are classified as private purpose trust funds or permanent funds.

AMENDED OFFICIAL CERTIFICATE OF ESTIMATE RESOURCES

This form will be returned to the township by the county budget commission after the township has filed the "Certificate of the Total Amount From All Sources Available for Expenditures and Balances" (January 1). The budget commission , taking into consideration the balances and the revenues derived from taxation and other sources, shall revise its estimate of the amounts that will be credited to each fund from such sources, and shall certify to the township an amended official certificate of estimated resources. This amended official certificate shall serve as the basis of the annual appropriation resolution as provided in O.R.C. 5705.36.

The first page is a summary of all funds by fund type with the second page presented by fund. The total of the middle two columns (taxes/other sources) equal the amount that the township anticipates receiving from the various sources during the present year. Three primary reasons exist under State law for a local government to request the issuance of an amended official certificate of estimated resources (O.R.C. 5705.36). These reasons are as follows:

1. The fiscal officer determines the revenue to be collected will be greater than or less than the amount included in the official certificate of estimated resources;

2. The fiscal officer determines the revenue to be collected will be greater than the amount included in the official certificate or estimated resources and village council intends to appropriate and expend the excess revenue; or

3. The fiscal officer determines the revenue to be collected will be less than the amount included in an amended official certificate of estimated resources and the deficiency will reduce available resources below the level of current appropriations.

O.R.C. 5705.36 does not require the fiscal officer to obtain an amended official certificate of estimated resources which matches actual resources for the year (a "zero variance"). Citations for noncompliance with this provision will not be issued by the Auditor of State's Office on the basis of a variance between amounts in the most recent amended official certificate of estimated resources and the amount of actual resources, unless it appears that the fiscal officer knowingly disregarded a significant variance and that, had a "reduction" certificate been obtained, the effect would have been to prevent the making of expenditures or the incurrence of obligations in excess of actual resources.

The process of amending certificates of estimated resources is an attempt to reflect an accurate amount for estimated receipts in the receipt ledger to monitor the budgetary process. The receipt ledger is set up using estimates based on the middle two columns "Taxes" and "Other Sources". Dividing the revenue into the individual receipt accounts should be based on the budget prepared the previous July or as updated on the Certificate of the Total Amount from all Sources Available for Expenditures and Balances. Whenever an Amended Certificate of Estimated Resources is received, the appropriate receipt ledgers should be adjusted.

A sample Amended Official Certificate can be found in Appendix III.

APPROPRIATION RESOLUTION

The appropriation resolution identifies the amounts that the Board of Trustees expect to spend on each line item for the year. (Salaries-trustees, supplies-administration, insurance). The township must have appropriations adopted to legally spend money. However, the total amount appropriated for each fund must be equal to or less than the total estimated resources for that fund. Difficulty may arise due to the time delay in receiving the Amended Certificate of Estimated Resources from the County Budget Commission informing the township of the total estimated resources available for the year. This document may not be returned until the middle of January or later depending upon when the Certificate of Balances was submitted to the County Budget Commission. Although the trustees could base the appropriation totals on the Official Certificate of Estimated Resources, this may not be accurate due to different carry-over encumbered fund balances and adjustments to revenues. It may require the trustees to adopt extensive amendments to the appropriation resolution. Thus, the trustees may choose to adopt a temporary appropriation resolution in January, then, adopt the permanent appropriations by March 31st when they have received the Amended Certificate of Estimated Resources and can better plan how to allocate the resources among the appropriation codes.

The township trustees may not delegate their authority to establish appropriations. The appropriation process is a function of the legislative authority that must be performed by those specific individuals elected to fulfill that responsibility. However, other officials of the township may be given the authority to allocate or re-allocate funds within a legally adopted appropriation.

The temporary appropriation amounts can be an estimate of what will be spent for up to the first three months. However, the permanent appropriations should be an estimate of what will be spent for the entire year. For example:

> The township expects to spend $100 each month for supplies-administration. The temporary appropriations would include $300 and the permanent appropriations would include $1200.

Both the temporary and the permanent appropriations should be recorded in the appropriation ledger.

The total appropriations for each fund cannot exceed the total of the amended official certificate of estimated resources. This is the “budget” mechanism that attempts to prevent overspending. However, there may be carryover appropriations for outstanding encumbrances. These are covered by “encumbered” cash which is not included in the Amended Official Certificate of Estimated Resources.

The permanent appropriations may be amended at any point in time if the trustees adopt a resolution and the amendment is submitted to the county budget commission. This may happen in connection with an amendment to the Amended Official Certificate of Estimated Resources. Nevertheless, the total appropriations should never exceed total estimated resources on the Amended Official Certificate of Estimated Resources.

A sample Annual Appropriation Resolution can be found in Appendix III.

RECEIPTS

When monies are received in the form of cash or check, the fiscal officer of the township must prepare a receipt. Receipts should be numbered consecutively and include the following information.

1. Date
2. Receipt number
3. Amount of monies received
4. Who presented the money
5. Reason for receiving the monies
6. Account code
7. Signature of the fiscal officer

The original copy should be given to the person making the payment, if in person, while the duplicate should remain in the receipt book. The receipt should be carefully prepared, as the duplicate is the posting source of entry for the cash journal and the receipts ledger.

Each day that there is money received, a deposit should be made at the bank. When preparing a deposit slip for the bank, the receipt numbers making up the deposit should be recorded on the deposit slip. In the instance that there is a problem in reconciling to the bank, this will provide all the information needed in order to discover the error.

Examples of receipt book pages follows:

ORIGINAL

Receipt No. 1

$5,850.00 Date 01-15-XX

OFFICE OF THE TOWNSHIP FISCAL OFFICER

Any Township My Town, Any County, Ohio

Received of Auditor of State

Five thousand-eight hundred and fifty and 00/100 Dollars

For Cigarette Tax-General Fund

1000-534

I.M. Good Fiscal officer

ORIGINAL

Receipt No. 2

$500.00 Date 01-15-XX

OFFICE OF THE TOWNSHIP FISCAL OFFICER

Any Township My Town, Any County, Ohio

Received of Auditor of State

Five hundred and 00/100 Dollars

For Local Government Distribution - General Fund

1000-532

I.M. Good Fiscal officer

ORIGINAL

Receipt No. 3

$4,000.00 Date 01-15-XX

OFFICE OF THE TOWNSHIP FISCAL OFFICER

Any Township My Town, Any County, Ohio

Received of County Auditor

Four thousand and 00/100 Dollars

For General Property Tax Advance - General Fund

1000-101

I.M. Good Fiscal officer

ORIGINAL

Receipt No. 4

$4,000.00 Date 01-30-XX

OFFICE OF THE TOWNSHIP FISCAL OFFICER

Any Township My Town, Any County, Ohio

Received of Auditor of State

Four thousand and 00/100 Dollars

For Gasoline Tax - Gasoline Tax Fund

1000-537

I.M. Good Fiscal officer

ORIGINAL

Receipt No. 5

$250.00 Date 01-30-XX

OFFICE OF THE TOWNSHIP FISCAL OFFICER

Any Township My Town, Any County, Ohio

Received of XYZ Group

Two hundred and Fifty and 00/100 Dollars

For Rent - General Fund

1000-802

I.M. Good Fiscal officer

ORIGINAL

Receipt No. 6

$1,000.00 Date 01-30-XX

OFFICE OF THE TOWNSHIP FISCAL OFFICER

Any Township My Town, Any County, Ohio

Received of Last National Bank - CD #1234 interest

One thousand and 00/100 Dollars

For Interest - General Fund

1000-701

I.M. Good Fiscal officer

RECEIPT LEDGER

A receipt ledger page should be set up for each receipt code utilized by the township. The pages should be maintained in account code order. This makes posting to the ledger easier.

The top of each ledger page includes the following information:

Fund - This is the fund in which this particular receipt will be posted.
Source - This is the source of revenue within this fund (taxes, intergovernmental revenues).
Revenue Code - This is the type of revenue within this fund: (General Property Tax Real Estate Taxes, Permissive Sales Tax, Etc.).
Sheet No. - The page number of the ledger page.
Amount of Budget Estimate - The amount of revenue expected to be received in this account code. (According to the Official Certificate of Estimated Resources).

The next portion of the ledger contains columns where each receipt is posted. The first line of every receipts ledger will be "estimated revenue" which will be the same amount as the "amount of budget estimate". This is posted on January 1 with the estimated amount recorded in the "balance" column. As revenue is received and recorded in the cash journal, the effected receipts ledger(s) are also posted. Each individual receipt is recorded on a separate line of the receipts ledger. The amount received is recorded in the "amount received (fund credit)" column and the "credit" column. The "balance" column is reduced by the same amount. Another acceptable method for recording receipts is to record the amount received in the "amount received (fund credit)" column and reduce the "balance" column.

If the second method is used, the "debit/credit" columns are only used to post increases or decreases in the amended official certificate of estimated resources. This method is addressed in the budgetary section of this manual.

At the end of each month, the receipts for the month are totaled on each receipt ledger page. The month-to-date total is added to the previous year-to- date total. These totals can be used to ensure that all receipts have been posted for each fund. Simply add the month-to-date receipts in the cash journal under that particular fund. The same comparison can be completed using the year-to-date total.

The receipt ledger facilitates the comparison of estimated to actual receipts within each account of each fund. This analysis permits corrective action to be taken throughout the year if revenue estimates, which are the basis for appropriations, appear to be materially out of line. Also these ledgers provide the township with information to be used in preparing the annual financial report.

Examples of receipt ledger entries follow:

RECEIPTS LEDGER

Fund: General

Source: Property Taxes Sheet No. 1

Account: General Property Tax-Real Estate

Account No.: 1000-101 Amount of Budget Estimate $ 12,000.00

Memoranda - General Real Estate Taxes

Date	Name	Purpose	Bill Number	Receipt Number	Amount Received (Fund Credit)	/	Debit	Credit	Balance
01/05	Budget	Estimated Revenue							$12,000.00
01/15	County Auditor	Advance		3	4,000.00				8,000.00

RECEIPTS LEDGER

Fund: General

Source: Local Taxes Sheet No. 1

Account: Local Government Distribution

Account No.: 1000-532 Amount of Budget Estimate $ 6,000.00

Memoranda – Accounts Receivable

Date	Name	Purpose	Bill Number	Receipt Number	Amount Received (Fund Credit)	/	Debit	Credit	Balance
01/05	Budget	Estimated Revenue							$6,000.00
01/15	Auditor of State	January Distribution		2	500.00				5,500.00
	Year to Date total				500.00				

RECEIPTS LEDGER

Fund: General

Source: State Sheet No. 1

Account: Cigarette Taxes

Account No.: 1000-534 Amount of Budget Estimate $ 15,000.00

Memoranda – Accounts Receivable

Date	Name	Purpose	Bill Number	Receipt Number	Amount Received (Fund Credit)	/	Debit	Credit	Balance
01/05	Budget	Estimated Revenue							$15,000.00
01/15	Auditor of State	Cigarette Taxes		1	5,850.00				9,150.00

RECEIPTS LEDGER

Fund: General

Source: Miscellaneous Sheet No. 1

Account: Rent

Account No.: 1000-802 Amount of Budget Estimate $ 2,500.00

Memoranda – Accounts Receivable

Date	Name	Purpose	Bill Number	Receipt Number	Amount Received (Fund Credit)	/	Debit	Credit	Balance
01/05	Budget	Estimated Revenue							$2,500.00
01/30	XYZ Group	Township Hall Rental		5	250.00				2,250.00

RECEIPTS LEDGER

Fund: General

Source: Last National Bank Sheet No. 1

Account: Interest

Account No.: 1000-701 Amount of Budget Estimate $ 12,000.00

Memoranda – Accounts Receivable

Date	Name	Purpose	Bill Number	Receipt Number	Amount Received (Fund Credit)	/	Debit	Credit	Balance
01/05	Budget	Estimated Revenue							$12,000.00
01/30	Last Nat'l Bank	CD Interest - #1234		6	1,000.00				11,000.00

RECEIPTS LEDGER

Fund: Gasoline Tax

Source: State Shared Taxes

Sheet No. 1

Account: Gasoline Tax

Account No.: 2121-537

Amount of Budget Estimate $ 24,000.00

Memoranda – Accounts Receivable

Date	Name	Purpose	Bill Number	Receipt Number	Amount Received (Fund Credit)	/	Debit	Credit	Balance
01/05	Budget	Estimated Revenue							$24,000.00
01/30	State Auditor	January Distribution		4	4,000.00				20,000.00
		Year to Date total			4,000.00				

REQUISITIONS

A requisition is the method of "requesting" supplies or services by any township official or employee. They are best utilized by employees who do not have the authority to initiate a purchase order. When used properly they prevent duplicate orders and unnecessary paper work. Management should decide if the township would benefit from the use of requisitions. The decision should be based on the structure of the township and the number of employees. Requisitions are not required by law.

A completed requisition form should be submitted to the head of the department or supervisor. If the supervisor does not approve the request, the requisition should be returned to the person initiating the request. If the supervisor approves the purchase, the requisition will be sent to the person authorized to prepare the purchase orders (this is usually the fiscal officer).

The township may wish to include some of the following information on the requisition depending upon the structure and number of employees:

1. Requisition number.
2. Place or department in need.
3. Name and address of subdivision.
4. Brief detail of need.
5. Quantity needed.
6. Specifications of items needed.
7. Purchasing agent's Memo detailing Order Number, Unit Price, Amount, and Code.
8. To whom delivered.
9. Where delivered.
10. Signed by person authorized to make requisition, and title.
11. Approval of person or officials as a prerequisite to purchase order procedure.

PURCHASE ORDERS – CERTIFICATION

Purchase orders shall be used to approve purchase commitments and to encumber funds against the available appropriation account(s) according to Administrative Rule. O.R.C. 5705.41(D) states that no contracts or orders involving the expenditure of money may be made unless the fiscal officer has certified that "the amount required to meet the obligation has been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances". Contracts involving current payrolls of regular employees and officers are excluded from this prohibition. The vehicle normally used to present this certification is the purchase order.

The process of using purchase orders not only facilitates the ordering of merchandise/services, it is also part of the budgetary process. The amount of each purchase order shall be posted to the proper appropriation ledger page(s). This is known as "encumbering" or "setting aside" a portion of the appropriation. The fiscal officer's certificate typically appears on the bottom of the purchase order. This states that the funds are available and/or are in the process of collection. This means that the township has appropriations and the cash to pay for this purchase or the money is estimated to be collected. The posting of the purchase order reduces the amount of available appropriation. When an appropriation accounts reflects zero, then no more purchase orders should be entered into until the taxing authority increases that account's appropriation.

Any contract made without this certification shall be void and no warrant shall be issued in payment. However, there is a "then and now" certificate that may be issued. This provision allows for the township trustees to approve a purchase order after goods or services have been purchased if there were unencumbered appropriations at the time the contract or order was placed (then) and currently (now) there are unencumbered appropriations. If the order is for $3,000 or less the fiscal officer may authorize the expenditure without trustee approval. Otherwise, the township trustees must pass a resolution authorizing the payment for the goods or services.

There are four types of certification (purchase orders) - regular, blanket, then and now, and super blanket.

Regular - A regular certification (purchase order) is issued when the purchase of a specific item(s) from a specific vendor is planned. It can be for any amount and is good until the contract is fulfilled or canceled. This certification certifies that the amount required to meet the obligation in the fiscal year in which the contract is made, has been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This certificate only needs to be signed by the fiscal officer. See example page II-26.

Blanket Certification - In this situation, the fiscal officer certifies that the expenditure is being made for a certain purpose against (1) a specific budget line item appropriation account in a certain fund; and (2) does not exceed an amount of money that may be spent from that line item as approved by the trustees in a resolution. There can only be one blanket certification per line item. The blanket certification cannot extend beyond the fiscal year. Usually, individual expenditures or orders for payment are posted against the blanket certification. The effective dates and maximum dollar amount of the certification should be included in the blanket. Purchases may be made to a variety of vendors or a specific vendor. The certification need only be signed by the fiscal officer. An itemized statement of obligations incurred and expenditures made under the blanket certification shall be provided to the chief fiscal officer before another certificate may be issued. See example page II-27.

PURCHASE ORDERS - CERTIFICATION

Then and Now - If prior certification of funds by the fiscal officer was not obtained before the contract or order involving the expenditure of money was made, then and now certification (purchase orders) can be used. The fiscal officer may instead certify that there was, at the time the contract or order was made, and at the time of the execution of the certificate, a sufficient sum appropriated for the purpose of the contract and in the treasury or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. Thus, the fiscal officer is certifying that there were appropriations available and funds in the treasury or in the process of collection at the time the contract or order was made (then), and there are still sufficient appropriations and funds in the treasury or in the process of collection at the time the certificate is being issued (now). When the fiscal officer is using a then and now certificate and the amount certified exceeds $3,000, the fiscal officer must obtain the township trustees approval by resolution before making payment. This approval must be obtained within 30 days of the township trustee's receipt of the certificate. See example page II-28.

Super Blanket Certification - The certification may be outstanding up to the end of a fiscal year. There is no dollar amount limit. More than one certification is permitted to be outstanding against a specific line item appropriation account in a specified fund at one time. The certification must identify the specific line item and may, but need not, be limited to a specific vendor. The permitted purposes for a super blanket include the services of:

* accountant	* attorney at law	* physician
* architect	* professional engineer	* consultant
* surveyor	* construction project manager	
* appraiser		

and, for the purchase of fuel oil, gasoline, food items, roadway materials and utilities; any purchases of supplies, equipment and services exempt from competitive bidding under O.R.C. 125.04 (ODAS purchase contracts); and for any other specific expenditure that is a recurring and reasonably predictable operating expense. See example page II-29.

An itemized statement of obligations incurred and expenditures made under the super blanket certificate shall be provided to the fiscal officer for each certificate issued.

Purchase orders should be numbered consecutively. Each purchase order should be made out in triplicate by the purchasing authority. Two copies should be filed with the fiscal officer/treasurer who will complete both and forward one copy to the vendor. The fiscal officer's copy should be used as a source entry for posting in the appropriation ledger. The third copy should be returned to the individual initiating the purchase order or requisition, as the case may be. Also, the third copy should serve as a receiving report and be returned to the fiscal officer once the items are received and verified. The third copy of the purchase order should then be attached to the voucher along with the invoice.

PURCHASE ORDERS - CERTIFICATION

Each purchase order should provide the following information:

1. Purchase order number (consecutively numbered)
2. Requisition number reference (if applicable)
3. Date
4. Name of township
5. Name of vendor
6. Account code
7. Quantity, unit description, price per unit, and amount
8. Name and title of person authorizing purchase order
9. Statement regarding exemption from Ohio sales tax and/or federal excise tax, if applicable
10. Destination
11. Method of shipment
12. Fiscal officer's certification

The information for items 10 and 11 are needed only when applicable. Examples of purchase orders appear on the following pages.

PURCHASE ORDER

OFFICE OF THE Township Fiscal officer			Requisition No.		
			Purchase Order and Certificate No. 4		
Any County, Ohio			APPROPRIATION		
My Town, Ohio Jan. 5, 20XX			Code	Amount	
To: Blank Forms, Inc.			1000-110-410	$500	00
My Town, Ohio 12345					
Deliver to: Any Township					
At: Any County, My Town, Ohio 12345					
Terms: Payable quarterly @ $500.00 upon billing - check					
Quantity	Unit	Description	Price/Unit	Amount	
1 Box		Pre-numbered Purchase Orders.		$500	00
		Beginning 1-10-XX			

FISCAL OFFICER'S CERTIFICATE

It is hereby certified that the amount of ($500.00) required to meet the contract, agreement, obligation, payment or expenditure for the above, has been lawfully appropriated or authorized or directed for such purpose and is in the Treasury or in process of collection to the credit of General Fund Fund free from any obligation or certification now outstanding.

Dated 1-5-XX

Fiscal officer I.M. Good Any Township

APPROVED BY:

_____

_____

_____

_____

This order is not valid unless Fiscal officer's Certificate is signed.

ORIGINAL
(To be sent to vendor)

BLANKET PURCHASE ORDER					
OFFICE OF THE Township Fiscal officer			Requisition No.		
			Purchase Order and Certificate No. 2		
Any County, Ohio			APPROPRIATION		
My Town, Ohio January 2, 20XX			Code	Amount	
To: Cheap Power Company			1000-120-351	$350	00
My Town, Ohio 12345					
Deliver to: Any Township					
At: same, My Town, Ohio 12345					
Terms: Check - 10 days after receipt of bill					
Quantity	Unit	Description	Price/Unit	Amount	
		Electric bill for town hall for January-March		$350	00
		#124-January Electric - $120.00		230	00

FISCAL OFFICER'S CERTIFICATE APPROVED BY:

It is hereby certified that the amount of ($350.00) _____
required to meet the contract, agreement, obligation, payment or
expenditure for the above, has been lawfully appropriated or _____
authorized or directed for such purpose and is in the Treasury
or in process of collection to the credit of _____ _____
General
Fund free from any obligation or certification now outstanding. _____

Dated 1-2-XX I.M. Good This order is not valid unless
Fiscal officer _____ Any Township Fiscal officer's Certificate is signed.

ORIGINAL
(To be sent to vendor)

THEN & NOW PURCHASE ORDER					
OFFICE OF THE Township Fiscal officer			Requisition No.		
			Purchase Order and Certificate No. 10		
Any County, Ohio			APPROPRIATION		
My Town, Ohio January 30, 20XX			Code	Amount	
To: XYZ Furnace Company			1000-120-360	$300	00
My Town, Ohio 12345					
Deliver to: Township Hall					
At:					
Terms: Check - 10 days after billing					
Quantity	Unit	Description	Price/Unit	Amount	
		Emergency repair of furnace		$300	00
		on Saturday, 1-23-XX. Date of bill will also			
		be 1-23-XX.			

FISCAL OFFICER'S CERTIFICATE APPROVED BY:

It is hereby certified that both at the time of the making of this_____ contract or order and at the date of the execution of this certificate, the amount of ($300.00) required to pay this contract or order _____ has been appropriated for the purpose of this contract or order an is in the treasury or in the process of collection to the credit of the _____ General Fund free from any previous encumbrance. _____

Dated 1-30-XX I.M. Good This order is not valid unless
Fiscal officer _____ Any Township Fiscal officer's Certificate is signed.

ORIGINAL
(To be sent to vendor)

PURCHASE ORDER

OFFICE OF THE Township Fiscal officer		Requisition No.	
		Purchase Order and Certificate No. 3	
Any County, Ohio		APPROPRIATION	
My Town, Ohio Jan. 8, 20XX		Code	Amount
To: Big Rocks, Inc.		2031-330-420	$800 00
My Town, Ohio 12345			
Deliver to: Any Township			
At: Any County, My Town, Ohio 12345			
Terms: Payable quarterly @ $800.00 upon billing - check			

Quantity	Unit	Description	Price/Unit	Amount
100	Tons	100 Tons #57 Gravel	$8.00	$800 00
		Beginning 1-08-XX		

FISCAL OFFICER'S CERTIFICATE

It is hereby certified that the amount of ($800) required to meet the contract, agreement, obligation, payment or expenditure for the above, has been lawfully appropriated or authorized or directed for such purpose and is in the Treasury or in process of collection to the credit of Road & Bridge Fund Fund free from any obligation or certification now outstanding.

Dated 1-8-XX I.M. Good
Fiscal officer Any Township

APPROVED BY:

_____

_____

_____

_____

This order is not valid unless Fiscal officer's Certificate is signed.

ORIGINAL
(To be sent to vendor)

VOUCHER SYSTEM

A voucher is a written order to draw a check in payment of a lawful obligation of the township. The completed voucher is the basis for the preparation of the check and should include the following information:

1. Voucher No. (Warrant number)
2. Name and address of political subdivision.
3. Number, amount, and date of check with name of payee
4. Account codes
5. Purchase order and certificate number
6. Quantity , description, unit price, and total amount
7. Attached invoice, purchase order, and requisition (if any).
8. Signature of designated taxing authority member(s).

Upon the receipt of a seller's invoice or the payroll of the township, the voucher(s) and check(s) should be prepared by the fiscal officer, with the requisition (if one is used), invoice and purchase attached to the voucher. The approval of the voucher can be completed in one of the following ways: (1) present to the trustees for their signature and approval, or (2) submit a list of bills paid at the trustee meeting. Vouchers are required by current Administrative Rule.

An example of a Voucher appears on the following page.

Warrant No. 123

Township Any Township

Amount of Warrant $ 500.00

Payable to

Blank Forms, Inc.

Address: 5545 A Road, Box 999, My Town, Ohio 12345

Date: 1/15/20xx

EXAMINED AND FOUND CORRECT

Trustee # 1

Trustee # 2

Trustee # 3

DISTRIBUTION

Fund	Appr'n	Amt. Certified		Amt. Of Warrant		Credit Appr'n	
General	1000-110-410	500	00	500	00		

VOUCHER

OFFICE OF THE TOWNSHIP FISCAL OFFICER

Any Township Township, Any County , My Town , Ohio

Purchase Order and Certificate No. 4

To Blank Office Forms, Inc.

Address 5545, A Road Box 999, My Town, Ohio 12345

Quantity	Description	Price/Unit	Amount	
1 Box	1000 Pre-numbered Purchase Orders	$ 500.00	$ 500	00

CHECKS

As with any check or warrant, the date, payee, amount (numerical and written), and signature should be completed. The account code(s) and the amount(s) allotted to each account can be written on each check and/or check stub.

All checks should be pre-numbered. Ideally the supply of unused checks should be adequately safeguarded and under the custody of persons who do not sign checks manually or control the use of facsimile signature plates. In small subdivisions this may not be possible, however, blank checks should be maintained in a safe with controls in place to prevent theft or unauthorized use.

Whenever an invoice is received and payment is made, the payment should be made on the original invoice, and it should be marked as paid so that duplicate payments will not be made. A careful study of invoices is necessary to eliminate the possibility of payments being made on fabricated invoices.

All checks must be signed by at least two trustees and the fiscal officer.

Check No.123 Date 1/15/XX To: Blank Forms, Inc. Fund: 1000-110-120 For: Pre-Numbered P.O.'s	Deposit		Any Township My Town, Ohio Check No. 123 Date 1/15/XX Pay to the order of: Blank Forms, Inc. $500.00 Five Hundred and 00/100----------Dollars
Total	18,000	00	Last National Bank
Amount This Check	500	00	
Balance	17,500	00	Any Town, Ohio

Check No.124 Date 1/30/XX To: Cheap Power Co. Fund: 1000-120-351 For: Jan. Electric	Deposit		Any Township My Town, Ohio Check No. 124 Date 1/30/XX Pay to the order of: Cheap Power Co. $120.00 One hundred-twenty and 00/100----------Dollars
Total	17,500	00	Last National Bank
Amount This Check	120	00	
Balance	17,380	00	Any Town, Ohio

Check No.125 Date 1/30/XX To: XYZ Furnace Company' Fund: 1000-110-360 For: Emergency Furnace Repair	Deposit 5,850 500 4,000	 00 00 00	Any Township My Town, Ohio Pay to the order of: XYZ Furnace Company Three Hundred and 00/100----------Dollars
Total	27,830	00	Last National Bank
Amount This Check	300	00	
Balance	27,530	00	Any Town, Ohio

Check No. 125
Date 1/30/XX

980

Check No.126 Date 1/30/XX To: Big Rocks, Inc. Fund: 2031-330-420 For: 100 tons gravel	Deposit 4,000 250 1,000	 00 00 00	Any Township My Town, Ohio Pay to the order of: Big Rocks, Inc. $800.00 Eight hundred and 00/100----------Dollars
Total	32,780	00	Last National Bank
Amount This Check	800	00	
Balance	31,980	00	Any Town, Ohio

Check No. 126
Date 1/30/XX

APPROPRIATION LEDGER

An appropriation ledger page should be set up for each appropriation code utilized by the township. The pages should be maintained in account code order. This makes posting to the ledger easier.

The top of each ledger page should include:

Fund - This is the fund in which this particular expenditure will be posted.
Name of Account - This is the type of expenditure within this fund. (Example: Salaries - Fiscal officer)
Account Code - The code according to the Chart of Accounts.
Sheet No. - The page number of the ledger pages.

The next portion of the ledger contains columns where each expenditure is posted. The first line of each appropriation ledger page will be made "Annual Appropriations" or "Temporary Appropriations". In cases where prior year encumbrances still exists, enter these purchase order amounts first then post the temporary or permanent appropriation. To simplify this process a separate appropriation ledger page for each account code with prior year encumbrances can be maintained with separate pages used for the current year appropriations. (See Example 2) These entries will be made on or about January 1st with the total amount of the appropriation from the annual appropriation resolution, Temporary Appropriation Resolution or prior year encumbrances recorded in the "Balance" column. If the taxing authority passes a Temporary Appropriation Resolution, when the permanent Appropriation Resolution is passed, adjustments must be made to zero out any remaining Temporary Appropriations.

As purchase orders are issued and approved they should be entered in the affected appropriation ledger(s). When a purchase is posted the information should be entered as to date, name/vendor, purpose and purchase order number. If it is a blanket purchase order that fact should be noted under the APurpose A column. The amount of the purchase order should be posted to the "Debit-Certification" column. The amount in the "Balance" column is reduced by the amount of the purchase order. The new balance represents the remaining amount that can be encumbered for that particular account code.

When the expenditure is made and posted in the cash journal, it should then be posted to the affected appropriation ledger(s). The amount expended shall be recorded in the "Amount of Warrant" column. If the purchase order was originally posted at the actual amount of the check, no other entry is needed. However if the purchase order was for more than the actual check then an adjustment must be made in the "credit-adjustment" column which would increase the "balance" column. If the expenditure is materially more than the original purchase order then it is suggested that an additional purchase order be prepared, approved and posted before the expenditure is made. In the case of a blanket purchase order, the amounts described above would only be recorded when the blanket purchase order expired or was canceled (3 months or less/year end/no money left).

At the end of each month, the expenditures for the month are totaled on each appropriation ledger page. The month-to-date total is added to the previous year-to-date total to arrive at the new year-to-date total. These totals can be used to ensure that all expenditures have been posted for each fund. Simply add the month-to-date totals for each ledger page in any fund. This total should be the same as the month-to-date expenditure in the cash journal under that particular fund. The same comparison can be completed using the year-to-date total.

It is allowable to carry over outstanding encumbrances into the next year. The procedure is to post prior year carryover appropriations (equal to carryover encumbrances) to the appropriation ledger pages. These can be included on the same page as the current year appropriations or a separate page can be created for the carryover. Once the expenditure is made there is no authority to increase appropriations for the amount of the carryover not used. The township must wait until the next year when they re-certify the unencumbered year end balances.

APPROPRIATION LEDGER

Fund: General

Activity: General Government Sheet No. 1

Program: 110- Administrative

Object: 111- Salaries- Trustees Account Code 1000-110-111

Appropriation or Authorization

Date	Vendor or Payee	Purpose	Purchase Order and Certificate No.	Warrant Number	Amount of Warrant (Fund Debit)		/	Debit- Certification		Credit- Adjustment		Unencumbered Balance	
01/0	Appropriation	Permanent										$14,400	00
01/0	Payroll	Payroll		4				$553	85			13,846	15

APPROPRIATION LEDGER

Fund: General

Activity: General Government Sheet No. 1

Program: 110- Administrative

Object: 120- Operating Supplies Account Code 1000-110-120

Appropriation or Authorization

Date	Vendor or Payee	Purpose	Purchase Order and Certificate No.	Warrant Number	Amount of Warrant (Fund Debit)		/	Debit- Certification		Credit- Adjustment		Unencumbered Balance	
01/0	Appropriation	Permanent										$1,500	00
01/1	Blank Forms Inc	Blank P.O.s	4	123				$500	00			1,000	00

APPROPRIATION LEDGER

Fund: General

Activity: General Government Sheet No. 1

Program: 120- Townhall

Object: Contractual: 351- Electricity Account Code 1000-120-351

Appropriation or Authorization

Date	Vendor or Payee	Purpose	Purchase Order and Certificate No.	Warrant Number	Amount of Warrant (Fund Debit)		/	Debit- Certification		Credit- Adjustment		Unencumbered Balance	
01/0	Appropriation	Permanent										$1,400	00
01/0	Cheap Power Co	Jan-Mar. Elect.	2					$350	00			1,050	00
01/30	Cheap Power Co	Jan. Elect. Bill	2	124	120	00						1,050	00

APPROPRIATION LEDGER

Fund: General

Activity: General Government Sheet No. 1

Program: 110- Administrative

Object: 360- Contracted Services Account Code 1000-110-360

Appropriation or Authorization

Date	Vendor or Payee	Purpose	Purchase Order and Certificate No.	Warrant Number	Amount of Warrant (Fund Debit)		/	Debit- Certification		Credit- Adjustment		Unencumbered Balance	
01/0	Appropriation	Permanent										$500	00
01/3	XYZ Furn. Co	Emer. Repair	10	125	$300	00		$300	00			200	00

APPROPRIATION LEDGER

Fund: Road and Bridge

Activity: Public Works Sheet No. 1

Program: 330- Highways

Object: 420 Operating Supplies Account Code 2031-330-420

Appropriation or Authorization

Date	Vendor or Payee	Purpose	Purchase Order and Certificate No.	Warrant Number	Amount of Warrant (Fund Debit)		/	Debit- Certification		Credit- Adjustment		Unencumbered Balance	
01/0	Appropriation	Permanent										$14,400	00
01/0	Big Rocks, Inc.	P.O - Gravel	3					$800	00			13,600	00
01/30	Big Rocks, Inc.	Gravel	3	126	800	00							

CASH JOURNAL

The cash journal is the book of original entry for the posting of every expenditure and every receipt. On the following page is an example of a cash journal, with numbers at the bottom of each column for reference reasons.

Columns 1, 2 and 3 are all listed under the heading cash. These columns reflect all the money that the township has available. When money is received an entry in the debit column (1) appears and the balance column (3) should reflect an increase, based on the amount of money received. When the township pays out money, an entry in the credit column (2) should be made and the balance column (3) should be decreased by the amount of the expenditure. Every transaction of money in the township, receipt or expenditure, must show up in either column 1 or column 2.

Column 4 is the date of the transaction.

Column 5 is labeled “particulars”. The entity or person, who the check is to or the receipt is from is noted here.

In column 6 record the receipt number of each receipt recorded. Purchase order and certificate numbers (column 7) are used when items are ordered by the township. The warrant column 8 should note the number(s) of all checks issued by the township. Thus both columns 7 and 8 are used to post expenditures by the township.

Column 9 is a column to record the code or account number appearing on a receipt or an expenditure.

The next section of the cash journal (columns 10-15) provides three columns for each fund utilized by the township. Each fund has a “Debit-Expenditure” column, “Receipt “column and a “Balance” column. When money is received for a specific fund, it is recorded in that fund’s “Credit-Receipt” column and the “Balance” is increased. Conversely, when money is expended from a specific fund, it is recorded in the fund’s “Debit-Expenditure” column and the “Balance” is decreased.

When a warrant (check) is issued and approved, it is posted to the cash journal as a cash credit and a fund debit. The warrant number is posted. The account code (which is the number for the account that is affected in the appropriation ledger) should appear in column 9. The balance for both cash and the fund are reduced by the amount of the expenditure.

When revenue is received, it is posted to the Cash Journal as a cash debit and a fund credit. The receipt number is posted in column 6. The account code should appear in column 9. Also, the balance for both cash and the fund are increased by the amount of the receipt.

The total of all fund balances must reconcile with the cash balance, the total of all fund receipts must reconcile with the total cash receipts and the total of all fund expenses must reconcile with cash expenses.

An example of a cash journal follows.

Cash Journal																
Cash			Date		Particulars	Receipt Number	P.O. Number	Warrant	Code or Account Number	General Fund			Road and Bridge Fund			
Debit Receipts	Credit Expenditure	Balance								Debit Expenditure	Credit Receipts	Balance	Debit Expenditure	Credit Receipts	Balance	
					12/31/XX											
		$18,000	1	1	Balance							14,000.00			4,000.00	
	$553.85	17,446.15	1	7	Payroll				110-111	$553.85		13,446.15			4,000.00	
	500.00	16,946.15	1	15	Supplies		4	123	110-120	500.00		12,946.15			4,000.00	
					Cigarette											
5,850.00		22,796.15	1	15	Tax	1			534		5,850.00	18,796.15			4,000.00	
500.00		23,296.15	1	15	Loc. Gov.	2			532		500.00	19,296.15			4,000.00	
4,000.00		27,296.15	1	15	R.E. Adv	3			101		4,000.00	23,296.15			4,000.00	
	120.00	27,176.15	1	30	Elect.		2	124	120-351	120.00		23,176.15			4,000.00	
	300.00	26,876.15	1	30	XYZ Furn		10	125	110-360	.300.00		22,876.15			4,000.00	
250.00		26,626.15	1	30	Rent	5			802	250.00		23,126.15			4,000.00	
1,000.00		27,626.15	1	30	Interest	6			701		1,000.00	24,126.15			4,000.00	
	800.00	26,826.15	1	30	Salt		3	126	330-240				800.00		3,200.00	

BANK RECONCILIATION

1. Sort all checks returned in your statement into numerical order by check number.

2. Compare all of these checks to your check register to determine the ones that are missing.

3. Write down amounts of all missing checks in the "Checks Outstanding" column below.

4. Now fill in the appropriate blanks below. When you finish, your "Adjusted Check Book Balance" should equal your "Adjusted Statement Balance."

CHECKS OUTSTANDING

NO.	AMOUNT			
			The balance in checkbook	$54,109.24
			Less monthly service charge	- 0 -
122	325.00		Less other charges not entered in checkbook	- 0 -
130	200.00			- 0 -
131	62.00			- 0 -
132	22.50		Total charges to subtract	- 0 -
			Adjusted Checkbook Balance	$54, 109.24
			Bank Balance (as of the date of this statement)	$ 4,638.38
			Plus any deposits you have made that do	$ 156.86
			not appear on this statement	
			Add Investments	50,000.00
TOTAL	686.00	≡	Less checks outstanding	686.00
			ADJUSTED STATEMENT BALANCE	$ 54,109.24

RV - Reversed Item
SC - Service Charge
OC - Overdraft Charge
RT - Return Check Charge
CC - Certified Check Debit
DM - Debit Memo
LS - List Posting

DR - Deposited Item Returned
CM - Credit Memo
MC - Miscellaneous Charge
OD - Overdrawn (Balance)
LC - Line of Credit
WT - Wire Transfer

INVESTMENT LEDGER

A properly maintained investment record shows how each investment was made and the return of each investment to the active funds of the township. The investment ledger should include the following information:

Date - Date on which the transaction occurred.
Description - The type of investment, maturity date, interest rate, amount and financial institution involved.
Number - The certificate of deposit number. (If the investment is in treasury bills, post the bill numbers as well as the custody receipt number.) In addition, the fund that is making the investment should be recorded in this slot or under description.
Receipt Number - The receipt number for interest received from a banking institution.
Check Number - The check number of the check written to the bank to make the investment. (If a check is issued)
The "X" Column - This column is used to denote which investments have been redeemed. When an investment is redeemed, an "X" should be placed in the column on the line where the original investment was purchased. This provides an easy method of identifying which investments remain outstanding.
Purchased - The principal amount invested.
Redeemed - The principal amount redeemed.
Balance - The total amount of investments.

All entries in the "Credit" column which are not preceded by an "X" are unredeemed certificates or unsold treasury bills.

The following transactions are reflected on the sample investment ledger on the following page.

TRANSACTIONS

#1 A certificate of deposit, C.D. #1234 was purchased on January 1.

#2 Interest was received on C.D. #1234 on January 30.

#3 C.D. #80573 was redeemed on January 1. Interest received on the investment is $112.50.

INVESTMENT LEDGER

Date 20XX	Description	Number	Receipt Number	Check No.				
						Purchased	Redeemed	Balance
1/1	Last Nat'l CD 6%-Mat. 5/15/00	General 100% #1234		Memo	X			$100,000
1/30	Last Nat'l Interest Pmt.	CD 1234	6	9999	X			$100,000

TRANSFERS/ADVANCES

TRANSFERS

Transfers are intended to permanently reallocate money from one fund to another as authorized in O.R.C. 5705.14 through 5705.16. Since this transaction will permanently change the total appropriations of funds, an amended certificate of estimated resources should be obtained from the county budget commission if the transfers were not originally anticipated and certified. The following are the only allowable transfers.

1. Money may be transferred from the General Fund to any other fund of the township by simple resolution and majority vote of the board of township trustees.

2. The unexpended balance of special revenue funds established under O.R.C. 5705.12, which are funds for levies and other special purposes, may be transferred to the General Fund or Bond Retirement Fund after all obligations within the special revenue fund have been met. This requires a resolution approved by a two-thirds vote of the board of township trustees.

3. The unexpended balance of a bond fund which is no longer needed for the purpose it was created, can be transferred to the bond retirement fund or sinking fund. This requires a resolution approved by a two-thirds vote of the board of township trustees.

4. The unexpended balance in any specific permanent improvement fund shall be transferred to the Bond Retirement Fund or Sinking Fund. If such money is not needed in the Bond Retirement Fund, then it may be transferred to a special fund for the acquisition of permanent improvements. This requires a resolution approved by a two-thirds vote of the board of township trustees. If the board of township trustees does not wish to transfer the money to a permanent improvement fund, with approval of the court of common pleas, they can transfer the money to the General Fund.

5. The unexpended balance of a Bond Retirement Fund may be transferred to any other fund with a board of trustee resolution and approval of the court of common pleas.

Funds not allowed to be transferred:

1. Proceeds on the balances of loans;

2. Proceeds on the balances of bond issues except as identified in item three and five above;

3. Proceeds on the balances of funds derived from excise taxes levied for a particular purpose; and

4. Proceeds on the balances of license fees levied for a particular purpose.

TRANSFERS/ADVANCES

The following example illustrates basic procedures used in posting a transfer.

Example: Transfer $1,000 from the general fund to capital projects fund.

Step 1 The governing body passes a resolution authorizing the transfer. If there are insufficient funds in the transfer out appropriation, the board will have to authorize an appropriation modification.

Step 2 Prepare a receipt in the amount of $1,000 for the capital projects fund transfers-in receipt account.

Note: This transfer may be made by using a check written from the general fund appropriation if you desire. Otherwise, a book should may be made from the appropriation account to the capital projects fund (transfer-out in the general fund and transfer-in to the capital projects fund).

Source Documentation

The following source documents are required for the accomplishment of inter-fund transactions:

Minute Record	In some instances, when performing inter-fund transactions, it is necessary to modify existing appropriations. The source document for modifying appropriations is the minute record. It is recommended that the specific minutes be described within the "descriptor" or "particulars" area of the posting medium for appropriation accounts.
Certification	When transferring monies from fund to fund, it is necessary to certify that monies are available. The purchase order can be used as the vehicle for the certification.
Warrant (Check)	The Auditor of State does not require the issuance of a warrant when accomplishing inter-fund transactions. If accounting software allows and the entity wants to write a warrant, it is permissible, but not required.
Receipt	The receipt is used as the source document for incoming monies to any fund. When monies are received by way of an inter-fund transaction, a receipt certifying the income and its source should be used.

These documents are used to provide adequate reconciliation tools and audit trails.

TRANSFERS/ADVANCES

ADVANCES

Advances are temporary loans to other funds which are ultimately going to be repaid. Advances can be made from a less restricted fund to a more restricted fund. For instance, the General Fund can be used for anything, whereas, a Motor Vehicle License Tax Fund is restricted. Thus, the General Fund could advance money to the Motor Vehicle License Tax Fund, however, the Motor Vehicle License Tax Fund could not advance money to the General Fund. The Board of Trustees must pass a resolution authorizing an advance. The resolution should include at a minimum the following information: (1) amount of advance, (2) name of fund loaning the money and the name of the fund receiving the money, (3) an estimate of the date of repayment. (The intent of a cash advance is to require repayment within the current year). Advances have no effect on the budgetary process except when considering the available fund balance at the beginning of the year (See the budgetary paragraph in this section).

Inter-fund cash advances are subject to the following requirements:

1. Any advance must be clearly labeled as such, and must be distinguished from a transfer. Transfers are intended to reallocate money permanently from one fund to another and may be made only as authorized in O.R.C. 5705.14 to 5705.16. Advances on the other hand, are intended to temporarily reallocate cash from one fund to another and involve an expectation of repayment;

2. In order to advance cash from one fund to another, there must be statutory authority to use the money in the fund advancing the cash (the "creditor" fund) for the same purpose for which the fund receiving the cash (the "debtor" fund) was established;

3. The reimbursement from the debtor fund to the creditor fund must not violate any restrictions on use of the money to be used to make the reimbursement; and

4. Advances must be approved by a formal resolution of the taxing authority of the subdivision. This resolution must include:

    a. A specific statement that the transaction is an advance of cash, and

    b. An indication of the money (fund) from which it is expected that repayment will be made.

TRANSFERS/ADVANCES

Accounting Procedures Transfers:

The following procedures are necessary to account for inter-fund transfers:

Cash Journal
On the effective date of the resolution authorizing a transfer, an entry should be made in the cash journal to reduce the cash balance of the fund transferring the money by the amount of the transfer and increase the cash balance of the fund receiving the money by the same amount.
Appropriation Ledger
When the transfer occurs, a ledger account for "Transfers" must be established for the fund transferring the money. All pertinent information should be recorded on the ledger when the transaction is posted.
Receipt Ledger
When the transfer occurs, a ledger account for "Transfers" must be established for the fund receiving the money. All pertinent information should be recorded on the ledger when the transaction is posted.

Accounting Procedures for Advances:
The following procedures are necessary to account for inter-fund advances:

Loan
Cash Journal
On the effective date of the resolution authorizing an advance, an entry should be made in the cash journal to reduce the cash balance of the creditor fund (the fund making the advance) by the amount of the advance and to increase the cash balance of the debtor fund (the fund receiving the advance) by the same amount.
Appropriation Ledger
When the initial advance occurs, a ledger account for "advance Out" must be established for the creditor fund. All pertinent information should be recorded on the ledger when the transaction is posted.
Receipt Ledger
When the initial advance occurs, a ledger account for "Advances In" must be established for the debtor fund. All pertinent information should be recorded on the ledger when the transaction is posted.
Repayment
Cash Journal
On repayment of the advance in whole or in part, an entry should be made in the cash journal to increase the cash balance of the creditor fund by the amount of the repayment and to reduce the cash balance of the debtor fund by the same amount.
Appropriation Ledger
When the advance is repaid, a ledger account for "Advances Out" will need to be established in the debtor fund to show the disbursement of the repayment.

TRANSFERS/ADVANCES

Receipt Ledger
When the advance is repaid, a ledger account for "Advances In" will need to be established in the creditor fund to show the receipt of the repayment.

Budgetary - Effects:

An inter-fund cash advance does not directly affect the budgetary accounts of either the creditor or the debtor funds when the advance is made or repaid. It merely is recorded in the cash journal to adjust the fund cash balances and in the appropriation and receipt ledger pages to provide accountability. If, however, such an advance is not repaid at the end of the fiscal year, the altered cash balances must be taken into consideration in the preparation of the appropriation resolution.

When a cash advance is outstanding at the beginning of a fiscal year in which repayment is expected, the total resources available for expenditure in the creditor and debtor fund are misstated, as no provisions exist for the receipt of cash in the creditor fund or for the use of cash in the debtor fund. To adjust for this the unencumbered cash balance of the creditor fund must be increased by the amount of the repayment expected during the succeeding fiscal year to produce the "Carryover Balance Available for Appropriation". Similarly, the unencumbered cash balance in the debtor fund must be reduced by the amount or repayment expected during the succeeding fiscal year. This produces "Carryover Balance Available for Appropriation." The adjustment is made on the "Certificate of the Total Amount from all Sources Available for Expenditures, and Balance" filed with the County Budget Commission pursuant to O.R.C. 5705.36.

Conversion to Transfer:

If, after an advance is made, the taxing authority determines that the transaction should, in fact, be treated as a transfer, the following procedures should be followed:

1. The necessary formal procedures for approval of the transfer should be completed including, if necessary, approval of the commissioner of tax equalization and of the court of common pleas;

2. The transfer should be formally recorded on the records of the subdivision; and

3. The entries recording the cash advance should be reversed to, in effect, repay the advance with the proceeds of the transfer.

REFUND OF RECEIPT

Refunds are appropriate for items such as overpayments, the return of deposits or the repayment of money when the service was not provided (i.e. prepayment for renting the township hall is returned when the individual decides not to use the facility).

Example: John Smith paid a fee of $20.00 to the entity. At a later time it was determined that John Smith was entitled to a refund of this amount.

Step 1 Prepare a receipt indicating the amount to be refunded. This amount should be shown as a negative amount.

Step 2 Prepare a warrant in the amount to be returned. The warrant number should be recorded in the column on the proper receipts ledger and in the warrant numbers column on the cash journal.

Step 3 The amount of the refund must be posted to the receipt account where the original amount was received. Post the refunded amount to the amount received column and to the memoranda-accounts receivable credit column. The amounts are posted in parentheses which mean negative amounts. Adjust the amount in the balance column.

Step 4 Post the reduction of the receipt on the cash journal under the receipt area for cash and the general fund. These amounts should be posted in parentheses also.

Note: Reducing receipts is only permitted when both of the transactions occur during the same fiscal year. If the refund occurs in the subsequent year, post the payment as an expenditure.

REDUCTION OF AN EXPENDITURE

An entity may find it necessary to reduce an expenditure during the course of the fiscal year. There are also instances where it would appear that the expenditure should be reduced but which should be handled as receipts.

A reduction of an expenditure is appropriate when the entity has overpaid and the overpayment is returned, the return of a deposit or the return of a prepayment for services when the services are not provided.

A reduction of an expenditure is not appropriate when the entity receives a reimbursement from other entities for services provided, a reimbursement of general fund expenses from state or other governments, or a refund of a prior year's expenditures. Each of these is recorded as revenue. Payments for services provided by the general fund to other funds of the entity should be recorded as revenue in the general fund as an expenditure in the fund making the payment.

Example: The township paid for an invoice twice. Later in the same fiscal year, the township received a refund from the XYZ Company. The refund is recognized as an expenditure reduction.

Step 1 A receipt should be prepared for the amount of the refund. The appropriation account originally charged should be identified on the receipt with the amount shown as a negative expenditure.

Step 2 The amount of the refund must be posted to the appropriate account from which the original payment was made. Post the amount of the refund to the amount of warrant column and to the debit certification column. The amounts are posted in parentheses and the unencumbered balance is adjusted.

Step 3 Post the reduction of the expenditure on the cash journal under the expenditure column of cash and the general fund. This amount should be posted in parentheses also.

Note: The procedure of reducing expenditures is only permitted when both transactions occur in the same fiscal year.

ANNUAL FINANCIAL REPORT

Townships are required to file annual financial reports. Annual financial reports are required to be filed via the Auditor of State's Hinkle Annual Financial Data Reporting System. The Hinkle System is an internet-based application that allows certain financial statement, debt, and demographic data to be entered and/or uploaded and transmitted to the Auditor of State to satisfy the filing requirements prescribed by the ORC and the OAC. The Hinkle System increases uniformity in financial reporting, generates the statutory reports for the governor and general assembly required pursuant to ORC §117.38, and provides users of this information improved access and functionality.

Townships must access the Hinkle System via an entity-specific link provided by email to the entity's fiscal officer/designated contact after the end of the reporting period or via the entity's AOS eServices account. To log into your eServices account, you will need your entity's customer number and your customer email address on file with the Auditor of State. Once you have logged in, click the "HINKLE SYSTEM" link at the top of the screen.).

Townships must file financial statements including notes to the financial statements. Sample footnotes can be found on the Auditor of State website at http://www.ohioauditor.gov/references/shells.html. In addition, a webinar addressing the preparation of the notes to the financial statements is available at http://www.ohioauditor.gov/financialreporting/default.html.

For most UAN clients, the entity's required filing via the Hinkle System will be completed as part of their year-end UAN reporting.

A waiver from required electronic filing may be requested for limited circumstances. If a non-UAN, small government entity is unable to file electronically, the Electronic Filing Waiver Request for Small Governments form should be completed and submitted for consideration. Waivers may be granted for one financial reporting year only. A new request must be submitted for each annual financial reporting period.

At the time the annual financial report is filed with the Auditor of State, the fiscal officer must publish in the newspaper notice of the completion of the report and the fact that the report is available at the office of the fiscal officer. Publication of the summary sheet for cash basis reports is no longer required.

The Auditor of State recognizes that occasionally circumstances may arise that are appropriate and necessary for a public office to receive an extension of the deadline for filing its annual financial report in accordance with O.R.C. 117.38. However, the Auditor of State will generally only consider granting an extension to an entity once every two years except under extraordinary circumstances.

The Auditor of State's policies and procedures for granting extensions are intended to address the occasional situation where an extension is appropriate and necessary while encouraging the maximum level of compliance with the filing requirements.

The Auditor of State will consider granting extensions when the following circumstances exist or have occurred:

(A) The public office is located in an area where a major flood or natural disaster has recently occurred.
(B) Records are destroyed through fire or casualty.
(C) The public office is going through its first time GAAP conversion.
(D) Records are not updated due to the recent death or disability of the person responsible for preparing the financial report.
(E) Newly elected public official requests an extension due to poor maintenance of financial records by the predecessor official.

ANNUAL FINANCIAL REPORT

The request for extension should be submitted to the Auditor of State via the Hinkle System no later than the deadline for filing the annual financial report. Please refer to the Hinkle System Extension Request Quick Guide for guidance. Extension requests submitted by other methods will not be accepted.

Note: Hinkle System due date extensions must be requested on or prior to the current due date. If the due date for your entity's Hinkle System filing has passed, you will no longer be able to request an extension.

Entities failing to file financial reports within statutory limits that have not filed an extension and received approval from the Auditor of State may be classified unauditable.

Entities classified as unauditable for the reasons stated above will be requested to present to the Auditor of State, records that are sufficiently accurate and complete for an independent audit to be performed. If an entity is unable to present auditable records, the Auditor of State will take such measures required by law that are necessary to cause the responsible public officials to bring records into an auditable condition.

Annual Financial Statement Format

Townships have a choice as to the format of annual financial statements that are submitted to satisfy the filing requirement. Subsequent to the American Institution of Certified Public Accountants (AICPA) interpretation issued on February 2, 2005, townships have the option of preparing annual financial reports in the following formats:

(1) Regulatory Basis (utilizing the reports mailed by the Auditor of State or making the appropriate selection in the UAN system)
(2) Cash Basis
(3) Modified Cash Basis

Sample financial statement shells and footnotes for Townships can be found on the Auditor of State's website at http://www.ohioauditor.gov/references/shells.html.

The American Institute of Certified Public Accountants (AICPA) is the national, professional association for all certified public accountants. One of the primary functions of the AICPA is to issue interpretations of certain professional auditing standards that require additional explanation. Since the AOS follows professional auditing standards in its audits of all public offices, the AOS must also comply with AICPA's interpretations of those standards

On February 2, 2005, the AICPA issued an interpretation of one of its auditing standards (i.e., AU Section 623, *Special Reports*) that affects those governments that prepare their financial statements using the cash or modified cash basis of accounting, rather than reporting their financial activity pursuant to generally accepted accounting principles (GAAP).

In Ohio, townships prepare their financial statements on a cash basis. According to this AICPA interpretation, these governments must adjust their financial statements to substantially conform with the display and disclosure requirements of GAAP in order to avoid an adverse audit opinion regarding GAAP. According to the interpretation, the cash basis financial statement presentation must "look like" a GAAP presentation (i.e., GASB Statement No. 34, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments*, once it became effective); **otherwise, the AOS or contracted independent public accountant (IPA) firm is required to issue an adverse opinion**. An adverse opinion means the auditor is telling readers that they cannot rely on the amounts, footnotes, or presentations in the financial statement as conforming with GAAP requirements.

ANNUAL FINANCIAL REPORT

Townships are not legally required to prepare their financial statement in accordance with GAAP and if the township elects not to present "look alike" statements, the Auditor of State will render a second opinion at the same time it issues its adverse opinion. In other words, when the cash statements do not resemble a GAAP presentation, the auditor will also issue a second opinion based on the statements as they were prepared. This second opinion can be an unqualified opinion, if the audit justifies such an opinion. Therefore, townships would receive two opinions as part of their audit report if their cash statements do not look like GAAP statements (i.e., GASB 34).

For example, if a township prepares a cash basis financial statement that according to audit testing is presented fairly, the audit report would include 1) an adverse opinion for failing to present statements that resemble GAAP statements and 2) an unqualified opinion. An example of this dual opinion is available on the AOS website at: http://www.ohioauditor.gov/references/auditreportshells.html.

To be clear, the AOS is not requiring townships to prepare financial statements using GAAP or cash basis statements that "look like" GAAP. Rather, by following professional auditing standards, the recent interpretation requires auditors (whether the AOS or contracted IPA firm) to issue a dual opinion on any government's cash basis financial statement that does not largely resemble a GAAP statement.

The annual reporting forms provided by the AOS do not meet the requirements of the new interpretation. The Uniform Accounting Network (UAN) system has been modified to allow townships to generate annual financial statements that "look like" GAAP financial statements. We did not modify the annual reporting forms since we did not wish to mandate the changes necessary to meet the interpretation's display and disclosure requirements. However, governments that continue to use these forms as their audited statements will receive the dual opinion.

Creating Cash Statements that Resemble GAAP

If townships wish to prepare cash statements that conform with the display and disclosure requirements of GASB 34, several changes will need to be made from the way such statements were prepared in the past. While it is not possible to describe all of the measures necessary to create these statements, below are some general procedures that should be followed. [Readers are encouraged to simultaneously review the sample "look alike" statements, available on the AOS website at:
http://www.ohioauditor.gov/references/shells.html

Governments may also wish to obtain the AICPA's Practice Aid Series, *Applying OCBOA in State and Local Governmental Financial Statements*, which includes extensive guidance and examples of acceptable statements.

GASB 34 requires presenting two sets of financial statements, one set for the entity as a whole and one set still based on fund reporting. The entity-wide presentation is designed to show the government's financial activities consolidated into one to three categories, which separately present governmental activities, business-type activities, and discrete component units, as applicable.

Preparing the entity-wide statements requires the following:

- The township should select the basis of accounting to be used for the "look alike" statements. For strictly cash-basis entities, the assets would be cash and cash equivalents and the net position would be broken down into two categories: restricted and unrestricted. Entities wishing to add other assets, such as investments, would be considered to be using a "modified" cash basis of accounting.

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- The township should consolidate its governmental funds into governmental activities - those that are largely funded through taxes, such as police and fire protection. Similarly, the township should consolidate its enterprise funds into business-type activities - those which are funded through user charges, such as sewer services. The township will have to use this information to create two entity-wide statements: a *Statement of Net Position* and a *Statement of Activities*.

- Compared to non-GAAP statements, the *Statement of Activities* is a new, additional operating ["income"] statement. With the *Statement of Activities*, users of the financial statement can view the township's level of revenue and expenses during the year by activity, ultimately arriving at a change in net position (i.e., cash) for the year.

- Townships with component units must include information regarding component units in the entity-wide statements. Refer to GASB Statement No. 14 (codification Section 2100) for the definition of component units.

The second set of financial statements focuses on individual funds and requires the following:

- The township should prepare separate fund statements covering the following fund categories:

  - Governmental funds – These funds account for the township's "government activities" and include the general fund, the special revenue funds, the debt service funds, the capital projects funds, and the permanent funds.

  - Proprietary funds – These funds account for the township's activities which are supported, at least in part, by user fees or charges. These funds include enterprise and internal service funds.

  - Fiduciary funds – These funds account for situations where the township holds or manages financial resources in an agent or fiduciary capacity. These funds include the private purpose trust funds, the pension trust funds, the investment trust funds, and the agency funds.

- Internal service funds and fiduciary funds will continue to be consolidated and presented by fund type. Governmental and enterprise fund statements will present separate columns for each "major fund."

- Major funds are those funds that exceed certain percentage requirements of total revenues, expenditures (i.e., expenses or disbursements), or assets. In all instances, the general operating fund – usually the government's general fund – is treated as a major fund. Additionally, the government may choose to designate funds that do not meet the minimum percentage requirement as major funds. Non-major funds will be added together and presented in one column.

- For the general fund and each major special revenue fund, the township must include *Budgetary Comparison Statements*. Each of these statements must include original as well as final budgeted amounts to illustrate compliance with budgetary regulations.

- The notes to the statements should include disclosures necessary for the basis of accounting used.

- The township will need to write a *Management's Discussion and Analysis*, which is an unaudited document that describes management's analysis of the period's financial operations, using narratives and tables. *Management's Discussion and Analysis* samples are available on the AOS website at http://www.ohioauditor.gov/references/shells.html

To reiterate, the procedures listed above are only intended to summarize the major procedures townships must follow to create cash statements that conform to GAAP display requirements.

Change in Fund Classifications

Purpose of Reclassification

The AOS wants the underlying financial information that is used to prepare the financial statements to be classified the same way (i.e., comparable) for all governments, regardless of whether they prepare cash-basis statements, GASB 34 "look-alike" statements, or statements that conform to GAAP. In other words, all local governments will follow the same fund classification system under this requirement, which will prevent two similar governments with similar funds from reporting them differently on their financial statements. Thus, this requirement will provide a level of comparability in terms of fund types among similar governments, regardless of the basis used to prepare their annual financial statements.

Fund Changes

To assist townships in understanding the changes caused by this fund reclassification, the following table compares fund types under the old classifications to the classifications provided for in the new guidelines.

Funds Classifications

Old Classifications	**New Classifications**
Governmental Funds	
General Fund	General Fund
Special Revenue Funds	Special Revenue Funds
Debt Service Funds	Debt Service Funds
Capital Projects Funds	Capital Projects Funds
No Corresponding Fund Type	Permanent Funds
Proprietary Funds	
Enterprise Funds	Enterprise Funds
Internal Service Funds	Internal Service Funds
Fiduciary Funds	
Nonexpendable Trust Funds	*Fund Type Eliminated*
Expendable Trust Funds	*Fund Type Eliminated*
No Corresponding Fund Type	Private Purpose Trust Funds
Investment Trust Funds	Investment Trust Funds
Pension Trust Funds	Pension Trust Funds
Agency Funds	Agency Funds

As evidenced in the table, most of the changes take place in the fiduciary fund category. Under the new classification system, fiduciary funds only report assets held in a trustee or agency capacity for others and therefore cannot be used to support the township's own programs. In other words, these funds should report resources held and administered by the township when it is acting in a fiduciary capacity for individuals, private organizations, or other governments. Under the old classification system, fiduciary funds could

include financial activity that benefits or supports the reporting township's own programs. However, the new guidelines restrict the use of fiduciary funds to reporting financial activity that relates to individuals, private organizations, or other governments.

Nonexpendable and Expendable Trust Funds

Because activities of the reporting township's own programs may no longer be reported in a fiduciary fund, they must be reclassified as part of the governmental fund category. Thus, the following fiduciary fund types have been eliminated and their activities must now be accounted for in the following manner (**Note**: Definitions are provided to assist the township with the reclassification):

- *Nonexpendable Trust Fund*: Accounted for trusts that stipulated that only earnings, and not principal, could be spent by the township. In other words, nonexpendable trust funds functioned essentially as endowments.

  Under the new classification system, the nonexpendable trust fund must be reclassified as either a permanent fund or a private purpose trust fund. A township would report a permanent fund if it can spend the earnings on its own programs. This new fund type was created to account just for these types of contributions. Conversely, a township would report a private purpose trust fund, also a new fund type, if it can only spend the earnings on other individuals, organizations, or other governments.

- *Expendable Trust Fund*: Accounted for trusts where both principal and earnings on principal could have been spent for the trust's intended purpose.

  Under the new classification system, the expendable trust fund must be reclassified as either a special revenue fund or a private purpose trust fund. A township would report a special revenue fund if the township may spend the principal and earnings for its own programs. A township would report a private purpose trust fund if it can only spend the principal and earnings on other individuals, organizations, or other governments.

  For example, it is common for local governments to receive contributions or bequests for the upkeep and maintenance of a cemetery. Assuming cemetery upkeep and maintenance is a function of the township, the contribution would be accounted for within a special revenue fund if both the principal and the interest could be spent and a permanent fund if the terms of the bequest specified that only the interest could be spent. The fund classification becomes less clear if the bequest is intended to benefit one specific lot rather than the cemetery as a whole. In this situation the AOS recommends the use of a private purpose trust fund, since the use of the money is for the benefit of a specific individual, rather than a broader program of the township. If the township maintains a fund that accounts for a combination of dollars, some of which are for the operation and maintenance of the cemetery as a whole and some of which are restricted to benefiting individual lots, the AOS recommends the use of a permanent fund.

Private Purpose Trust Funds

The new fund classification system creates a new type of fund within the fiduciary fund category. To reiterate, fiduciary funds report assets held in a trustee or agency capacity for individuals, private organizations, or other governments. Trust funds differ from agency funds generally by the existence of a legally enforceable trust agreement affecting the degree of management involvement and the length of time the government holds the assets. The specific purpose of this new fund type within the fiduciary fund category is as follows:

- *Private Purpose Trust Fund*: Accounts for trust arrangements under which principal and income from the trust may only be used for the benefit of those individuals, private organizations, or other governments.

Investment Trust Funds

An investment trust fund is established when a government's fiscal officer also serves as fiscal officer for other separate governments, pools and invests the governments' resources, and allocates the interest earnings back to the governments. The investment trust fund accounts for the external portion of the investment pool. For example, a county auditor may also serve as the fiscal officer for a metropolitan park district. The fiscal officer pools county and park district money for investing and allocates part of the interest to the park district. The portion of the pool that belongs to the park district is the external portion of the pool that would be reported in the county's investment trust fund.

Effective Date

This interpretation, which was published in the March 2005 issue of the AICPA's *Journal of Accountancy*, is intended to be effective upon publication. However, it was necessary to adequately train AOS staff to conduct audits in accordance with the provisions of the interpretation. Given these facts, the interpretation was effective for audits whose opinions are dated April 1, 2005, and thereafter. (Opinion dates are determined by when field work has been completed on an audit.)

Note: Townships may still file regulatory basis statements to satisfy the filing requirement and present GASB 34 "look-alike" statements for the Township's audit. A township that elects to file GASB 34 "look-alike" statements is not required to include Management's Discussion and Analysis or notes to the financial statements for filing purposes, but these will need to be included to complete the audit.

Nonspendable - Unclaimed Monies

On the financial statements, unclaimed monies should be reflected in the fund that would ultimately receive the money (General Fund). In order to do this, UAN Townships should map the fund with the General Fund on UAN.

Manual users would simply combine the Unclaimed Monies Agency Fund with the General Fund, and reflect the "Nonspendable - Unclaimed Monies" on the face of their financial statements.

Credit Ratings

Pursuant to Statement No. 40 from the Government Accounting Standards Board (GASB), entitled *Deposit and Investment Risk Disclosures,* governments that prepare their financial statements in accordance with another comprehensive basis of accounting (OCBOA) must disclose credit rating information related to their deposits and investments in the notes to their financial statements.

Disclosure Requirement

The following excerpt from GASB Statement No. 40 describes the responsibility of governments to provide credit rating information on their investments:

Governments should provide information about the credit risk associated with their investments by disclosing the credit quality ratings of investments in debt securities as described by nationally recognized statistical rating organizations—rating agencies—as of the date of their financial statements (for example, by aggregating the amount of investments by rating categories). Unless there is information to the contrary, obligations of the U.S. government or obligations explicitly guaranteed by the U.S. government are not considered to have credit risk and do not require disclosure of credit quality. Governments should disclose the credit quality ratings of external investment pools, money market funds, bond mutual funds, and other pooled investments of fixed-income securities in which they invest. If a credit quality disclosure is required and the investment is unrated, the disclosure should indicate that fact.

For information on how to obtain credit ratings, see Auditor of State Bulletin 2005-006.

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Top Ten Most Frequently Asked Questions:

Q: How do I determine if receipts are program receipts or general receipts?

A: The objective of the Statement of Activities is to report the financial burden of each of the government's programs on the taxpayers. The presentation of the Statement of Activities is such that it identifies the extent to which each program draws from general receipts (primarily taxpayers) or is self-financing through fees, grants and other aid.

Programs are typically financed from four sources of receipts:

1. Those who purchase, use or directly benefit from the goods or services of the program. [Always a program receipt]
   Examples would be contracts for police, fire or EMS services, fees, fines, permits, rent, operating special assessments (street lighting, weed cutting, etc.).

2. Parties outside the government's citizenry (i.e. other governments, entities, or individuals). [A program receipt if the receipt is restricted to a specific program, or a general receipt if unrestricted]
   Examples would be grants (including homestead and rollback), contributions or donations, capital special assessments (sidewalks, road improvements, etc), and possibly interest or taxes imposed by another government (i.e. shared taxes, motor vehicle license tax, cigarette and liquor taxes, and estate taxes).

3. The government's taxpayers (all tax regardless of whether they benefit a particular program as long as the tax is levied or imposed by the reporting government) [Always a general receipt]

4. The government itself (i.e. receipt from investing) [Usually a general receipt – but see later question]

After considering the guidelines above, the important question to ask is whether or not the revenue is restricted to a particular program. All revenues that do not meet the criteria to be reported as a program receipt should be reported as a general receipt.

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Q: If it is a program receipt, how do I determine if it is charges for services, operating grants or capital grants?

A: Charges for services result from exchange-like transactions.
Examples of these types of transactions are: one entity pays or reimburses another entity in exchange for services provided such as for police, fire, EMS, or dispatching services; a citizen pays rent to the government in exchange for the use of the town hall; a citizen pays a license or permit fee in exchange for the ability to operate within the government's boundaries.

Grants and contributions are classified as operating when they are restricted to paying for current operations. Examples would include: donations specified to be used for the upkeep of parks, state levied shared revenue received for the maintenance of roads and bridges, homestead and rollback associated with a tax levy for the purpose of upkeep of the cemetery, and federal law enforcement grants.

If a grant or receipt must be used for capital related purposes it would be classified as capital grants and contributions. Examples would include: special assessment receipts for the installation of sidewalks or road improvements, homestead and rollback associated with a tax levy for permanent improvements, and grant revenue received to be used for the purchase, construction or renovation of capital assets.

If the grant can be used for both operating and capital purposes and cannot realistically be broken out between the two then it should be classified as an operating grant.

Q: Clarify how homestead and rollback revenue could be either a program receipt or a general receipt.

A: Homestead and rollback is revenue received from the State and may be either a program receipt or a general receipt, depending on whether the use of the dollars is restricted. Homestead and rollback revenue follows the tax money. So if an entity has both a property tax for general operations that goes to the general fund and a special levy (i.e. cemetery, police, permanent improvement, etc.) that goes to a special revenue or capital projects fund, the homestead and rollback that goes to the general fund would be unrestricted and therefore a general receipt and the homestead and rollback that goes to the special revenue or capital projects fund would be restricted and therefore a program receipt.

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Q: Clarify how interest revenue could be either a program receipt or general receipt.

A: Interest is a program receipt if it is legally restricted by constitution, statute, or grant guidelines to be used for a particular program. Interest earned on unrestricted dollars of the entity would be a general receipt. Interest earned on motor vehicle license tax money is a program receipt presented as part of "Operating Grants, Contributions, and Interest" because the Ohio Constitution requires that the interest be used for road maintenance and repairs.

Q: What are and where do I find Original Budget figures?

A: Original budget figures include original estimated receipts and original appropriations (estimated disbursements). These figures are presented as receipts and disbursements, respectively, on the Statement of Receipts, Disbursements, and Changes in Fund Balance – Budget and Actual – Budget Basis. The original budget is the first complete appropriated budget for the year.

The original appropriations are the first set of permanent appropriations for a fund that were adopted or approved by the Trustees and that covered the *entire* year. Most entities adopt temporary appropriations on or about January 1 of each year and then adopt permanent appropriations sometime before April 1. Temporary appropriations are intended to cover the first three months of disbursements or until the entity can certify year end balances to the county auditor and the county auditor can certify estimated receipts. Therefore, it would *not* be appropriate to include temporary appropriations in the original budget column of the Statement of Receipts, Disbursements, and Changes in Fund Balance – Budget and Actual – Budget Basis.

The original estimated receipts are the receipts as certified by the county auditor in the certificate of estimated resources that was in place at the time the first permanent appropriations were adopted. This would typically be the first *amended* certificate of estimated resources received from the county auditor since it would include the actual year end balances to carry over into the new year. Keeping Ohio budgetary law in mind, remember that the certificate of estimated resources places the limit on appropriations and therefore the original estimated receipts should come from an amended certificate that was in place *at the time of* to the adoption of the original (first permanent) appropriations.

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Q: Explain and give an example of a Component Unit.

A: A component unit is a legally separate organization that the reporting entity must include in its financial statements because of the relationship that exists between the two entities:

The reporting entity should consider legally separate organizations as potential component units if the reporting entity appoints a majority of the board of the potential component unit and either has a significant level of control over the potential component unit or subsidizes the operation of the organization.

More specific guidance on determining component units can be found in GASB Statements 14 and 39.

Examples of organizations that might qualify as a component unit are: volunteer fire departments, art foundations, booster clubs, and fund-raising organizations.

See attached flowchart of for guidance in how a potential component unit may need to be incorporated into the reporting government's report.

Also see AOS Bulletin 2004-001 for guidance.

Guidance and clarification is also available from the audit staff.

In addition, tax-exempt organizations that raise significant amounts of money to pay for programs of the reporting entity should also be considered potential component units.

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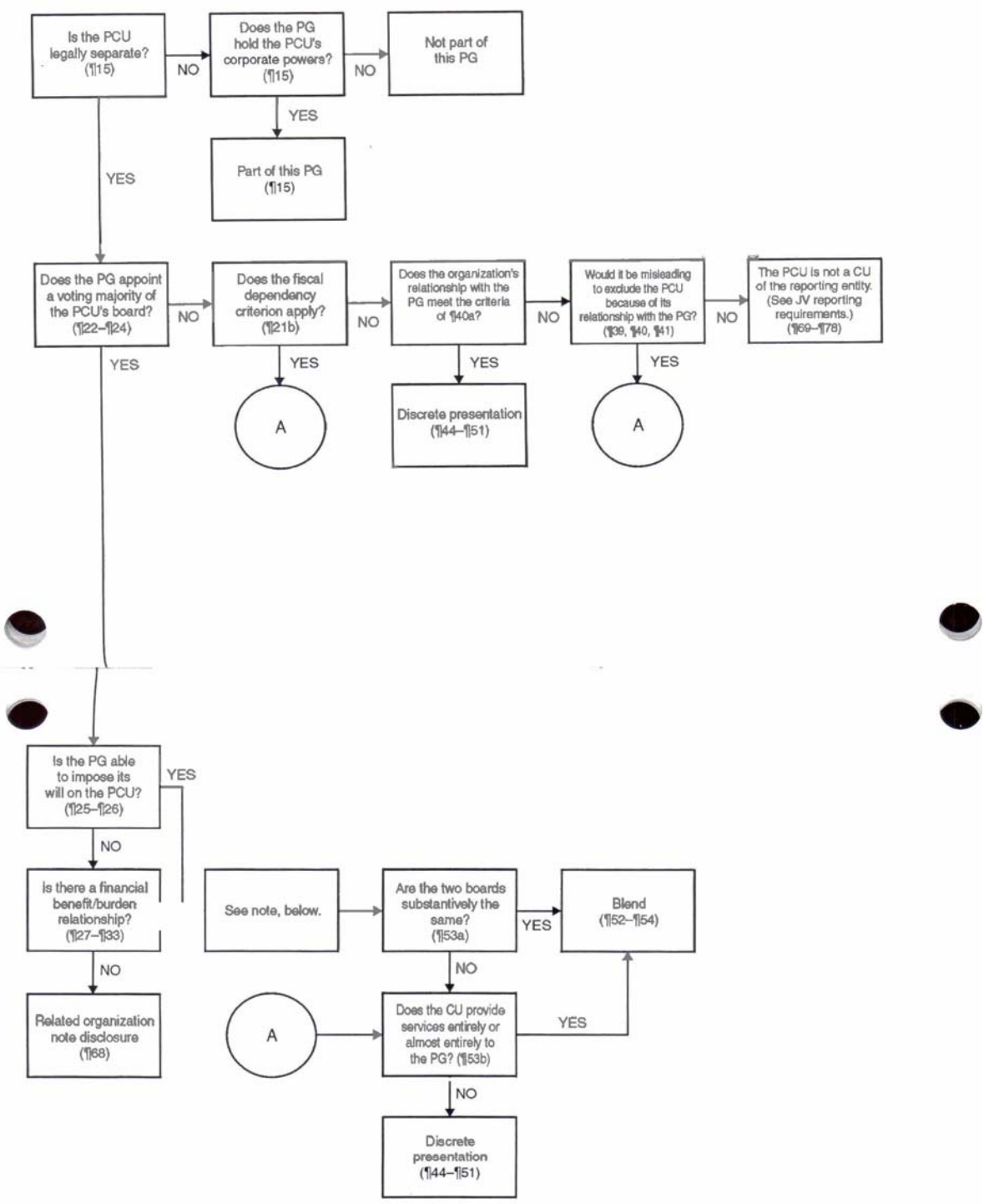

Note: A potential component unit for which a primary government is financially accountable may be fiscally dependent on another government. An organization should be included as a component unit of only one reporting entity. Professional judgment should be used to determine the most appropriate reporting entity (paragraphs 21b and 34–38). A primary government that appoints a voting majority of the governing board of a component unit of another government should make the disclosures required by paragraph 68 for related organizations.

PCU = Potential component unit CU = Component unit PG = Primary government

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Q: Explain and give examples of Special Items and Extraordinary Items (receipts).

A: Extraordinary Items are transactions or events that are BOTH unusual in nature and infrequent in occurrence.

Unusual in nature is defined as possessing a high degree of abnormality and clearly unrelated to the ordinary and typical activities of the entity.

Infrequent in occurrence is defined as not reasonably expected to recur in the foreseeable future, taking into account the environment in which the entity operates.

The primary factor of both unusual in nature and infrequent in occurrence is the environment in which the entity operates. Keep in mind that what is infrequent in occurrence or unusual in nature for one entity may not be so for another. For example, an ice storm may not be an extraordinary item in Ohio but would be in Florida.

Examples of extraordinary items would be a loss due to damages related to a fire, flood, or other natural disaster, the deconsolidation of an entity into two or more entities, costs related to an environmental disaster such as a chemical spill, or a large bequest by a citizen.

Special Items are *significant* transactions or events that are either unusual in nature or infrequent in occurrence but are within the control of management.

Examples of special items would be a sale of certain general governmental capital assets, special termination benefits resulting from a workforce reduction, early retirement incentives offered to employees, or a significant forgiveness of debt.

Q: Why do the non-expendable and expendable portions have to be broken down for Permanent funds? Also, what if I do not know what the original principal amount was? Where would I be able to find that information?

A: GASB requires that the fund balance of a permanent fund needs to distinguish between the principal portion that is not expendable and the earnings portion that is expendable. Doing so demonstrates compliance (or non-compliance) with the contribution.

Some places to look for or inquire about the original principal amounts would be: minutes, county prosecutor, or legal counsel.

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Q: What is the proper use of an Agency fund?

A: An agency fund should be used to account for the receipt and expenditure of monies on behalf of individuals or *other* organizations or governments. Any portion of the resources that will revert back to the reporting entity or are held on behalf or the reporting entity or its employees should not be accounted for in an agency fund.

Remember that agency funds are purely custodial in nature (assets = liabilities), meaning that nothing is held over for the benefit of the reporting entity. What comes in will go out to another individual or *other* organization or government.

Q: Explain and give an example of an Internal Service fund.

A: A government may wish to centralize services and then allocate the cost of those services within the government (or back to the departments that use or benefit from the service). This can be accomplished by utilizing an internal service fund.

Examples of internal service funds are: self-insurance funds, warehouse and supply internal service funds, and funds used to service entity vehicles.

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FUND BALANCE REPORTING AND GOVERNMENTAL FUND TYPE DEFINITIONS GASB STATEMENT NO. 54

The Governmental Accounting Standards Board (GASB) Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, introduces five fund balance classifications and clarifies the existing governmental fund type definitions. The fund balance classifications relate to constraints placed upon the use of resources reported in governmental funds. The five classifications are nonspendable, restricted, committed, assigned and unassigned. This bulletin references specific paragraphs from GASB 54.

The GASB included supplementary information related to GASB 54 in their 2010 - 2011 Comprehensive Implementation Guide. The Implementation Guide is organized in a question and answer format. This bulletin references specific questions from the Implementation Guide.

The requirements of this Statement are effective for financial statements for periods beginning after June 15, 2010. Fund reclassifications made to conform to the provisions of this Statement should be applied retroactively by restating fund balance for all prior periods presented. The change in fund balance presentation to the five classifications of fund balance in GASB 54 is not a restatement.

Fund Balance Classifications

Following are the definitions of the five fund balance classifications (these definitions are taken directly from GASB 54):

Nonspendable Fund Balance The nonspendable fund balance classification includes amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact. The "not in spendable form" criterion includes items that are not expected to be converted to cash, for example, inventories and prepaid amounts. (GASB 54 ¶6).

Restricted Fund Balance The restricted classification is used when constraints placed on the use of resources are either (a) externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments (i.e., State Statutes); or (b) imposed by law through constitutional provisions (City Charter) or enabling legislation. (GASB 54 ¶8).

Committed Fund Balance The committed fund balance classification includes amounts that can be used only for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision-making authority. (GASB 54 ¶10).

Assigned Fund Balance Assigned fund balance includes amounts that are constrained by the government's intent to be used for specific purposes, but are neither restricted nor committed (GASB 54 ¶13).

Unassigned Fund Balance Unassigned fund balance is the residual classification for the general fund. This classification represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the general fund (GASB 54 ¶17).

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Nonspendable Fund Balance

The nonspendable definition addresses two components of nonspendable fund balance – (a) not in spendable form or (b) legally or contractually required to be maintained intact. Items are considered "not in spendable form" if they are not expected to be converted to cash; examples include inventories and prepaid amounts. Long-term loans and notes receivable, as well as property acquired for resale are also considered “not in spendable form.” However, if once the receivables are collected or the assets are sold the proceeds are restricted, committed, or assigned, then those amounts should be included in the appropriate fund balance classification (restricted, committed, or assigned) rather than nonspendable fund balance. The principal reported in a permanent fund is an example of an amount that is legally or contractually required to be maintained intact. (GASB 54 ¶6).

Restricted Fund Balance

The restricted fund balance definition addresses enabling legislation. GASB 54 defines enabling legislation as follows:

> Enabling legislation authorizes the government to assess, levy, charge, or otherwise mandate payment of resources (from external resource providers) and includes a legally enforceable requirement that those resources be used only for the specific purposes stated in the legislation. Legal enforceability means that a government can be compelled by an external party-such as citizens, public interest groups, or the judiciary-to use resources created by enabling legislation only for the purposes specified by the legislation. (GASB 54 ¶9).

In Ohio, municipalities have the ability to enact enabling legislation (i.e., impact fees) while most other local governments (counties, townships, school districts etc.) operate solely within State statute. If legislation is passed to generate revenues for a local government under the authority of State statute, it is not enabling legislation.

Restricted fund balance constraints are externally imposed, typically by way of grant agreements, State statute, and debt covenants. Federal and State grant agreements generally include language placing constraints on the resources, thus restricting the fund balance. Constraints placed on resources collected under the authority of State statute are identified in the respective section of the Ohio Revised Code. Debt agreements typically stipulate how the debt proceeds may be spent and what resources are to be used for repayment. These constraints are sufficient to restrict fund balance. The charts on the attached pages will assist in identifying when fund balance is restricted.

Local match requirements are bound by the constraints in the grant agreement; thus, if the grant is restricted the local match will be also. (Z.54.8). The grant agreement or State statute will specify constraints placed on interest earned on restricted resources. If the interest can be used only for the same purposes as the restricted resources, as indicated in the grant agreement or State statute, the interest will also be restricted, otherwise the interest is assigned. (Z.54.9).

ORC Section 5705.10 (I), states: “Money paid into any fund shall be used only for the purposes for which such fund is established.” Therefore, all fund inflows, once recorded in a fund, are to be used for the same purpose as the specific revenue source serving as the foundation of that fund, and fund balance may be limited to one classification, the same as the foundation revenue. Thus, once the foundation revenue of a special revenue fund has been identified and classified as restricted (or committed), other inflows into the same fund are also restricted (or committed). If the foundation revenue ceases to be collected, the same constraints continue to exist. See the special revenue fund definition section of this bulletin.

Committed Fund Balance

Committed fund balance amounts are internally imposed by the governing body. Once an amount is committed, it cannot be used for any other purpose unless the government, by taking the same type of action (resolution or ordinance), removes or changes the constraint. The difference between restricted and committed fund balance is committed fund balance constraints are imposed by the local government, separate from the authorization to raise the underlying revenue, and compliance with constraints imposed by the local government is not considered to be legally enforceable. (GASB 54 ¶11) Restricted fund balance constraints are externally imposed or are enacted through enabling legislation and are legally enforceable.

Committed fund balance should also incorporate contractual obligations to the extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements. The type of contractual obligations that would meet the committed criteria would be a contract awarded by resolution or through the bid process authorized by resolution of the governing board. Typically, this issue will be limited to the general fund because of its residual (unassigned) fund balance classification.

While an Ohio local government may impose constraints on certain resources and change those constraints prospectively by taking the same action that originally imposed the constraints, redirecting the existing resources (the cash balance of the fund) requires compliance with State statutes for the transfers of money, specifically ORC Sections 5705.14 - 16.

Certain "Charges for Services" and "Fees" have no external constraints; instead the constraints are internally generated by the government's highest level of decision-making authority. To commit the resource, the language in the ordinance/resolution creating the constraint should identify both the revenue source and the constraint. Examples include: charges for services related to swimming pools, parking lots, recreation centers, garbage collections, and transit services. See discussion of "Charges for Services" later in this bulletin.

Assigned Fund Balance

In governmental funds other than the general fund, assigned fund balance is the default classification which represents the remaining amount that is not restricted or committed. The assigned fund balance definition addresses the government's intent. Intent should be expressed by (a) the governing body itself or (b) a body (a budget or finance committee, for example) or official to which the governing body has delegated the authority to assign amounts to be used for specific purposes. (GASB 54 ¶13).

The governing body's intent may be expressed by a motion, but not by formal action such as a resolution or ordinance. In other words, a formal legislative process is not needed to add, remove, or modify assigned amounts. In a School District, a board policy indicating intended use of certain fees or charges for services would be considered an assignment. Constraints imposed on the use of assigned amounts are more easily removed or modified than those imposed on amounts that are classified as committed. Some governments may not have both committed and assigned fund balances, as not all governments have multiple levels of decision-making authority. (GASB 54 ¶14).

When the appropriation measure is adopted for the subsequent year, if a portion of existing fund balance is included as a budgetary resource, then that portion of fund balance should be classified as assigned. (GASB 54 ¶16 and Z.54.13) Stated differently, if appropriations (temporary or annual) exceed estimated receipts (not resources), the excess is to be assigned as it uses existing fund balance at year-end. This would be applicable to the general fund as it is the only fund with a positive unassigned fund balance.

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Unassigned Fund Balance

Unassigned fund balance is the residual classification for the general fund. In governmental funds other than the general fund, the unassigned classification should be used only to report a deficit balance resulting from expenditures exceeding amounts that have been restricted, committed, or assigned. If a deficit exists, there should be no amounts reported in any other fund balance classifications.

Encumbrances

Accounting for encumbrances will continue; however, reserved for encumbrances will no longer appear on the financial statements. Encumbered amounts will be included in the restricted, committed, and assigned fund balance classifications. (Z.54.27) Issuing a purchase order assigns the amount of the purchase order to a specific purpose; thus, the outstanding encumbrance amount is included in assigned fund balance, unless the purchase order relates to restricted or committed resources. (Z.54.28) If resources have already been restricted or committed for encumbrances, the encumbered amounts will be included with restricted or committed resources. Encumbrances cannot further restrict or commit resources.

Stabilization Arrangements

Some governments set aside money in a rainy-day fund, specifying when and how the dollars can be spent. The criteria for the use of the resources should be specific, and the resources should not be expected to be spent routinely. "In an emergency" or to offset "anticipated revenue shortfall" are not specific enough to meet the criteria for restricted or committed. Stabilization amounts should be reported in the general fund as restricted or committed if they meet the criteria for restricted or committed, based on the source of the constraint on their use. Stabilization arrangements that do not meet the criteria to be reported within the restricted or committed fund balance classifications should be reported as unassigned in the general fund.

In Ohio, a taxing authority of a subdivision, by resolution or ordinance, may establish reserve balance accounts to accumulate currently available resources to stabilize its budgets against cyclical changes in revenues and expenditures under ORC Section 5705.13. The criterion for using the budget stabilization is not specific enough to meet the committed criteria and it doesn't meet the restricted criteria as the budget stabilization is not mandated by State statute. Therefore, a budget stabilization/reserve account should be reported as unassigned in the general fund. While statute also gives the authority to have stabilization reserve accounts in other operating funds, the fund balance is reported as restricted, committed, or assigned and the reserve account does not change the fund balance classification.

Balance Sheet Presentation

On the face of the financial statements, amounts for the two components of nonspendable fund balance may be presented separately or in total. If the financial statements present the total amount, then the separate components should be disclosed in the notes. Specific purpose amounts for restricted, committed or assigned fund balance amounts may be presented on the financial statements or disclosed in the notes. (GASB 54 ¶22 and ¶25).

Required Note Disclosure

Governments are required to disclose information about the processes through which constraints are imposed on amounts in the committed and assigned classification:

> For committed fund balance: (1) the government's highest level of decision-making authority and (2) the formal action that is required to be taken to establish (and modify or rescind) a fund balance commitment. (GASB 54 ¶23).

For assigned fund balance: (1) the body or official authorized to assign amounts to a specific purpose and (2) the policy established by the governing body pursuant to which that authorization is given. (GASB 54 ¶23)

Governments should also disclose (1) whether the government considers restricted or unrestricted amounts to have been spent when an expenditure is incurred for purposes for which both restricted and unrestricted fund balance is available, and (2) whether committed, assigned, or unassigned amounts are considered to have been spent when an expenditure is incurred for purposes for which amounts in any of those unrestricted fund balance classifications could be used. (GASB 54 ¶23).

Significant encumbrances should be disclosed in the notes to the financial statements as part of the construction and other significant commitments note. This disclosure should include amounts for each major fund with a separate total for all nonmajor funds. (GASB 54 ¶24).

Governments that establish stabilization arrangements, even if they don't meet the restricted or committed criteria, should disclose: (a) the authority for establishing stabilization arrangements (for example, by statute or ordinance), (b) the requirements for additions to the stabilization amount, (c) the conditions under which stabilization amounts may be spent, and (d) the stabilization balance, if not apparent on the face of the financial statements. (GASB 54 ¶26).

If a governing body has formally adopted a minimum fund balance policy, the government should describe in the notes to its financial statements the policy established by the government that sets forth the minimum amount. (GASB 54 ¶27).

Governmental Fund Type Definitions

The definitions of the general, special revenue, capital projects, debt service, and permanent fund types are clarified in GASB 54. The new governmental fund type definitions are (these definitions are taken directly from GASB 54):

General Fund The general fund should be used to account for and report all financial resources not accounted for and reported in another fund. (GASB 54 ¶29).

Special Revenue Funds Special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects. The term *proceeds of specific revenue sources* establishes that one or more specific restricted or committed revenues should be the foundation for a special revenue fund. (GASB 54 ¶30).

Capital Projects Funds Capital projects funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditure for capital outlays, including the acquisition or construction of capital facilities and other capital assets. Capital projects funds exclude those types of capital-related outflows financed by proprietary funds or for assets that will be held as a fiduciary activity. (GASB 54 ¶33, as amended by GASB 84 ¶14).

Debt Service Funds Debt service funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditure for principal and interest. Debt service funds should be used to report resources if legally mandated (i.e. debt payable from property taxes). Financial resources that are being accumulated for principal and interest maturing in future years also should be reported in debt service funds. (GASB 54 ¶34).

Permanent Funds Permanent funds should be used to account for and report resources that are restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting government's programs – that is, for the benefit of the government or its citizenry. Permanent funds do not include private-purpose trust funds, which should be used to report situations in which the government is required to use the principal or earnings for the benefit of individuals, private organizations, or other governments. (GASB 54 ¶35).

Special Revenue Funds

The special revenue fund type definition addresses proceeds of specific restricted or committed revenue sources as the basis for a special revenue fund. Various revenues or resources can be reported in a special revenue fund; however, the fund is required to include substantial restricted or committed revenues as its foundation. Assigned revenues, transfers-in, or other financing sources (inflows) cannot be the foundation for establishing a special revenue fund. Substantial restricted or committed revenues means a material amount and it does not imply a quantitative range (more or less than some percentage of inflows).

When a special revenue fund is established to account for restricted or committed revenue, but the fund has a limited life expectancy and the inflows into the fund ultimately cease, the balance in that fund does not have to be reported as part of the general fund provided there **are no continuing inflows** (i.e., transfers) into the fund. The separate fund can continue to be reported until the restricted resources have been used for their specified purposes (Z.54.33). Governments should discontinue reporting a special revenue fund and instead report the fund's remaining resources in the general fund, or another fund with a similar purpose that meets the criteria to be reported as a special revenue fund, if the government no longer expects that a substantial portion of the inflows will derive from restricted or committed revenue sources.

The new definition for special revenue funds includes a requirement that a specific source of revenue at least be committed. A fund with committed resources may require Auditor of State approval under ORC Section 5705.12. Most Ohio local governments can only do what is authorized in State statute, so the ability to commit an otherwise unrestricted general fund revenue for some other specific purpose may not exist. Municipalities may, because of home rule, be able to commit, by ordinance, a specific source of revenue to a specific purpose.

Debt Service and Capital Projects Funds

Debt service and capital projects funds do not need a foundation revenue to exist and can have transfers as their sole inflow. If a capital projects fund has a transfer as its sole inflow and the governing body has identified a specific purpose by ordinance or resolution, then the fund balance is committed. However, if the governing body has not identified a purpose, the fund balance is assigned.

Required Note Disclosure

Governments should disclose in the notes to the financial statements the purpose for each major special revenue fund. This definition should identify the foundation revenues in each fund and the source of the restriction or commitment.

Change in Fund Classification

GASB 54 changes the definitions of governmental funds; therefore, some funds that are maintained for day-to-day accounting purposes may no longer meet the fund type criteria for reporting in the year-end external financial statements. These funds should be presented as part of the general fund or a qualifying special revenue fund in the year-end financial statements. The budgetary comparison information in the year-end financial statements should be the legally adopted budget for the general fund or major special revenue funds, without modification for the funds no longer meeting the special revenue criteria. Differences in fund structure between budgetary reporting and GAAP reporting are "perspective differences." (See GASB Codification 2400.113) This perspective difference should be explained in the reconciliation of budgetary information to generally accepted accounting principles information. (Z54.41) Changes in fund structure should be applied retroactively and will result in restating fund balance for all prior periods.

Specific Issues/Additional Information

Proprietary Funds

The new GASB 54 fund balance classifications apply to governmental fund financial statements only. They do not apply to net position in proprietary funds or to the government-wide statement of net position.

Relationship of net position to fund balance

Restricted fund balance on the governmental fund financial statements will generally be different from restricted net position for governmental activities reported on the government-wide statement of net position. There are three reasons for this difference. First, the principal amount of a permanent fund is classified as nonspendable fund balance in the governmental fund financial statements, but is included in restricted net position in the government-wide statement of net position. Second, the fund financial statements are prepared on the modified accrual basis of accounting and the government-wide statement of net position is prepared on the accrual basis of accounting. The differences between the two bases of accounting will generate differences in the two amounts. And finally, the internal service fund is not included on the governmental fund financial statements; however, on the government-wide statement of net position, the internal service fund is generally included with governmental activities. (Z.54.10)

Transfers

Transfers in are an inflow of resources to a fund, not a revenue source. A governing board can pass a resolution to annually transfer amounts from the general fund to a special revenue fund; however, when the transfer is the only inflow to be used for a specified purpose, it does not meet the criteria for restricted or committed revenues necessary to meet the definition of a special revenue fund. The separate fund can be reported as a special revenue fund even if the transfers-in exceed the foundation revenue for that fund. Following the constraint placed on fund resources by State law, the transferred resources would be reported the same as the restricted or committed revenues. Transfers from the general fund to any other governmental fund would be classified as part of assigned fund balance unless the governing board, by ordinance or resolution, identifies a specific purpose for the funds, in which case the resources would be reported as committed fund balance.

Cemetery Funds

ORC Section 517.07 establishes the township's ability to sell cemetery lots, "Upon application, the board of township trustees shall sell at a reasonable price the number of lots as public wants demand for burial purposes." ORC Section 517.08 places the restriction on these dollars, "The proceeds arising from the sale of cemetery lots under ORC Section 517.07 shall be used in maintaining, improving, beautifying, and embellishing such grounds, …" If the charges for services received under ORC Section 517.07 are considered the foundation revenue of the cemetery fund, then it is a special revenue fund with a restricted fund balance.

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Dollars receipted into a Cemetery Fund under ORC Section 517.15 can be for a variety of purposes, as follows:

(A) "Gifts, devises, or bequests received for the purpose of maintaining, improving, or beautifying township cemeteries;" These dollars would be presented in a special revenue fund with a restricted fund balance.

(B) "Charges added to the price regularly charged for burial lots for the purpose of maintaining, improving, or beautifying township cemeteries;" These dollars may be presented in a permanent fund with a nonspendable fund balance.

(C) "Contributions of money from the township general fund;" These dollars would most likely not be the foundation revenue of the fund. These dollars would be presented in a special revenue fund with a restricted fund balance.

(D) "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;" These dollars would be presented in a private purpose trust fund – not subject to GASB 54 fund balance classifications.

(E) "Individual gift, 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." These dollars would be presented in a private purpose trust fund – not subject to GASB 54 fund balance classifications.

State statute allows this activity to be in one fund; however, maintaining separate funds may simplify financial reporting issues.

Charges for Services

When a fund has "Charges for Services" as its foundation revenue, each situation should be evaluated separately:

- Certain "Charges for Services" have external constraints and meet the definition of restricted fund balance. See the Restricted Fund Balance section of this bulletin. Certain "Charges for Services" have no external constraints; instead the constraints are internally generated by the government's highest level of decision-making authority. To commit the resource, the language in the ordinance/resolution creating the constraint should identify both the revenue source and the constraint and indicate the revenue is to support the activity. Examples include: charges for services related to swimming pools, parking lots, recreation centers, garbage collections, and transit services.

- If the criteria for restricted and committed are not met, the revenue will be reported with the general fund and report an assigned or unassigned fund balance, as appropriate.

- If "Charges for Services" is not the foundation revenue, and the foundation revenue is restricted, the "Charges for Services" would also be restricted. See the Restricted Fund Balance section of this bulletin.

Donations

Donations received by a local government can be classified two ways. First, donations received with constraints imposed by the contributor are nonspendable (corpus) or restricted. Second, donations can be given to a specific department or fund in which case there is an implied constraint imposed by the donor. When this is combined with a resolution/ordinance recognizing the implied consent on the use of the dollars, the fund balance is committed. Donations received without written directive of how it's to be used from the donor should be considered a general fund receipt and reported as unrestricted fund balance.

OCBOA and Regulatory Financial Statements

Those local governments preparing OCBOA and regulatory statements should implement both the new fund balance classifications and the governmental fund type definitions. New templates will be available to facilitate this process. A failure to follow these classifications would usually preclude auditors from expressing an unqualified opinion on the statements.

Unclaimed Monies Fund

For unclaimed monies, the difference between the amount of cash in the fund and the estimated liability for payments to claimants would be classified as nonspendable fund balance until the end of the five year holding period. Unclaimed funds are legally required (ORC Section 9.39) to be maintained for five years. For a cash basis entity, the entire cash balance would be reported as nonspendable.

GASB 54 Fund Balance Classification Analysis Charts

The following pages contain charts presenting the more common funds and foundation revenue/inflow for Cities/Villages, Schools Districts, Counties, Townships and Libraries.

The charts identify the "GASB 54 fund classification" and the "prior fund classification" to illustrate situations necessitating the change in fund classification resulting from the implementation of GASB 54. If the two columns are the same, then no change in fund classification resulted.

The charts do not include all possible grant funds; however, if a special revenue fund or capital projects fund has been properly established to account for a grant, the fund balance would be restricted based on the language in the grant agreement.

The chart may identify multiple foundation revenues/inflows for a single fund. Local governments should identify which resource or resources they will be using as their foundation revenue and classify fund balance as appropriate. For example on the county chart, the jail operations special revenue fund could have property taxes or charges for services as its foundation revenue. If property taxes are the foundation revenue, fund balance would be restricted; however, if charges for services are the foundation revenue, fund balance would be committed.

Questions

If you have any questions regarding the information presented in this section, please contact Local Government Services at the Auditor of State's Office at (800) 345-2519.

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Townships
GASB 54 Fund Balance Classification Analysis

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GASB 54 Fund Classification	Prior Fund Classification	Fund Name	Revenue Source Foundation Revenue (SR only)/ Inflow	Source of Constraint	Type of Constraint	Fund Balance Classification
General	General	General (1000)	Various sources	None	None	Unassigned
General	SR	Compensated Absences	Transfers +	ORC Section 5705.13(B) Cash transferred from other funds	Township's intent--payment of sick/vacation/comp-time at termination	Committed
General	SR	Underground Storage Tank (2291 - 2339)	Transfers +	AOS Bulletin 94-04	Remediation deductible; however, no specific source, transfers	Committed
General	General	Unclaimed Monies Fund	Various unclaimed funds	ORC Section 9.39	Externally imposed by State Statute	Nonspendable
General	SR	Zoning	None	ORC Chapter 519	None	Unassigned
General	SR	Various	Charges for Services	No resolution establishing funding source	Resolution establishing intent of fund	Assigned
General	General	General	Hotel/Motel Tax - 50% for general fund	ORC Section 5739.09(B)	None	Unassigned
SR	SR	Motor Vehicle License Tax Fund (2011)	Motor Vehicle License Fees	ORC Chapter 4503	Externally imposed by State Statute	Restricted
SR	SR	Gasoline Tax Fund (2021)	Gas Tax	ORC Section 5728.06 & Chapter 5735	Externally imposed by State Statute	Restricted
SR	SR	Road and Bridge Fund (2031)	Property Taxes	ORC Section 5705.19 (G)	Externally Imposed by State Statute	Restricted
SR	SR	Road and Bridge Fund (2031)	Property Taxes--inside millage	ORC Section 5705.06 (F)	Internally Imposed by Trustees	Committed
SR	SR	Cemetery (2041 -2069)	Property Taxes	ORC Sections 517.03 & 5705.19 (T)	Externally Imposed by State Statute	Restricted
SR	SR	Cemetery (2041 -2069)	Charges for Services	ORC Section 517.15 A, C	Externally Imposed by State Statute	Restricted
SR	SR	Cemetery (2041 -2069)	Charges for Services	ORC Sections 517.07 & 517.08	Externally Imposed by State Statute	Restricted
SR	SR	Garbage and Waste Disposal District (2071 - 2079)	Property Taxes--inside millage	ORC Section 505.29,	Internally Imposed by Trustees	Committed
SR	SR	Garbage and Waste Disposal District (2071 - 2079)	Property Taxes	ORC Section 5705.19 (V)	Externally Imposed by State Statute	Restricted
SR	SR	Garbage and Waste Disposal District (2071 - 2079)	Charges for Services	ORC Section 505.29 - no separate fund req'd - Resolution establishing funding source	Internally imposed by township resolution	Committed
SR	SR	Police District (2081 -2109)	Property Taxes	ORC Sections 505.48, 505.51, & 5705.19 (J)	Externally Imposed by State Statute	Restricted
SR	SR	Police District (2081- 2109)	Charges for Services	ORC Section 505.431 - no separate fund req'd - Resolution establishing funding source	Internally imposed by township resolution	Committed
SR	SR	Fire District (2111-2139)	Taxes	ORC Sections 505.39 & 5705.19 (I)	Externally Imposed by State Statute	Restricted
SR	SR	Fire District (2111 - 2139)	Charges for Services	ORC Sections 505.371 & 505.375 - separate fund - rate set by fire district board	Externally imposed by State Statute	Restricted
SR	SR	Road District (2141 -2169)	Property Taxes	ORC Section 5573.211	Externally Imposed by State Statute	Restricted
SR	SR	Park Levy (2171 - 2179)	Property Taxes--inside millage	ORC Section 511.27	Internally Imposed by Trustees	Committed
SR	SR	Park Levy (2171 - 2179)	Property Taxes	ORC Section 5705.19 (H)	Externally Imposed by State Statute	Restricted
SR	SR	Special Levy (2191 -2219)	Property Taxes	ORC Sections 5705.19, 505.46 &.47	Externally imposed by voters	Restricted
SR	SR	Drug Law Enforcement (2221)	Fines and Forfeitures	ORC Section 2925.03, Technical Bulletin 86-16	Externally imposed by State Statute	Restricted
SR	SR	Permissive Motor Vehicle License (2231)	Intergovernmental - Permissive MVL	ORC Chapter 4504	Externally imposed by State Statute	Restricted

ANNUAL FINANCIAL REPORT

Townships

GASB 54 Fund Balance Classification Analysis

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GASB 54 Fund Classification	Prior Fund Classification	Fund Name	Revenue Source Foundation Revenue (SR only)/ Inflow	Source of Constraint	Type of Constraint	Fund Balance Classification
SR	SR	Permissive Sales Tax (2241)	Hotel/Motel Tax - 50% for convention and visitors' bureau	ORC Section 5739.09(B)	Externally imposed by State Statute	Restricted
SR	SR	Federal Law Enforcement (2251)	Fines and Forfeitures	AOS Bulletin 88-18	Externally imposed by State Statute	Restricted
SR	SR	Law Enforcement Trust (2261)	Fines and Forfeitures	ORC Section 2981.13 (C)(1)	Externally imposed by State Statute	Restricted
SR	SR	Enforcement and Education (2271)	Fines and Forfeitures	AOS Bulletin 90-28	Externally imposed by State Statute	Restricted
SR	SR	Fire and Rescue, Ambulance and Emergency Medical Services (2281 - 2289)	Charges for Services	ORC Section 505.84 - separate fund - rate set by township trustees	Externally imposed by State Statute	Restricted
SR	SR	Service Assessments (2401 - 2599)	Special Assessments	ORC Section 515.11 - lighting	Externally imposed by State Statute	Restricted
SR	SR	Miscellaneous Special Revenue (2901 - 2999)	TBD by township	TBD by township	TBD by township	TBD by township
DS	DS	General Retirement Fund (2101 - 3199)	Property Taxes Transfers +	ORC Sections 5705.19; 133.10 & 133.25 Transfers from General Fund	Externally imposed by State Statutes	Restricted Assigned
DS	DS	Special Assessment Bond Retirement (3301 -3399)	Special Assessments	ORC Sections 133.17 & 6115.50	Externally imposed by State Statutes	Restricted
DS	DS	Miscellaneous Debt Service (3901 - 3999)	TBD by Township	TBD by township	TBD by township	TBD by township
CP	CP	Bond Fund (4101 - 4999)	Initial Debt Proceeds +	ORC Sections 133.15, .32, & 504.20	Externally imposed by debt covenants	Restricted
CP	CP	Permanent Improvement (4301 - 4399)	TBD by Township	TBD by township	TBD by township	TBD by township
CP	CP	Public Works Commission Project (4401 - 4499)	Intergovernmental	OPWC Money	Externally imposed by grantor/OPWC	Restricted
CP	CP	Capital Improvement Assessment Fund (4501 - 4599)	Special Assessments	ORC Sections 504.18, 515.16 & 521.06 - water and sewer	Externally imposed by State statute	Restricted
CP	CP	Miscellaneous Capital Projects (4901 - 4949)	TBD by township	TBD by township	TBD by township	TBD by township
Perm	Perm	Cemetery (2041 -2069)	Charges for Services	ORC Section 517.15 B - endowment	Externally imposed by State Statute	Nonspendable
Perm +	Perm	Permanent (4951 - 4999)	Donations-Corpus can't be spent Earnings on corpus	ORC Section 5705.09(F) ORC Section 5705.09(F)	Externally imposed by donor Externally imposed by donor	Nonspendable Restricted

@@ - The GASB 54 Fund Classification is for reporting purposes **ONLY**. GASB 54 does not change Fund Classifications for day-to-day operations.

ANNUAL FINANCIAL REPORT

Explanatory Notes

The chart shows the "prior fund classification' and the "GASB 54 fund classification" to illustrate situations necessitating the change in fund classification resulting from the implementation of GASB 54. If the two columns are the same, then no change in fund classification resulted.

The preceding chart does not include all possible grant funds; however, if a special revenue fund or capital projects fund has been properly established to account for a grant, the fund balance would be restricted based on the language in the grant agreement.

+ GASB 54 Fund Classification

The use of a permanent fund requires an evaluation of each individual circumstance, and the chart is illustrating the GASB 54 fund balance classification for those situations when a permanent fund is appropriate.

+ Foundation Revenue/Inflow

Transfers and debt proceeds represent an inflow not a revenue.

ESTABLISHING A NEW FUND

In accordance with O.R.C. 5705.12, the Auditor of State must approve all new funds established by a local government which are in addition to funds established under O.R.C. 5705.09 and 5705.13.

All fund numbers are assigned by the Auditor of State through the chart of accounts. Entities may create certain funds without the Auditor of State's Approval.

Approval to establish a new fund is unnecessary when the creation of the desired fund is already authorized or required by statute. Whenever the creation of a fund is authorized or required by statute, either specifically by name, or in general, a separate letter requesting permission to establish the fund is not required. General statutory requirements for the creation of funds are found in O.R.C. 5705.09. This code section states:

> Each subdivision shall establish the following funds:
>
> (A) General fund;
>
> (B) Sinking fund whenever the subdivision has outstanding bonds other than serial bonds;
>
> (C) Bond retirement fund, for the retirement of serial bonds, notes, or certificates of indebtedness;
>
> (D) A special fund for each special levy;
>
> (E) A special bond fund for each bond issue;
>
> (F) A special fund for each class of revenues derived from a source other than the general property tax, which the law requires to be used for a particular purpose;
>
> (G) A special fund for each public utility operated by a subdivision;
>
> (H) A trust fund for any amount received by a subdivision in trust.

Based on this statute, it is unnecessary to continue to request permission from the Auditor of State to establish a new fund when the purpose of the fund will be to record and expend the proceeds of debt, to account for a new grant whose use is restricted to a particular purpose or to account for money received in trust.

ESTABLISHING A NEW FUND

It is necessary to continue to submit requests to the Auditor of State when the creation of the fund is not specifically authorized by statute or when the purpose of the fund is not identified in O.R.C. 5705.09 (A) - (H). Situations in which it would be appropriate to continue to submit requests include: 1) when management wishes to create a new fund in order to capture additional financial information about a specific source of revenue or a specific activity; 2) when the fund will be used to account for restricted gifts or bequests that will not be held in trust; and 3) when management wants to impose internal restrictions on the use of otherwise unrestricted resources

Management often asks to create a new fund to determine how much revenue a specific source generates or how money from a specific source is being spent. In circumstances where the desired financial information can be obtained by creating additional accounts within an existing fund, the creation of a separate fund is generally considered unnecessary. An exception to this policy is made for requests for the creation of proprietary funds.

Proprietary funds are intended to account for activities that are similar to businesses. The activity is at least partially financed by charges for services or goods. Rates are usually set by the legislative authority, and the desire is to maintain accounting records which can demonstrate the extent that charges cover the costs of providing the goods or services. This is accomplished by tracking all revenues and the related expenses of an activity within a single fund. Requests for the creation of a proprietary fund are usually granted.

Sending a request to establish a new fund is still appropriate when the fund will be used to account for restricted gifts or bequests not held in trust. The creation of a trust fund is not necessary to account for restricted gifts or donations; this money may be accounted for in a special revenue fund or, if restricted to the acquisition of fixed assets, in a capital projects fund. A trust fund is recommended only when there is a formal trust agreement with the donor. Requests to account for restricted gifts and donations are routinely granted based on the need to demonstrate compliance with donor restrictions.

Letters frequently request permission for a new fund based on management's wish to place internal restrictions on the use of otherwise unrestricted resources. These types of requests are generally not approved. It is the policy of the Auditor of State to refuse requests when approval would result in giving readers of financial statements the false impression that the use of the resources in the fund is restricted. The General Assembly has begun authorizing the creation of funds using unrestricted resources in certain specific circumstances. For example, H.B. 426 allows subdivisions to create funds for the payment of compensated absences and for the acquisition of fixed assets. The Auditor of State does not feel it is appropriate to extend this ability into areas where the legislature has not acted.

When responding to requests to establish new funds, the Auditor of State applies two basic guidelines. Separate funds are justified 1) when they will provide management with additional relevant financial information which is not obtainable using the current fund structure; and 2) when necessary to demonstrate compliance with legal or contractual restrictions.

ESTABLISHING A NEW FUND

When the purpose of a fund created under the provisions of O.R.C. 5705.12 has been fulfilled, the unexpended balance may be transferred to the general fund or to the bond retirement fund, but only after the payment of all obligations incurred and payable from the fund. (See O.R.C. 5705.14) Management may not simply modify or alter the purpose of the fund; that, in effect, creates a new fund and would require a second approval from the Auditor of State.

To request the creation of a new fund, complete the "Request for Fund Approval" form (Exhibit A). Send the form and a copy of the resolution or ordinance of the legislative authority authorizing the fund to:

Auditor of State's Office
Local Government Services Division
88 East Broad Street
P.O. Box 1140
Columbus, Ohio 43216-1140

OR

The "Request for Fund Approval" form can be access online at https://ohioauditor.gov/financialreporting/LGS%20Request%20for%20Fund%20Approval%20Form.pdf and the completed form and copy of the resolution can be emailed to: ContactLGS@ohioauditor.gov with the subject line "Request to Establish New Fund – O.R.C. 5705.12."

The request can be deemed approved if you do not receive a letter disapproving the request from the Auditor of State's local government services division within 30 days from the date of submission. The "Notification of Approval" should be maintained for auditing purposes.

EXHIBIT A

AUDITOR OF STATE
REQUEST FOR FUND APPROVAL

Entity: _____

Fiscal Officer: _____

Phone No.: _____

Request Date: _____

Fund Requested: _____

Purpose of Fund: _____

_____

_____

_____

Sources of Revenue: _____

_____

Anticipated Expenditures: _____
(Types)

_____

_____

NOTE: Please attach a copy of the resolution requesting approval to establish the fund.

CORRECTIONS AND ADJUSTMENTS

Although effective internal control procedures reduce the probability that errors will occur, it does not eliminate the possibility. Therefore, corrections and adjustments may have to be made and they should be clearly identified and explained. The following examples represent correction of common errors that can be applied to most situations:

A. Voiding a check after posting has been made:

Example: A check issued to the Ace Lumber Company was posted in the cash journal and appropriation ledger in the amount of $10.95.

Step 1 Reverse entry from cash journal expenditures (cash and general fund). This is accomplished by posting a negative expenditure of $10.95 in the appropriate columns. This procedure will result in the cash balance and the general fund balance being increased by $10.95.

Step 2 Reverse payment from appropriation ledger, "amount of warrant" column; and increase the unencumbered balance.

Step 3 The check should be defaced by tearing off the signature and filed numerically.

Note: Cross reference should be made to the original entry.

B. To correct Expenditure Posting Error:

Example: A general fund expenditure to ABC Plumbing in the amount of $156.60 was recorded at $165.60 in the cash journal and appropriation and authorization ledger.

Step 1 Reverse incorrect entry on the cash journal to cash and general fund.

Step 2 Post cash journal (cash and general fund) correctly and adjust the cash and general fund balance.

Step 3 Reverse incorrect payment in the "amount of warrant" column in the appropriation and authorization ledger, and adjust the unencumbered balance.

Step 4 Post correct amount in the "amount of warrant" column.

Note: It may also be necessary to make an adjustment to the debit/credit columns on the appropriation ledger. Additionally, a cross reference should be made to the original entry.

CORRECTIONS AND ADJUSTMENTS

Example: A receipt from General Telephone in the amount of $27.50 was posted as $29.50 to cash and the general fund on the cash journal.

Step 1 Reverse incorrect receipt on cash journal to cash and the general fund.

Step 2 Post correct entry on cash journal (cash and general fund) and adjust the cash and general fund balances.

Step 3 Reverse incorrect receipt in the "amount received" and "memoranda-account receivable credit" columns on the receipts ledger.

Step 4 Post correct receipt on the "amount received" and Amemoranda-accounts receivable credit" column on the receipts ledger. Adjust the receipts ledger balance.

Step 5 Annotate correction on the original receipt.

Note: The aforementioned procedures are to be used when the correction/adjustment is recorded within the same fiscal year that the original entry was recorded. If the correction is made in the following fiscal year and the amount is small, record a miscellaneous expenditure and explain in the description that the entry represents a correction of a prior year posting error. Cross reference should be made to the original entry. If the amount is large, the entity should consider adjusting the beginning of the year balance.

REPAYMENT OF NOTES THROUGH THE DEBT SERVICE FUND

Whenever a governmental unit has tax or other revenue anticipation notes outstanding issued under O.R.C. 133.10, the notes are to be repaid from the debt service fund regardless of which fund received the proceeds from the sale of the notes. When the money is borrowed in anticipation of tax receipts, the county auditor should be notified so that a separate warrant can be issued, payable to the debt service fund from the proceeds of property taxes collected, in an amount sufficient to insure the prompt repayment of the debt.

Absent a specific requirement, debt may be paid from any unrestricted monies held, segregated from restricted monies, in a fund which was established for a purpose not inconsistent with the payment of such debt.

Sale and Repayment of Tax Anticipation Notes - General Fund

Example: The governmental entity borrowed $100,000 at 6%, for 60 days, to be used for general fund operations. The debt is to be retired from the first half real estate settlement; the entity has no other outstanding debt; the general fund is the only fund that receives real estate tax revenue.

Step 1 The fiscal officer would notify the county auditor of the debt incurred along with a copy of the resolution approving such debt. Terms of the agreement and a schedule of payment should be clearly identified.

Step 2 The proceeds from the sale of notes (the amount borrowed) should be recorded in the general fund.

Step 3 The county auditor will allocate the debt service requirements by issuing a warrant payable to the debt service fund for the principal and interest due. A second warrant, payable to the general fund, will be issued for the balance of the first half real estate settlement due the entity. Each warrant will be recorded in the appropriate receipt account within the respective funds.

Step 4 Repayment of the note would be made from the debt service fund for both the principal and interest.

REPAYMENT OF NOTES THROUGH THE DEBT SERVICE FUND

	General Fund	Debt Service	Total
Real Estate Revenue	$3,000,000	$101,000	$3,101,000
Sale of Notes	100,000		100,000
Sub-Total	$3,100,000	$101,000	$3,201,000
Less Expenditures:			
Debt Service (Principal)	$100,000	$100,000	$100,000
Debt Service (Interest)		1,000	1,000
Total	$3,000,000	$ -0-	$3,100,000

Sale of Notes in Anticipation of Sale of Bonds for the Building Fund

Sale and repayment of $1,000,000, 6%, five year notes sold in anticipation of proceeds from the sale of bonds issued for new construction (construction to be accounted for in the building fund).

Step 1 Record proceeds of note sale in the building fund. Use proceeds from sale of notes receipt account.

Step 2 Repay first-year principal and interest on notes. Use the appropriate accounts within the debt service fund for principal and interest payments.

Step 3 Repay each succeeding-year principal and interest on notes from the debt service fund, using the same accounts as in step 2 above, until bonds are sold and the note is fully paid.

Step 4 Once the bonds are sold, record proceeds of the bond sale into the debt service fund. Use the proceeds from sale of bonds receipt account.

Step 5 Record tax receipts received for the repayment of the bonds in the debt service fund and make all principal and interest payments for bonds in the debt service fund.

The Debt Service Fund Purchases the Entity's Note as an Investment

Under the authority of O.R.C. 133.10, the general fund issues a short term note for $100,000 to be repaid in 60 days at 6% interest. The debt service fund purchases the note as an investment.

Step 1 Record the amount borrowed, $100,000, in the general fund. Use the proceeds from the sale of notes account.

Step 2 Record the amount received from the debt service fund, $100,000, as an investment on the investment record. Do not decrease the debt service fund's balance. When preparing the bank reconciliation, the $100,000 investment will need to be shown.

REPAYMENT OF NOTES THROUGH THE DEBT SERVICE FUND

Step 3 Assuming the county auditor has been properly notified of the debt service requirements, the auditor should allocate the tax settlement accordingly by issuing two warrants. One warrant, payable to the debt service fund, is issued for $101,000 ($100,000 principal plus $1,000 x 6% x 1/6 year interest) for the purpose of repaying the outstanding note. The other warrant payable to the general fund is issued for an amount equal to the normal general fund tax settlement less the $101,000 debt service fund. Record tax receipts using the receipt account for the appropriate type of taxes in the debt service fund and the general fund.

Step 4 Record the debt service payment. Use the appropriate accounts for the principal ($100,000) and the interest ($1,000) payments.

Step 5 Record maturity of debt service fund's investment ($100,000) on investment record and record the receipt of the interest ($1,000).

FISCAL CAUTION/FISCAL WATCH/FISCAL EMERGENCY

Overview

The original fiscal emergency law was enacted in 1979 and applied only to municipalities. In 1996, House Bill 462 expanded the local fiscal emergency law to include counties and townships, and created a "fiscal watch" status. Fiscal watch provides an early warning to faltering entities whose finances are approaching emergency status. In 2011, House Bill 153 further modified the fiscal emergency statute to create the "fiscal caution" provision to identify fiscal practices and budgetary conditions that, if not corrected, could result in a declaration of fiscal watch or fiscal emergency.

The General Assembly has declared it to be a public policy and public purpose of the state to require fiscal integrity of municipal corporations, counties, and townships so that they may provide for the health, safety, and welfare of their citizens; pay when due principal and interest on their debt obligations; meet financial obligations to their employees, vendors, and suppliers; and provide for proper financial accounting procedures, budgeting, and taxing practices. Additionally, the intent of the General Assembly, under fiscal emergency legislation, is to enact procedures, provide powers, and impose restrictions to assure fiscal integrity of municipal corporations, counties, and townships, while leaving principal responsibility for the conduct of the affairs of a municipal corporation in charge of its duly elected officials and leaving to their discretion the choices for and manner of expenditures of available revenues, consistent with the requirements for satisfying the public policy and purpose.

Fiscal Caution

A. Fiscal Caution Declaration

Fiscal Caution Conditions – Auditor of State Order 2011-01 sets forth that any one of the following conditions constitutes grounds for a "fiscal caution":

- When the Auditor of State declares financial records are unauditable, and has issued a letter indicating the timeframe under which those records must be restored to an auditable condition, and the township has failed to do so within the timeframe specified in the letter.

- When the Auditor of State identifies significant deficiencies or material weaknesses over accounting and financial reporting functions, direct and material noncompliance with applicable laws and regulations, or management letter comments which the aggregate effect of such reported issues has a significant effect on the financial condition of the municipal corporation, county, or township.

- When a deficit fund balance exists at year-end in the General fund that is greater than two percent of that fund's revenue for that year, and/or when a deficit fund balance exists at year-end in any other fund that is greater than two percent of that fund's revenue for that year, and there are not sufficient resources in the General fund that may be transferred to eliminate the deficit or in any other fund that may lawfully transfer resources to eliminate the deficit.

- When a low year-end carryover balance exists in the General fund equal to or less than one month of expenditures, and/or when a low year-end carryover balance exists in any other fund equal to or less than one month of expenditures, and there are not sufficient resources in the General fund that may be transferred or in any other fund that may lawfully transfer resources to subsidize the fund.

FISCAL CAUTION/FISCAL WATCH/FISCAL EMERGENCY

- When accounting journals and ledgers are not reconciled with the treasury/bank for more than three months and are not able to reconcile the records within one month of written notification by the Auditor of State.

B. Declaration of Fiscal Caution

1. Auditor of State sends written notice that fiscal caution is declared.

2. Entity must provide a written proposal to eliminate the fiscal caution condition(s).

3. The Auditor of State, or a designee, may visit to monitor the implementation of the proposal and/or provide technical assistance in implementing the proposal.

4. Failure to submit an acceptable proposal or take action to eliminate the fiscal caution condition(s) can result in the township being declared in fiscal watch or emergency.

All expenses incurred by the auditor of state relating to a determination or termination of a fiscal emergency under this section, a fiscal watch under section 118.021 of the Revised Code, or a fiscal caution under section 118.025 of the Revised Code, including providing technical and support services, shall be reimbursed from an appropriation for that purpose. If necessary, the controlling board may provide sufficient funds for these purposes. (ORC 118.04(D))

C. Termination of Fiscal Caution

1. The Auditor of State has determined that the corrective actions have been/are being implemented and that the fiscal caution condition(s) no longer exist.

2. The Auditor of State sends a letter to notify the township of the release from fiscal caution.

Fiscal Watch

A. Fiscal Watch Review - A fiscal watch review may be initiated as follows:

(1) A written request to the Auditor of State from a board of township trustees; or,

(2) Initiated by the Auditor of State.

(3) All expenses incurred by the Auditor of State relating to a determination or termination of a fiscal watch under O.R.C. 118.021, shall be reimbursed from an appropriation for that purpose by the General Assembly.

B. Fiscal Watch Conditions – O.R.C. 118.022 (A) as enacted sets out that any one of the following conditions constitutes grounds for a "fiscal watch":

1. The existence of either of the following situations:

a. All accounts that were due and payable from the general fund of a township at the end of the preceding fiscal year that had been due and payable for at least 30 days at the end of the fiscal year or to which a penalty was added for failure to pay by the end of the fiscal year, less the year-end balance in the general fund, exceeded 1/12th of the general fund budget for that year; or

b. All accounts that were due and payable at the end of the preceding fiscal year from all funds of the townships and that had been due and payable for at least 30 days at the end of the fiscal year or to which a penalty was added for failure to pay by the end of the fiscal year, less the year-end balance in the general fund and in the respective special funds available to pay such accounts, exceeded 1/12th of the available revenues during the preceding fiscal year, excluding nonrecurring receipts, of the general fund and of all special funds from which such accounts are payable.

c. Based on an examination of a financial forecast approved by the legislative authority, the auditor of state certifies that the general fund deficit at the end of the current fiscal year will exceed one-twelfth of the general fund revenue from the preceding fiscal year.

2. The aggregate of deficit amounts of all deficit funds at the end of the preceding fiscal year, less the total of any year-end balance in the general fund and in any special fund that may be transferred as provided in O.R.C. 5705.14 to meet such deficit, exceeded 1/12th of the total of the general fund budget for that year and the receipts to those deficit funds during that year other than from transfers from the general fund.

3. At the end of the preceding fiscal year, moneys and marketable investments in or held for the unsegregated treasury of the townships, minus outstanding checks and warrants, were less in amount than the aggregate of the positive balances of the general fund and those special funds, the purposes of which the unsegregated treasury is held to meet, and such deficiency exceeded 1/12th of the total amount received into the unsegregated treasury during the preceding fiscal year.

C. Declaration of Fiscal Watch

1. O.R.C. 118.023 requires upon determining that one or more of the conditions described in O.R.C. 118.022 are present, the Auditor of State shall issue a written declaration of the existence of a "fiscal watch" to the townships, and the county budget commission. The "fiscal watch" shall be in effect until the Auditor of State determines that none of the conditions are any longer present and cancels the watch, or until the Auditor of State determines that a state of fiscal emergency exists.

2. The Auditor of State shall provide such technical and support services to the townships after a "fiscal watch" has been declared to exist as the Auditor of State considers necessary. The controlling board shall provide sufficient funds for any costs that the Auditor of State may incur in determining if a "fiscal watch" exists and for providing technical and support services.

FISCAL CAUTION/FISCAL WATCH/FISCAL EMERGENCY

D. Termination of Fiscal Watch

Since statutory conditions for fiscal watch are based on December 31 financial information, at least one year from the fiscal year end under which the township met the fiscal watch criteria must elapse for a termination analysis to occur. A township may submit a request for release from fiscal watch in the year following the year in which the Auditor of State designated the township in fiscal watch. A township may not request release from fiscal watch in the same year in which the Auditor of State made the designation.

The steps for a township seeking release from fiscal watch are as follows:

1. A written request for release from fiscal watch must be submitted to the Auditor of State by the board of township trustees;

2. After receiving the request, the Auditor of State will determine the following:

   a. The fiscal watch conditions have been eliminated as of the most recent fiscal year end; and,

   b. That sound accounting, purchasing, and reporting policies are in existence or in the process of being implemented.

Fiscal Emergency

A. Request for a Determination of Fiscal Emergency - The existence of the fiscal emergency conditions shall be determined by the Auditor of State. A determination may be made only upon the filing with the Auditor of State of a written request for such a determination by the following:

1. The Governor;

2. The County Budget Commission;

3. The board of township trustees; or

4. The initiation by the Auditor of State.

The fiscal emergency determination shall be set forth in written reports and supplemental reports, which shall be filed with the fiscal officer, the board of township trustees, and with the Treasurer of State, Secretary of State, Governor, Director of Budget and Management, and county budget commission, within 30 days after the request. The Auditor of State shall so file an initial report immediately upon determining the existence of any fiscal emergency condition.

FISCAL CAUTION/FISCAL WATCH/FISCAL EMERGENCY

The Auditor of State has the authority to engage the services of independent certified or registered public accountants, including public accountants engaged or previously engaged by the township, to conduct audits or make reports or render such opinions as the Auditor of State considers desirable with respect to any aspect of the determinations to be made by the Auditor of State. (O.R.C. 118.04 (B))

Under O.R.C. 118.04(C), states the determination by the Auditor of State under the O.R.C. 118.04 that a fiscal emergency condition does not exist is final and conclusive and not appealable. A determination by the Auditor of State under O.R.C. 118.04 that a fiscal emergency exists is final, except that any township affected by a determination of the existence of a fiscal emergency condition may appeal the determination to the court of appeals. The appeal shall be heard expeditiously by the court of appeals and for good cause shown shall take precedence over all other civil matters except earlier matters of the same character. The pendency of any such appeal shall not effect or impede the operations under fiscal emergency.

All expenses incurred by the Auditor of State relating to a determination or termination of a fiscal emergency under O.R.C. 118.04 shall be reimbursed from an appropriation for that purpose by the General Assembly.

B. Fiscal Emergency Conditions – O.R.C. 118.03(A) sets out the fiscal emergency conditions and any one of the following constitutes a fiscal emergency condition of a township:

1. The existence, at the time of the determination by the Auditor of State under O.R.C. 118.04, of a default on any debt obligation for more than thirty days.

2. The existence, at the time of the determination by the Auditor of State under O.R.C. 118.04, of a failure for lack of cash in the funds to make payment of all payroll to employees of the township in the amounts and at the times required by law, ordinances, resolutions, or agreements, which failure of payment has continued:

    a. For more than 30 days after such time for payment; or

    b. Beyond a period of extension, or beyond the expiration of 90 days from the original time for payment, whichever first occurs, if the time for payment has been extended for more than 30 days by the written consent of at least two thirds of the employees affected by such failure to pay, acting individually or by their duly authorized representatives.

3. An increase, by action of the county budget commission pursuant to O.R.C. 5705.31 (D), in the minimum levy of the township for the current or next fiscal year which results in a reduction in the minimum levies for one or more other subdivisions or taxing districts.

FISCAL CAUTION/FISCAL WATCH/FISCAL EMERGENCY

4. The existence of a condition in which all accounts that, at the end of its preceding fiscal year, were due and payable from the general fund and that either had been due and payable for at least 30 days at the end of the fiscal year or to which a penalty has been added for failure to pay by the end of the fiscal year, including, but not limited to, final judgments, fringe benefits payments due and payable, and amounts due and payable to persons and other governmental entities and including any interest and penalties thereon, less the year-end balance in the general fund, exceeded 1/6th of the general fund budget for that year, or in which all accounts that, at the end of its preceding fiscal year, were due and payable from all funds of the township and that either had been due and payable for at least 30 days as at the end of the fiscal year or to which a penalty has been added for failure to pay by the end of the fiscal year, less the year-end balance in the general fund and in the respective special funds lawfully available to pay such accounts, exceeded 1/6th of the available revenues during the preceding fiscal year, excluding nonrecurring receipts, of the general fund and of all special funds from which such accounts lawfully are payable. Accounts due and payable shall not include any account or portion thereof, that is being contested in good faith.

5. The existence of a condition in which the aggregate of deficit amounts of all deficit funds at the end of its preceding fiscal year, less the total of any year-end balance in the general fund and in any special fund that may be transferred as provided in O.R.C. 5705.14 to meet such deficit, exceeded 1/6th of the total of the general fund budget for that year and the receipts to those deficit funds during that year other than from transfers from the general fund.

6. The existence of a condition in which, at the end of the preceding fiscal year, moneys and marketable investments in or held for the unsegregated treasury of the township, minus outstanding checks and warrants, were less in amount than the aggregate of the positive balances of the general fund and those special funds the purposes of which the unsegregated treasury is held to meet, and such deficiency exceeded 1/6th of the total amount received into the unsegregated treasury during the preceding fiscal year.

O.R.C. 118.03 (B), provides that any year-end condition described in division (A) (4), (5), or (6) of this section shall not constitute a fiscal emergency condition if the township clearly demonstrates to the satisfaction of the Auditor of State prior to the time of the Auditor of State's determination that such condition no longer exists at the time of the determination pursuant to O.R.C. 118.04. Unless the determination by the Auditor of State occurs more than four months following the end of such fiscal year, upon the request by and substantial showing of the township that it has taken steps to remove such condition within four months, the auditor shall postpone a determination as to a condition under division (A) (4), (5), or (6) of this section as to which such substantial showing is made until the expiration of four months following the end of such fiscal year, but the Auditor of State shall not postpone the determination as to division (A) (1), (2), or (3) of this section.

FISCAL CAUTION/FISCAL WATCH/FISCAL EMERGENCY

C. Financial Planning and Supervision Commission

Upon the occurrence of a fiscal emergency in any township, there is established under O.R.C. 118.05, with respect to that township, a "Financial Planning and Supervision Commission."

1. Members - The commission consists of the following seven members:

    a. Four ex officio members: the Treasurer of State, Director of Budget and Management, a member of the board of township trustees, and the county auditor. Each ex-officio member may designate an individual, as defined in Ohio Revised Code Section 118.05(B)(1), to serve in their place. The designations shall be in writing and executed by the ex-officio member making the designation and filed with the secretary of the commission.

    b. If a township has a population of at least one thousand, three members nominated and appointed as follows:

        The Governor shall appoint one member and the board of township trustees shall appoint two members. A member of the board of township trustees is ineligible for appointment to the commission under this paragraph

        Each of the appointed members shall be an individual:

        1) Who has knowledge and experience in financial matters, financial management, or business organization or operations;

        2) Whose residency, office, or principal place of professional or business activity is situated within the township;

        3) Who shall not become a candidate for elected public office while serving as a member of the commission, except a County Auditor who serves on the commission may be a candidate for re-election to the County Auditor's Office.

    c. If a township has a population of less than one thousand, the Auditor of State shall serve as the financial supervisor and shall have all the powers and responsibilities of a commission.

Immediately after appointment of the initial three appointed members of the commission, the Governor shall call the first meeting of the commission and shall cause written notice of the time, date, and place of the first meeting to be given to each member of the commission at least 48 hours in advance of the meeting. The Director of Budget and Management or the designee shall serve as the chairperson of the commission. The commission shall elect one of its members to serve as vice-chairperson and may appoint a secretary and any other officers, who need not be members of the commission, it considers necessary.

The Auditor of State, pursuant to O.R.C. 118.05(G), shall serve as the "financial supervisor" to the commission unless the Auditor of State elects to contract for that service.

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At the request of the commission, the Auditor of State shall designate employees of the Auditor of State's office to assist the commission and the financial supervisor, and to coordinate the work of the Auditor of State's office and the financial supervisor. Upon determination of a fiscal emergency, the township shall provide the commission with reasonable office space in the principal building housing the township, O.R.C. 118.05(H).

A. Powers and Duties of Commission and Supervisor – O.R.C. 118.07 sets out the powers, duties, and functions of the financial planning and supervision commission, or when authorized by the commission, the financial supervisor.

1. The financial planning and supervision commission has the following powers, which it may delegate to the financial supervisor:

   a. Review and Inspection of Fiscal Matters - The commission has broad powers to review township tax budgets, resolutions, bonds, notes and related documents; including all actions of the township and other government agencies relating to township fiscal matters, to ensure that proper procedures are followed and a balanced budget will result. The commission is given by statute broad powers to allow it to control township fiscal matters.

   b. Approval of Financial Plan - The commission may approve or disapprove the proposed financial plan submitted by the township. If the financial plan is not timely submitted, the township is limited in its monthly expenditures in the same month in the preceeding fiscal year, unless otherwise authorized by the commission. Once a financial plan is approved, no expenditure may be made which is not consistent with the plan. Proposed and existing appropriation measures must also conform to the financial plan. (O.R.C. 118.12 and 118.13)

   c. Approval of Debt Obligation - No township debt obligation may be issued without the prior approval of the commission upon its determination that such debt obligation would not impede the purposes of the financial plan or be inconsistent with the provision of Chapter 118. (O.R.C. 118.15, 118.16, and 118.17)

2. Compensation and expenses of financial planning and supervision commission - The members of the financial planning and supervision commission shall serve without compensation, but shall be paid by the commission their necessary and actual expenses incurred while engaged in the business of the commission.

   O.R.C. 118.08 (B) states that all expenses incurred for services rendered by the financial supervisor for a period to 24 months shall be paid by the commission pursuant to an appropriation made by the General Assembly for this purpose. Expenses incurred for services rendered by the financial supervisor beyond this period shall be borne by the municipal corporation unless the Director of Budget and Management waives the costs and allows payment in accordance with the following schedule:

FISCAL CAUTION/FISCAL WATCH/FISCAL EMERGENCY

Continued Performance Required of Financial Supervisor	Number Of Months	Percentage of Payment by Municipal Corporation, County or Township
Yes	25 to 30	20
Yes	31 to 36	50
Yes	Over 36	100

B. Financial Plan – O.R.C. 118.06(A) requires that within 120 days after the first meeting of the commission, the board of township trustees shall submit to the commission a detailed financial plan, as approved or amended and approved by ordinance or resolution of the legislative authority, which shall include all of the following:

1. A plan to eliminate all fiscal emergency conditions determined to exist pursuant to O.R.C. 118.04;

   a. Satisfy any judgments, past due accounts payable, and all past due and payable payroll and fringe benefits;

   b. Eliminate the deficits in all deficit funds;

   c. Restore to construction funds and other special funds moneys from such funds that were used for purposes not within the purposes of such funds, or borrowed from such construction funds by the purchase of debt obligations of the municipal corporation with the moneys of such, funds, or missing from the construction funds or such special funds and not accounted for;

   d. Balance the budgets, avoid future deficits in any funds, and maintain current payments of payroll, fringe benefits, and all accounts;

   e. Avoid any fiscal emergency condition in the future; and

   f. Restore the ability of the township to market long-term general obligation bonds under provisions of law applicable to the township corporation generally.

2. The legal authorities permitting the township to take the actions enumerated pursuant to item 1 above;

3. A description of the source and amount of all funds available to the township, including funds upon which the township previously has placed restrictions.

4. The approximate dates of the commencement, progress upon, and completion of the actions enumerated in the plan and a reasonable period of time expected to be required to implement the plan;

5. The amount and purpose of any issue of debt obligations that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the township and the county auditor;

6. Assurances that the township will establish monthly levels of expenditures and encumbrances pursuant to O.R.C. 118.07 (B) (2);

7. Assurances that the township will conform to statutes with respect to tax budgets and appropriation measures; and

8. The detail, the form, and the supporting information that the commission may direct;

9. An evaluation of feasibility of entering into shared services agreements with other political subdivisions for the joint exercise of any power, performance or any function, or rendering of any service, if so authorized by statute.

O.R.C. 118.06 (B) requires the financial plan developed to be filed with the financial supervisor and the financial planning and supervision commission. After consultation with the financial supervisor, the commission shall either approve or reject any initial or subsequent financial plan.

C. Failure to Submit Financial Plan

1. O.R.C. 118.12 (A) states that after the date by which the township is required to submit a financial plan or segment of a financial plan to the financial planning and supervision commission, if the affected entity has failed to submit a financial plan or segment as required by this chapter, expenditures from the general fund in any month may not exceed 85% of expenditures from the general fund for such month in the preceding fiscal year, except the commission may authorize a higher percent for any month upon justification of need by the township.

2. O.R.C. 118.12 (B) states that after submission of a proposed financial plan by the township to the commission, until approval or disapproval, no expenditure may be made contrary to such proposed financial plan.

3. O.R.C. 118.12 (C) requires that after disapproval by the commission of a proposed financial plan, no expenditure may be made by the township inconsistent with the reasons for disapproval given pursuant to O.R.C. 118.06 (B); and if the township fails to submit a revised financial plan within the time required, the expenditure limits of division (A) of this section are applicable.

4. O.R.C. 118.12 (D) states that after approval of a financial plan, or any amendment thereof, no expenditure may be made contrary to the approved financial plan, or amendment thereof without the advance approval of the financial supervisor. The commission, by a majority vote, may overrule the decision of the financial supervisor.

D. Development of an Effective Financial Accounting and Reporting System – O.R.C. 118.10 requires the municipal corporation to develop an effective financial accounting and reporting system by:

1. Promptly bringing its existing system of financial accounting and reporting into compliance with Chapter 117. Within 90 days of the determination of the existence of a fiscal emergency condition pursuant to O.R.C. 118.04, the Auditor of State shall issue a preliminary report with respect to the methods, accuracy, and legality of the accounts, records, files, and reports of the township; and

2. Modifying and supplementing the system of financial accounting and reporting to record and report its fiscal activities on an accurate, current, and continuous basis in order to facilitate the effective management of the affairs of the township, and to assist in refining and improving the financial plan and amendments thereof, facilitate the monitoring of compliance and the implementation of the financial plan, and otherwise assist the financial planning and supervision commission, the Auditor of State, and the county budget commission in the performance of their functions.

E. Debt Issuance, Approval, and Special Provision

No debt obligation may be issued or incurred by the township, whether purchased by these subdivisions or others, except with the prior approval of the financial planning and supervision commission.

Upon approval by the commission, the township may utilize the special provisions of O.R.C. 118.20 to 118.22. Such approval shall be granted when it is necessary or desirable to utilize the special provision to enhance the sale of township debt obligations. Some of the special provisions include: (O.R.C. 118.19)

1. Special Notes - Chapter 118 authorizes the “current revenue notes” and “advance tax payment notes.” These are new devices specifically provided for townships in fiscal emergencies to raise revenues. (O.R.C. 118.23 to 118.26)

2. Bond Anticipation Notes - Bond anticipation notes of a township issued during a fiscal emergency period may mature at the later of the time otherwise permitted by law or any time approved by the commission and estimated by it to be not more than one year following termination of the fiscal emergency period and may be sold by competitive bids or by negotiation.

3. Local Government Fund Notes - This section permits during a fiscal emergency period and with the approval of the financial planning commission, a township to issue local government fund notes, in anticipation of amounts to be allocated to it pursuant to O.R.C. 5747.50 (B) or to be apportioned to it under O.R.C. 5747.51 or 5747.53 in a future year or years, for a period of no more than eight calendar years.

Termination of a Fiscal Emergency

A. O.R.C. 118.27 (A) states that a financial planning and supervision commission with respect to a township, and its functions under this chapter, shall continue in existence until such time as a determination is made pursuant to division (B) of this section that the township has done all of the following:

1. Planned, and is in the process of good faith implementation of, an effective financial accounting and reporting system in accordance with O.R.C. 118.10, and it is reasonably expected that such implementation will be completed within two years;

2. Corrected and eliminated, or has planned, and is in the process of good faith implementation of correcting and eliminating all of the fiscal emergency conditions determined pursuant to O.R.C. 118.04, and no new fiscal emergency conditions have occurred. The Auditor of State shall monitor the progress of the township in its plan of good faith implementation of correcting and eliminating all the fiscal emergency conditions. If after a two-year period, the township has failed to secure full implementation, the Auditor of State may redeclare the subdivision to be in a fiscal emergency.

3. Met the objectives of the financial plan described in O.R.C. 118.06.

4. The township prepares a financial forecast for a five-year period in accordance with the standards issued by the Auditor of State. An opinion must be rendered by the Auditor of State that the financial forecast is considered to be nonadverse.

B. O.R.C. 118.27(B) requires that the determination that all of such conditions for the termination of the existence of the commission and its functions exist may be made either by the Auditor of State or by the commission and shall be certified to the commission, the Auditor of State, the Governor, and the budget commission, whereupon such commission and its functions under this chapter shall terminate. Such determination shall be made by the Auditor of State upon the filing with the Auditor of State of a written request for such determination by the township, the Governor, or the commission, or may be made by the Auditor of State upon the Auditor of State's own initiative.

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C. O.R.C. 118.27(C) requires the commission to prepare and submit with such certifications final report of its activities, in such form as is appropriate for the purpose of providing a record of its activities and assisting other commissions created under this chapter in the conduct of their functions. All of the books and records of the commission shall be delivered to the Auditor of State for retention and safekeeping.

D. O.R.C. 118.27(D) states that upon receipt of the certification, the Director of Budget and Management shall follow the procedures set forth in O.R.C. 126.29.

E. O.R.C. 118.27(E) requires that if, at the time of termination of the commission, an effective financial accounting and reporting system has not been fully implemented, the Auditor of State shall monitor the progress of implementation and shall exercise authority under Chapter 117 and O.R.C. 118.10 to secure full implementation at the earliest time feasible but within two years from such termination.

F. O.R.C. 118.271 - Issue Debt to Eliminate Fiscal Emergency Condition

A township may issue general obligation, special obligation, or revenue bonds and notes in anticipation of the bonds for the purpose of eliminating fiscal emergency conditions set forth in O.R.C. 118.03, the cost of the issuance of the bonds and notes, and the capitalization of interest for not more than 3 years. Bonds issued under this section shall have a maximum maturity of 20 years and notes issued in anticipation of the issuance of bonds under this section shall have a maximum maturity of 5 years. Provisions applicable to the issuance of bonds and notes by municipal corporations, counties, and townships, are applicable under O.R.C. 118.271, except as they may be in conflict with this section, are applicable under this section.

TRAINING REQUIREMENTS

Fiscal officers are required to attend annual continuing education provided by the Treasurer of State in order to enhance their background and working knowledge of investments, cash management, and ethics. The Treasurer of State is to determine the manner, content, and length of the programs after consultation with appropriate statewide organizations of local government officials. The Treasurer of State issues a certificate indicating successful completion of the program and forwards such certificates to the Auditor of State (O.R.C. 135.22). Any necessary expenses of a fiscal officer incurred as a result of attending the continuing education courses shall be borne by the township they represent.

Fiscal officers may be exempted from the Treasurer of State's training by the Treasurer of State if the Treasurer of State certifies that the township fiscal officer invests only in interim deposits, STAR Ohio, or no-load money market mutual funds.

Township trustees and fiscal officers, or the appropriate designees of township trustees and fiscal officers, are required to attend a public records training approved by the Attorney General as provided in O.R.C. 109.43. The training shall be three hours for every term of office for which the trustees and fiscal officer were appointed or elected. The training shall provide township trustees and fiscal officers, or their appropriate designees, with guidance in developing and updating their offices' policies as required under O.R.C. 149.43. The successful completion by a township trustee or fiscal officer or by their respective appropriate designee of the training requirements established by the Attorney General shall satisfy the education requirements imposed on township trustees and fiscal officers or their appropriate designees under O.R.C. 149.43(E).

The Fiscal Integrity Act, enacted on March 23, 2015, raises the bar of accountability for fiscal officers across the state. The law helps deter accounting errors and fraud wit increased training requirements and a new removal process for fiscal officers.

Education Requirements

Newly elected or appointed fiscal officers must complete:

- 6 hours of initial education courses before commencing their term in office or within the first year in office
- An additional 18 hours of continuing education courses before the end of their first term in office
    - If the township fiscal officer is appointed to fill a vacancy, the total hours for training will be based upon the amount of time left in the unexpired term.

Re-elected fiscal officers must complete 12 hours of continuing education courses before the end of each subsequent term (including 2 hours of ethics training).

Fiscal officers may count certain training programs or seminars including:

- Public records trainings offered by the Auditor of State or Attorney General (3 hours)
- Continuing education hours completed as a CPA
- CPIM Trainings
- Hours from an approved continuing education course taught by the fiscal officer

A list of training opportunities can be found at: http://www.ohioauditor.gov/fiscalintegrity/default.html

ACCOUNTING FOR CASH BASIS LOCAL GOVERNMENTS' PARTICIPATION IN ON-BEHALF-OF GRANTS OR IMPROVEMENT PROJECTS

Many townships are the beneficiaries of programs commonly carried out or administered by other townships, the county, or the State. Many of these grant programs or capital improvement projects (hereafter referred to as "program") are administered such that the benefitting governments do not receive cash or make disbursements as part of the program (for example, certain Issue II or CDBG programs). The following describes the proper accounting treatment for these "on-behalf-of" programs.

Cash Accounting

When a township enters into an on-behalf-of program agreement with another township, the county, or the State (or the federal government, if applicable), whereby the township or its residents are the beneficiaries under the agreement, the cash value benefit of the program received under the agreement should be recorded as memorandum receipts and disbursements in the year on-behalf-of disbursements are made.

This accounting treatment should only be applied when a township or its residents are the recipients of benefits as evidenced by an agreement or an approved program application (this might include a consortium application where a group of townships enter into an agreement as a consortium and the consortium is not a legally separate entity.) A township should not record any program transactions if the township has not entered into an agreement or has not been approved for program participation as a result of its request for participation. That is, transactions should not be recorded if the township benefits solely as a consequence of a program carried out or administered by another party.

For example, suppose the Ohio Department of Transportation administers a program which widens and repaves a five-mile section of state highway located within the Township of XYZ's boundaries. The Township has not applied for funding or entered into an agreement related to the project. However, the improvements benefit the Township by providing increased access for tourists. In this case the Township would not record any receipts or disbursements related to the project.

Suppose, however, that the Township submits an application to XYZ County for participation in the County's CDBG-funded annual improvement project. The County approves the Township's application for a sidewalk replacement project, and the County advertises for bids, awards the contracts, and pays the vendors directly. In this case, even though the Township did not receive any payment or make any disbursements related to the project, the Township should record receipts and disbursements for the amount of the project payments made on-behalf-of the Township.

Note: When a township makes on-behalf-of program disbursements for the benefit of another township, the Auditor of State recommends that the disbursements be recorded as intergovernmental. This treatment prevents two governments from reporting operating or capital disbursements for the same grant. Also, GASB Statement No. 24 provides guidance regarding the fund type to be used when a government receives financial assistance to spend on-behalf-of a secondary recipient. In general, a government receiving such assistance should record the related receipts and disbursements in a governmental fund (though a proprietary or trust fund might also be appropriate). However, if the government has no administrative responsibility, the financial activity should be recorded in an agency fund (this would be infrequent).

ACCOUNTING FOR CASH BASIS LOCAL GOVERNMENTS' PARTICIPATION IN ON-BEHALF-OF GRANTS OR IMPROVEMENT PROJECTS

Budgetary Accounting (*for entities subject to Ohio Revised Code Chapter 5705*)

The legislative authority (township trustees) should approve, by resolution, the grant or project application and must establish any fund(s) necessary to meet the grant or project objectives. Auditor of State permission for fund establishment is not necessary, although it may be necessary to obtain a fund number from the Auditor of State if one has not been previously assigned.

Once the grant is awarded or the application is approved, the fiscal officer must obtain an official certificate of estimated resources or an amended certificate of estimated resources for all or part of the grant or project, based on the expected cash disbursements to be made on the township's behalf in the current fiscal year. Any on-behalf-of payments expected to be made in the next year should be reflected on the next year's certificate.

The township fiscal officer shall record the appropriations in accordance with the terms and conditions of the grant or project agreement. In addition, prior to recording the appropriations, O.R.C. 5705.40 requires the legislative authority to pass a resolution amending its appropriation measure.

If the grant or project will be expended over a period longer than the current fiscal year, only the amount expected to be obligated during the current fiscal year should be recorded as appropriated. The remainder of the project should be appropriated in the subsequent year(s).

Other Matters

Townships participating in on-behalf-of programs should review program documents and/or contact the awarding entity to determine the estimated and actual on-behalf-of disbursements for the fiscal year. These amounts should be used, respectively, for the budgetary and cash accounting treatment described above.

For federally funded programs, application of this accounting treatment will generally be an indication that the township is a subrecipient of federal financial assistance; however, each agreement must be evaluated individually. When a township has not applied for funding or entered into an agreement, as discussed in the ODOT example above, it will generally not be considered a subrecipient of federal financial assistance. When determining whether or not the township is a subrecipient of federal financial assistance, the guidance provided by Office of Management and Budget (OMB) Circular A-133 should be considered.

Township officials are compensated based on annual budgets. The application of this accounting treatment and the related budgetary accounting may alter the budget amounts on which officials' compensation is based (see Auditor of State Bulletin 99-008.)

Issue 2 Money - Matching funds may be spent directly from a fund that does not allow transfers, as long as the expenditure is allowable for that fund (ex. using Gas Tax Fund as a source of matching money for a road project). The township needs to include in its certificate of estimate resources the amount of Issue 2 money anticipated to be received into the project during the fiscal year, along with any matching requirements. The fund appropriations should include the amount necessary to meet the obligations incurred during the fiscal year. The Ohio Public Works Commission will make payments directly to contractors for its share based on invoices submitted by the fiscal officer. The Ohio Public Works Commission will inform the fiscal officer of the amount disbursed, The fiscal officer must record a receipt and a disbursement for these transactions. Addition information relative to multi-project grants and retainage can be found in Auditor of State Bulletin 2002-04.

FORCE ACCOUNTS

O.R.C. 5575.01 and 117.16 governs townships that undertake road maintenance and repair or construction and reconstruction projects by force account. In general, a force account project is conducted by the township using the township's own labor, material, and equipment.

Existing law requires that before undertaking a project by force account, a public entity must estimate the cost of the project. If the total cost exceeds certain statutory limits, which vary depending on the type of entity, the project must be subjected to competitive bidding. Otherwise, the project may be conducted by force account without going through competitive bidding.

The limits for townships are $15,000/mile for construction or reconstruction of roads and $45,000 for a maintenance and repair project. (O.R.C. 5575.01). If these amounts are exceeded the township must invite and receive competitive bids for furnishing all the labor, materials, and equipment and doing the work, pursuant to O.R.C. 5575.02. Upon consideration, if the township rejects the bids, it may proceed by force account in compliance with the plans and specifications upon which the bids were based.

Force Account Project Assessment Form (O.R.C. 117.16)

Issues have been raised for several years regarding the use of force accounts. Responding to these concerns, the General Assembly has clearly required specificity in order to justify the use of force accounts by audited entities. The Auditor of State provides a force account project assessment form that is to be used by Township officials to estimate or report the cost of a force account project. The General Assembly has required that the assessment form account for all of the following in estimating the cost of a project:

Employee salaries and benefits, and other labor costs;
Materials;
Freight, fuel, and hauling;
Overhead expenses;
Workers' compensation premiums; and
All other items of cost and expense, including a reasonable allowance for the use of all tools and equipment used and for the depreciation on the tools and equipment.

Note: This form is not required for maintenance and repair projects that are under $15,000, nor for construction and reconstruction projects where the cost is below $5,000/mile.

For projects conducted by or in conjunction with the Ohio Department of Transportation (ODOT), the use of the Transportation Management System is acceptable in lieu of the Auditor of State's force account project assessment form.

The assessment form is available at the Auditor of State web site (www.auditor.state.oh.us), and it can be printed directly from the web site. The form is divided into three primary sections: Labor, Material, and Equipment. Each section is described in more detail below.

LABOR: The labor cost is composed of the base wages of all employees working on the project, as well as markups for fringe benefits and overhead. The total amounts of base wages are determined by listing all employees working on the project, the hourly rate for each employee, and the total number of hours each employee is expected to work on the project. Fringe benefits may be computed by using a safe harbor rate of 30 percent of the total base wage amount. Overhead costs may be calculated using a safe harbor rate of 38 percent of the total amount of base wages and fringe benefits. If a public office chooses to use different percentages, it will be required to justify the rates it uses.

MATERIALS: The cost of materials is determined by listing each type of material being used in the project, the cost per unit for each material, and the total number of units for each material. In addition, an overhead cost is added to the cost of materials. The safe harbor rate for overhead is 15 percent. If a Township uses a different percentage, it will be required to justify the rate it uses.

EQUIPMENT: Each piece of equipment used in a project must be assigned an hourly rate. For equipment owned by the public entity, this rate must reflect the original purchase price of the equipment, maintenance costs, time in service, depreciation, freight, fuel, and hauling. The public office may use any generally accepted rate that reflects all of the aforementioned considerations, or it may use the statewide rates as published by the Ohio Department of Transportation and updated on a quarterly basis; however, the office must use the same rate source for all equipment used in a project. Any equipment rented by the public entity must be listed in the form and reflect the actual rental rate.

Audits of Force Account Projects (O.R.C. 117.16)

Underscoring the General Assembly's intent to impose accountability in the use of force accounts, the law requires the Auditor of State to audit the forms and records of a sampling of force account projects conducted by the office to determine compliance with the force account limits. Although the assessment form is the principal document demonstrating how the estimated cost of the project is determined, supporting documentation is examined to determine the sources of the numbers listed in the assessment form. The Auditor may conduct additional audits of force account projects upon receiving a complaint that the limits are being violated.

Penalties for Noncompliance (O.R.C. 117.16)

PLEASE NOTE: If the Auditor of State identifies one instance of noncompliance in an audit of one of these public offices, the force account limits for that office shall be reduced to the following levels for a period of one year: $15,000 for maintenance and repair of a road; $5,000/mile for construction or reconstruction of a township road.

If the Auditor of State identifies a second instance of noncompliance in the same or any subsequent audit, the force account limits for the public office shall be reduced in the same manner as described above for a period of two years.

For a third or subsequent instance of noncompliance, the force account limits for the Township shall be reduced in the same manner as described above for a period of two years and an amount equal to 20 percent of the total cost of the force account project(s) found to be in violation of the limits shall be certified to the state tax commissioner and deducted from any funds due or payable to the Township. If insufficient funds are available to cover the entire certified amount, the tax commissioner shall certify the remaining amount to the county auditor. The county auditor shall withhold the amount certified from any funds under the county auditor's control that are due and payable to the Township, and the county auditor shall promptly pay that amount to the tax commissioner. Any funds withheld in the manners described in this paragraph are to be credited to the highway operating fund and redistributed on a biannual basis to local governments that are not in violation of the force account limits. When multiple instances of noncompliance are identified within the same audit, and at least one instance is subject to the withholding of funds and at least one instance is not, the instances will be considered in chronological order for the purpose of determining the amount of funds to be withheld.

Joint Force Account Projects (O.R.C. 117.161)

If the department of transportation, a county, a township, or a municipal corporation proposes a joint force account project with one or more other entities, the controlling force account limit is the higher limit that applies between the participating entities. For example, if the Ohio Department of Transportation and a Township join together on a road construction project, the force account limit is, pursuant to O.R.C. 5717.02(B)(1), $30,000 per centerline mile of highway, exclusive of structures and traffic control signals.

Entities are prohibited from aggregating their force account limits, and the share of any entity in a joint project should not exceed that entity's force account limit. Using the example described above, even though the overall force account limit is $25,000/mile, the Township's share of the project should not exceed its limit of $15,000/mile.

In addition, no entity that is subject to the reduced force account limits described in the penalty section above may enter into a joint force account project.

The Force Account Project Assessment Form can be seen on the following pages.

Force Account Project Assessment Form (Estimate)

Ohio Revised Code 117.16 requires the Auditor of State to develop a force account project assessment form to be used by each public office to estimate or report the cost of a force account project. The form shall include costs for employee salaries and benefits, any other labor costs, materials, freight, fuel, hauling, overhead expense, workers' compensation premiums, and all other items of cost and expense, including a reasonable allowance for the use of all tools and equipment used on or in connection with such work and for the depreciation on the tools and equipment.

This form is to be completed as provided in Auditor of State Bulletin 2003-003.

Project Name/Number: _____

Project Description: _____

_____

Proposed Start Date: _____ **Proposed End Date:** _____

ESTIMATED LABOR (please complete the shaded fields)

Description	Base Wage		Hours Worked		Total
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
			Total Base Wages		$0.00
	_____ % of base wages (fringe benefits, BWC, etc.)				$0.00
	_____ % of wages and fringe benefits for overhead				$0.00
			Total Labor Estimate		**$0.00**

ESTIMATED MATERIALS (please complete the shaded fields)

Description	Cost per Unit		Quantity	Unit Type		Total
		X			=	$0.00
		X			=	$0.00
		X			=	$0.00
		X			=	$0.00
		X			=	$0.00
		X			=	$0.00
		X			=	$0.00
		X			=	$0.00
		X			=	$0.00
		X			=	$0.00
		X			=	$0.00
				Base Materials		$0.00
	_____ % of base materials for overhead					$0.00
				Total Materials Estimate		**$0.00**

ESTIMATED EQUIPMENT (please complete the shaded fields)

Each piece of equipment used in a project must be assigned an hourly rate. For equipment owned by the public entity, this rate must reflect the original purchase price of the equipment, maintenance costs, time in service, depreciation, freight, fuel, and hauling. The public office may use any generally accepted rate that reflects all of the aforementioned considerations, or it may use the statewide rates as published by the Ohio Department of Transportation and updated on a quarterly basis; however, the office must use the same rate source for all equipment used in a project. Any equipment rented by the public entity must be listed in the form and reflect the actual rental rate.

Description	Rate per Hour		Hours		Total
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		X		=	$0.00
		Total Equipment Estimate			**$0.00**

TOTAL ESTIMATED PROJECT COST
(labor + materials + equipment) _____

Prepared by: _____

Title: _____

Date: _____

PUBLIC RECORDS LAW

Required Public Records Training

Ohio Revised Code Sections109.43(B) and 149.43(E)(1) require officials elected to statewide or local office receive three hours of Public Records training for each term of office. The training is designed to enhance the elected officials' knowledge of the duty to provide access to public records and properly conduct public meetings. The training received must be certified by the Ohio Attorney General. Proof that training has been completed must include documentation that either the Attorney General's office or another entity certified by the Attorney General provided the training the elected official received. Attendees who successfully complete the training receive a certificate demonstrating proof of training. The Attorney General publishes a list of those entities that have been certified to provide this training.

If the elected official so chooses, the law allows a designee to be appointed to receive the training on the elected official's behalf. The designee must be an employee in the public office and there must be evidence of the designation. If there is more than one elected official in the public office, the designee should be the designee of all of the elected officials within the office.

The Auditor of State requires documentation that the elected official or his/her designee successfully completed three hours of public records training for each term of office. If an elected official chooses to use a designee, the designee must be an employee in the public office and there must be documentation of the designation.

Public Records Policy

All public offices are required to adopt a public records policy describing how the public office responds to public records requests. Although not required to do so, the public office may obtain guidance in developing its policy from the Model Public Records Policy developed by the Ohio Attorney General.(the model policy can be found at the end of this section and at http://www.ohioattorneygeneral.gov/files/Publications/Publications-for-Legal/Sunshine-Laws/Model-Public-Records-Policy.aspx). Please note that there are three specific items that public offices' cannot have in their public records policies. The policy cannot:

1) limit the number of public records it will make available to a single person;
2) limit the number of public records it will make available during a fixed period of office hours; or
3) establish a fixed period of time before it will respond to a request for inspection/copying of public records unless that period is less than eight hours.

The Auditor of State will:

1) require evidence that the public office adopted a public records policy; and
2) inspect the policy to confirm that none of the abovementioned three items are included in such policy.

All public offices are required to distribute their Public Records Policy to the employee who is the records custodian/manager or otherwise has custody of the records of that office. Please note that the Auditor of State requires written evidence that the records custodian/manager acknowledged receipt of a copy of the policy.

PUBLIC RECORDS LAW (Continued)

Posting Public Records Policy

All public offices are required to create a poster that describes the public records policy adopted by the public office. In addition, the public office is required to post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. Finally, if the public office has an employee policies and procedures manual or handbook, it is required that the public records policy be included in such manual or handbook. The Auditor of State requires evidence that:

1) the public office created a poster to describe its public records policy;
2) the poster containing the policy has been posted in required locations;
3) the policy has been included in the employee manual/handbook.

Compliance Enforcement

Section 109.43(G) of the Revised Code requires the AOS or contracted Independent Public Accountant (IPA) firm to audit public offices for compliance with the requirements of Ohio Revised Code Sections 109.43 and 149.43(E)(1) and (2). If the Auditor of State determines that the public office is not compliant with the provisions, the Auditor of State will issue a non-compliance citation.

Avoiding a Citation

To help avoid receiving a non-compliance citation, the Auditor of State recommends that all public offices and each elected official subject to these requirements review any recently enacted provisions of the Ohio Revised Code with legal counsel to assure full compliance with the Public Records Act.

The following is a convenient checklist of the documentation required to prove compliance with the Public Records provisions of the Ohio Revised Code enforced by the Auditor of State:

- The elected official or his/her designee attended a three-hour certified Public Records Training for each term of office;
- If a designee has attended the training on behalf of the elected official, the designee is an employee in the elected official's office;
- If the training was attended by a designee, there must be documentation of such designation;
    - The attendee should retain documentation of attendance.
- The public office has adopted a public records policy;
- The public office's public records policy does not:
    1) limit the number of public records it will make available to a single person;
    2) limit the number of public records it will make available during a fixed period of office hours; or
    3) establish a fixed period of time before it will respond to a request for inspection/copying of public records unless that period is less than eight hours.
- The public office's records custodian/manager or employee who otherwise has custody of the records of the office acknowledged receipt of the public records policy in writing;
- The public office created a poster that describes the public records policy of the office; and
- The public office's public records policy is included in the employee handbook or manual (if a handbook or manual exists).

Best Practices for Responding to Public Records Requests
Auditor of State Bulletin 2011-006

I. Public Records

A. A Hope, a Goal, a Right

The concept of "public records" and access of the people to those records has a rich history in the United States. The Founding Fathers, under English Common Law, knew well the pitfalls and inequities of a government where the records were the property of only an elite few and access to those records was, at best, guarded. In creating this Nation, the Founding Fathers carved out many new democratic rights for citizens. Key among these rights is the ability to participate in government, and the previously unheard-of-right to inspect government records and observe government deliberations. Transparency, after all, makes a more accountable government. Although now firmly secured for Ohio citizens as a "right" by virtue of the Ohio Public Records Act (the "Act"), all public servants have a legal responsibility to ensure that both the letter and spirit of the Act are upheld.

B. What does the Ohio Public Records Act require?[i]

Ohio law requires that a public office make public records available for inspection or copying, depending on the request. The time required for a response depends on the type of request.

- (1) If a request is to inspect public records – response must be prompt.
- (2) If copies are requested – those copies must be provided within a reasonable period of time

As is often noted, the terms "promptly" and "reasonable period of time" are not defined by a specific period of time. Rather, these terms have been interpreted by courts to mean "without delay" and "with reasonable speed,[ii]" and the ultimate determination of "reasonableness" will differ in each case depending on the particular facts and circumstances of a request. [iii] Additionally, courts have held that a "promp" or "reasonable period of time" includes the time for a public office to (1) identify the responsive records; (2) locate and retrieve records from place of storage; (3) review, analyze and make necessary redactions (or legal review); (4) prepare the requests; and (5) provide for delivery.

Not all documents and information kept by a public office is subject to disclosure under the Act. In these instances, it may be necessary to withhold records or redact the relevant information from the response. When redacting information from a request, the public office is required to notify the requester of any redaction or make the redaction plainly visible.[iv] Additionally, where the request is denied, in whole or in part, including redactions, the public office must provide the requester with a reason, including the legal authority for the denial/redaction.[v]

C. Penalties

What happens when there has been a violation of the Act? A warning? An administrative investigation? No - neither of these items are provided for in the Act. Instead, the Act gives an "aggrieved party" the right to sue in court for the records. There is no other body that alerts a public office that an allegation of noncompliance exists or that litigation may be forthcoming. Therefore, a public office often becomes aware of an allegation of noncompliance through service of a lawsuit.

Penalties provided for in the Act can also be quite severe, depending on the nature of the noncompliance. The penalties can range from a court order to force compliance (a mandamus action) to the awarding of statutory damages, attorney's fees and court costs. In addition, if records are not properly retained in accordance with an approved record retention schedule, a public office may be fined up to $1,000 per record.

The Ohio General Assembly has capped a public office's liability for improper destruction of public records to a cumulative total of $10,000, regardless of the number of violations. It also limits attorney's fees to an amount not to exceed the total penalty.

II. Best Practices for Compliance with the Act

Access to public records is a right that underlies the fundamental principles of democracy.

Ohio public records laws are sometimes confusing, and responding to a request can be burdensome on an already burdened public office. Noncompliance with the laws, however, will be costly to taxpayers.

The Auditor of State's recommendations for best practices are not intended to add to the responsibilities of your office or to place additional burdens on you or your staff.

In reviewing the requirements of the Act, discussing the practical problems of compliance with local government officials, and also examining the multitude of new public records litigation, it has become clear that additional documentation, organization and early detection is beneficial to both the public office and a potential records requester.

A. Public Records Log

In seeking to achieve these goals, we recommend that each public office keep a log of all public records requests not fulfilled at the time they are made. Ideally, this log would include the following components:

- Date of request;
- Name of person or entity making the request (if provided);
- Type of records requested;
- Date of release;
- Legal authority for any redactions/withholdings; and
- Name of person fulfilling the request.

The attachment to this bulletin provides a sample of a public records log similar to one utilized in the Auditor of State's Office and other Ohio public offices. A log, however, may be in any form, *e.g.* a log book, a spreadsheet, or files maintained together.

It is important to note that the maintenance of such a log is not a legal requirement. Rather, it is a recommended best practice that is designed to help public entities ensure compliance with the Act.

The goal of this recommendation is not to create additional work for the public office. Instead, it is the Auditor's hope that, by maintaining all information in a central location, the response process will be streamlined, and the risk of litigation and, ultimately, liability lessened.

B. Copies of Public Records Requests

Another recommended best practice is to make copies of responses to public records requests that include redactions so you know what you have provided. These copies should be kept in accordance with your records retention schedule.

C. Other Best Practices

Other best practices recommended include the following:

- Training employees on how to handle public records requests;
- Assigning a central point of contact for your office or each division/section;
- If a request is in writing, date stamp when you receive the request;
- Notifying legal counsel when a request is received and redactions may be required;
- Acknowledging receipt of a request that requires legal review and possible redactions, include guidance on when you anticipate responding;
- Documenting when you respond to a request; and
- Addressing how long you will maintain copies of public records requests in your records retention schedule.

III. Putting the Recommendations for Best Practices to Work

A. What Does this Mean for a Public Office?

Many public offices record public records requests in some form. Additionally, many public offices have a record of what was released, the date it was released, and what, if any, redactions were made. The Auditor's recommendations for best practice simply suggest keeping all of that information in one central location.

Whether the entity's public records requests are filled by one employee or fielded by multiple staff members, the Auditor's recommendations for best practices will help ensure compliance and accuracy. Relevant employees will be able to identify duplicate or similar requests and be more efficient in the filling, redaction and response.

Finally, the Auditor's recommendations will help a public office protect itself from liability in the event of litigation. The recommended public records log would serve to demonstrate the specifics of compliance in each instance.

B. Examples

Q. I am a county auditor fulfilling a request for a copy of a map. I am providing a copy at the time the request is made and I am not making any redactions? Am I required to log this request and keep a copy?

- In this case, a copy of the map was immediately provided to the requestor so the Auditor's recommendation for maintaining a log would not apply. In addition, there were no required redactions so the Auditor's recommendation for keeping copies of the response would not apply.

Q. I am a county recorder – am I required to log all requests for copies of title records maintained by my office? My office makes these records available for inspection and copying in a public area of my office. Therefore, I fulfill these requests at the time they are requested.

- Same as above – in this case, these records are made readily available to the public. In addition, copies are immediately provided to the requestor so the Auditor's recommendation for maintaining a log would not apply.

Q. I am a school district treasurer for a very large school district – does the Auditor's recommended best practices require that my school hire an additional employee to handle all public records requests and maintain the log?

- No. Each public office handles its responsibilities under the Act a little bit differently. Some entities do employ a separate public records officer to coordinate and respond to all public records requests. Other entities have several employees, often one in each department/division, that respond to public records requests. Typically, these employees are not employed solely to respond to public records requests. Rather, this is one of several duties that the employee may have. The decision of how to utilize staff and resources is, ultimately, a management decision to be made by each entity. Utilization of the public records log will work in any environment.
- In this case, the school may want to assign a point of contact in each building to handle public records requests.

Q. I run a city building department. Do I need to log requests for applications for a permit and information submitted as part of that application? Do I need to log when I issue a permit?

- No. Requests for applications and issuances of permits are outside of the scope of logging recommendations.
- Public offices, however, may want to log requests for copies of permits if copies are not immediately provided to the requestor.

Q. What if I decide not to implement the Auditor's recommended best practices? Will the public office I represent be cited for noncompliance in an audit report?

- No. The Auditor's recommendations for best practice are not a legal requirement. Rather, they are suggestions to help a public office comply with the Act and limit risk. If a public office, however, lacks controls for compliance with public records requests; this may be noted in an audit report or management letter.

C. Court Records

Ohio courts are subject to the Rules of Superintendence for the Courts of Ohio, adopted by the Supreme Court of Ohio. The Rules of Superintendence establish rights and duties regarding court case documents and certain administrative documents, starting with the statement that "[c]ourt records are presumed open to public access." Sup. R. 45(A). While similar to the Act, the Rules of Superintendence contain additional or different provisions for these records. As such, this bulletin does not apply to courts. The Rules of Superintendence are available at the link below.
http://www.supremecourt.ohio.gov/LegalResources/Rules/superintendence/Superintendence.pdf

IV. Putting it All Together

Open Government or Public Records Hotline—888.877.7760

In seeking additional ways to aid local governments in compliance, the Auditor has established an Open Government or Public Records Hotline. This hotline is a separate telephone number that links directly to the Auditor's Open Government Unit. The hotline is available to receive complaints from any person that feels he/she has been aggrieved under the Act.

After receiving a complaint, the Auditor will notify the relevant public office that a complaint has been filed. In addition, staff in the Auditor's Open Government Unit may forward the complaint to audit staff for review during an entity's next regular audit. At that point, staff in our Open Government Unit's involvement is complete. Once notified, the public office has the ability to address the complaint. The goal of the hotline is to provide the public office with notice and the opportunity to correct any noncompliance before the onset of litigation. While we are not able to provide legal advice, we will also direct public officials to available resources to answer any questions they may have about compliance with the Act.

References:

[i] This is a general overview of Act and its requirements. For a more complete look at Ohio Public Records Law, including the rights, duties and protections provided, please consult the Ohio Sunshine Manual located at http://www.auditor.state.oh.us/publications/2016_Sunshine_Laws_Manual_(Auditor_Version).pdf

[ii] *State ex rel. Office of Montgomery Cty. Pub. Defender v. Siroki*, 108 Ohio St.3d 207, 2006-Ohio-662, at ¶16; *State ex rel. Consumer News Serv., Inc. v. Worthington City Bd. of Educ.*, 97 Ohio St.3d 58, 2002-Ohio-5311, at ¶37; see also, *State ex rel. Wadd v. City of Cleveland*, 81 Ohio St.3d 50,53, 1998-Ohio-444.

[iii] *State ex rel. Morgan v. Strickland*, 121 Ohio St.3d 600, 2010-Ohio-1901 ("Given the broad scope of the records requested, the governor's office's decision to review the records before producing them, to determine whether to redact exempt matter, was not unreasonable."); *State ex rel. Dispatch Printing Co. v. Johnson*, 106 Ohio St.3d 160, 2005-Ohio-4384, at ¶4 (delay due to "breadth of the requests and the concerns over the employees' constitutional right of privacy" was not unreasonable); *State ex rel. Consumer News Serv., Inc. v. Worthington City Bd. of Educ.*, 97 Ohio St.3d 58, 2002-Ohio-5311; *State ex rel. Stricker v. Cline* (5th Dist.), 2010-Ohio-3592 (provision of records within nine business days was a reasonable period of time to respond to a records request.); *State ex rel. Holloman v. Collins* (10th Dist.), 2010-Ohio-3034 (Assessing whether there has been a violation of the public records act, the critical time frame is not the number of days between when respondent received the public records request and when relator filed his action. Rather, the relevant time frame is the number of days it took for respondent to properly respond to the relator's public records request.).

[iv] R.C. 149.43(B)(1).

[v] R.C. 149.43(B)(3).

[vi] *See Rhodes v. New Philadelphia*, Slip Opinion No. 2011-Ohio-3279 (2011). [vii] *Id.*

(NAME OF AGENCY/DEPARTMENT/SUBDIVISION)
LOG OF PUBLIC RECORDS REQUESTS
(PERIOD OF TIME COVERED BY LOG)

	DATE RECEIVED	DATE OF RESPONSE	NAME OF REQUESTING PERSON OR ENTITY	DESCRIPTION OF RECORDS REQUESTED	COPY OF RELEASED RECORDS KEPT		EXEMPTION/ REDACTION		LEGAL AUTHORITY FOR EXEMPTION/ REDACTION	NAME OF PERSON FULFILLING REQUEST
					YES	NO	YES	NO		
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										

Attorney General's Model Public Records Policy

MODEL PUBLIC RECORDS POLICY

MISSION STATEMENT

Openness leads to a better informed citizenry, which leads to better government and better public policy. Consistent with the premise that government at all levels exists first and foremost to serve the interests of the people, it is the mission and intent of **[public office]** to at all times fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act.

DEFINING PUBLIC RECORDS

All records kept by **[public office]** are public unless they are exempt from disclosure under Ohio law. All public records must be organized and maintained in such a way that they can be made available for inspection and copying.

A record is defined to include the following: A document in any format – paper, electronic (including, but not limited to, business e-mail) – that is created, received by, or comes under the jurisdiction of **[public office]** that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

RESPONSE TIMEFRAME

Public records are to be available for inspection during regular business hours, with the exception of published holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review and redaction of the records requested.

It is the goal of **[public office]** that all requests for public records should be acknowledged in writing or, if possible, satisfied within **[X]** business days following the office's receipt of the request.

HANDLING REQUESTS

No specific language is required to make a request for public records. However, the requester must at least identify the records requested with sufficient clarity to allow the office to identify, retrieve, and review the records. If it is not clear what records are being sought, the office must contact the requester for clarification, and should assist the requester in revising the request by informing the requester of the manner in which the office keeps its public records.

The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is this office's general policy that this information is not to be requested. However, the law does permit the office to ask for a written request, the requestor's identity, and/or the intended use of the information requested, but only (1) if a written request or disclosure of identity or intended use would benefit the requestor by enhancing the office's ability to identify, locate, or deliver the public records that have been requested; and (2) after telling the requestor that a written request is not required and that the requester may decline to reveal the requestor's identity or intended use.

In processing the request, the office does not have an obligation to create new records or perform new analysis of existing information. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering, or querying. Although not required by law, the office may accommodate the requestor by generating new records when it makes sense and is practical under the circumstances.

In processing a request for inspection of a public record, an office employee must accompany the requester during inspection to make certain original records are not taken or altered.

A copy of the most recent edition of the Ohio Sunshine Laws manual is available via the Attorney General's internet website (www.ohioattorneygeneral.gov) for the purpose of keeping employees of the office and the public educated as to the office's obligations under the Ohio Public Records Act, Open Meetings Act, records retention laws and Personal Information Systems Act.

ELECTRONIC RECORDS

Records in the form of e-mail, text messaging, and instant messaging, including those sent and received via a hand-held communications device (such as a Blackberry) are to be treated in the same fashion as records in other formats, such as paper or audiotape.

Public record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of this office are required to retain their e-mail records and other electronic records in accordance with applicable records retention schedules.

DENIAL OR REDACTION OF RECORDS

If the requester makes an ambiguous or overly broad request or has difficulty in making a request for public records, the request may be denied, but the denial must provide the requester an opportunity to revise the request by informing the requester of the manner in which records are maintained and accessed by the office.

Any denial of public records requested must include an explanation, including legal authority. If the initial request was made in writing, the explanation must also be in writing. If portions of a record are public and portions are exempt, the exempt portions may be redacted and the rest released. When making public records available for public inspection or copying, the office shall notify the requestor of any redaction or make the redaction plainly visible. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

COPYING AND MAILING COSTS

Those seeking public records may be charged only the actual cost of making copies, not labor. The charge for paper copies is **[X]** cents per page. The charge for electronic files downloaded to a compact disc is **[X]** per disc.

A requester may be required to pay in advance for costs involved in providing the copy. The requester may choose whether to have the record duplicated upon paper, upon the same medium in which the public record is kept, or upon any other medium on which the office determines that the record can reasonably be duplicated as an integral part of the office's normal operations.

If a requester asks that documents be mailed, he or she may be charged the actual cost of the postage and mailing supplies. There is no charge for documents e-mailed.

MANAGING RECORDS

[Public office] records are subject to records retention schedules. The office's current schedules are available at **[location]**, a location readily available to the public as required by §149.43(B)(2), Ohio Revised Code.

AGREED UPON PROCEDURES FOR TOWNSHIP AUDIT CLIENTS

Beginning with audit periods ending December 31, 2009, the Auditor of State began implementing agreed-upon procedures for townships that meet certain criteria and that historically have had clean audits. We believe that within the parameters described below, agreed-upon procedures can reduce audit costs for these townships while continuing to provide accountability for the public moneys they receive and expend.

Under the revised policy, townships that meet the criteria in the attached checklist may be eligible for agreed-upon procedures over receipts and disbursements of public funds and legal compliance. Eligibility will be determined by the Regional Chief Auditor. The agreed-upon procedures will be performed under the American Institute of Certified Public Accountants' attestation standards and applicable attestation engagement standards included in the Comptroller General of the United States' *Government Auditing Standards*.

Under the new policy, a township may not go more than two audit cycles without having a financial statement audit performed in accordance with auditing standards. In other words, if a township meets the criteria for agreed-upon procedures for two consecutive audit cycles, the third cycle would require a financial statement audit. Then, assuming the township continued to meet the criteria, it could return to agreed-upon procedures in the subsequent cycle.

It is possible that agreed-upon procedures may not meet the needs of each township. An individual township that otherwise meets the eligibility criteria may determine that a financial statement audit is more beneficial to its citizens, or it may have a grant, bylaws, or other agreement that require a financial statement audit. It is the responsibility of each township to examine its agreements and determine if a financial statement audit is required. The township should notify its regional office of the Auditor of State if a financial statement audit is needed or desired and does not want to be considered for agreed-upon-procedures.

All townships should continue to file their annual financial statements with the Auditor of State's Local Government Services section, as required by law and described in AOS Bulletin 2008-001. Moreover, for any eligible township already contracted with an Independent Public Accountant (IPA), the Auditor of State, IPA, and management should work together to revise the contract and Memorandum of Agreement to reflect performing agreed-upon procedures.

If you have any questions regarding this policy, please contact the AOS Accounting and Auditing Support Group at (800) 282-0370.

Eligibility Checklist for Agreed-Upon Procedures
(Pursuant to Audit Bulletin 2009-012)

Audit Bulletin 2009-012 provides that certain public offices meeting specific criteria may choose to have agreed-upon procedures performed, as an alternative to an audit conducted in accordance with standards. This form is to be used to assess the eligibility of a client based on the criteria established by the Auditor of State, although the final determination of eligibility is to be made by the Chief of the AOS Region in which the public office is located, subject to the approval of the AOS Accounting & Auditing Support Group.

Client Name: _____

County: _____

Audit Period(s): _____

Audit Region: _____

Assessment Performed By: _____

Date: _____

1. Eligible Client Type – Please see the attached list of AOS client types. Is this client one of the client types that is potentially eligible for agreed-upon procedures?

   ☐ **Yes →** Go to question 2.

   ☐ **No →** The client is not eligible for agreed-upon procedures.

2. Cyclical Audit Requirements – Has the client had a financial audit performed within the prior two audit cycles?

   ☐ **Yes →** Go to question 3.

   ☐ **No →** The client is not eligible for agreed-upon procedures.

3. Stability of Fiscal Officer – Did the client experience turnover in its fiscal officer position during the audit period in question?

   ☐ **Yes →** The client is not eligible for agreed-upon procedures.

   ☐ **No →** Go to question 4.

4. Accounting Basis – Are the client's financial statements prepared on either a cash or modified cash basis? (The AOS Regulatory or OCBOA presentation is acceptable.)

   ☐ **Yes →** Go to question 5.

   ☐ **No →** The client is not eligible for agreed-upon procedures.

5. Higher Risks Noted in Prior Audit – In its most recent financial audit, did the client experience any of the following disqualifying factors:

   ☐ **Qualified opinion →** The client is not eligible for agreed-upon procedures.

   ☐ **Declared unauditable →** The client is not eligible for agreed-upon procedures.

   ☐ **Findings for adjustment →** The client is not eligible for agreed-upon procedures.

   ☐ **Findings for recovery that indicate fraud or theft in office →** The client is not eligible for agreed-upon procedures.

   ☐ **Findings related to material control weaknesses →** The client is not eligible for agreed-upon procedures.

   ☐ **Failure to demonstrate a minimal level of compliance with budgetary law →** The client is not eligible for agreed-upon procedures.

   Note: This assessment requires professional judgment, but contributing factors to a lack of compliance with budgetary law would include the following:
   - Failure to adopt or establish appropriations.
   - Reported negative unencumbered cash balances in multiple funds.
   - Material expenditures exceeding appropriations in multiple funds.

   ☐ **None of the above →** Go to question 6.

6. Other Factors Increasing Risk – Do any of the following apply to the client:

   ☐ **Under investigation by SIU or otherwise at high risk of fraud →** The client is not eligible for agreed-upon procedures.

   ☐ **Fiscal emergency →** The client is not eligible for agreed-upon procedures.

   ☐ **Outstanding audit fees in excess of 120 days →** The client is not eligible for agreed-upon procedures.

   ☐ **None of the above →** Go to question 7.

7. Size of Budget – Do the client's annual budgeted expenditures exceed $1 million?

   ☐ **Yes →** The client is not eligible for agreed-upon procedures.

   ☐ **No →** Go to question 8.

8. Other Audit Requirements – Is the client required to have an audit under the Single Audit Act, or provisions of any other law or grant, bylaws, or debt covenant, etc.?

   ☐ **Yes →** The client **is not** eligible for agreed-upon procedures.

   ☐ **No →** The client **is** eligible for agreed-upon procedures.

Note to AOS Regional Chiefs: Although this form is to be used to assess a government's eligibility for agreed-upon procedures, the Auditor of State does retain discretion over eligibility if the Regional Chief determines that a specific client meets the spirit of the policy, despite a failure to meet all criteria. In such a case, should you determine that agreed-upon procedures would provide the same level of accountability as if the client had met all of the eligibility criteria, you may request a waiver authorizing the agreed-upon procedures. If you wish to request such a waiver, for the above-referenced client, please briefly describe your reasons below, ***specifically addressing any and all eligibility criteria that the client does not meet***, and submit this form to the Accounting & Auditing Support Group for approval.

Waiver Requested by AOS Regional Chief _____ Date _____

☐ **Waiver Approved**

☐ **Waiver Denied**

Signature of A&A Representative _____ Date _____

AOS Client Entity Types

Potentially Eligible Clients
• Agricultural Societies
• County Boards of Health
• Cemeteries
• Conservancy Districts
• Family & Children First Councils
• Fire & Ambulance Districts
• Libraries
• Others (Eligibility determined on a case by case basis)
• Park / Recreation Districts
• Regional Planning Commissions
• Solid Waste Districts
• Townships
• Villages
• Water and Sewer Districts

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APPENDIX III

GUIDELINES FOR PREPARING BUDGETS

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GUIDELINES FOR PREPARING BUDGETS

	WHEN	WHO	WHAT
1.	March or early April	Taxing Authority or Chief Executive	Should instruct the head of each department, board, or commission to prepare an estimate of contemplated revenue and expenditures for the ensuing fiscal year and file the same with him before June 1st, pursuant to the provisions of O.R.C. 5705.28.
2.	First Monday in May	The Fiscal Officer	Shall certify to the taxing authority the amount necessary to provide for the payment of final judgments. O.R.C. 5705.08.
3.	June 1st	Department Heads, Boards, Commissions	Shall file with the taxing authority or executive officer their respective estimates of contemplated revenue and expenditures for the ensuing fiscal year. O.R.C. 5705.28.
4.	June 15th	The Fiscal Officer or Executive Officer	Should present a budget in its tentative form to the taxing authority for its consideration and study.
5.	Ten days before its adoption	Board of Trustees	Shall file two copies of the budget in the office of the fiscal officer for public inspection and provide for at least one public hearing thereon. O.R.C. 5705.30.
6.	Ten days prior to the date of the public hearing	Board of Trustees	Shall cause public notice to be given of such hearing by at least one publication in the official publication or in a newspaper of general circulation in the taxing district. O.R.C. 5705.30.

7.	July 15th	Board of Trustees	Shall adopt a tax budget for the next succeeding fiscal year. O.R.C. 5705.28.
8.	July 20th in each year, or at such later time as prescribed by the tax commissioner	Board of Trustees	After adopting the budget shall submit the same to the county auditor, who shall place in the filing date stamp thereon. The auditor shall thereafter permit no one to amend such budget by either adding to it or deleting.

NOTE:
The following language has been added to O.R.C. 5705.30 to deny any share in the undivided local government fund to any subdivision if the budget has not been filed before July 20th, unless one of the exceptions provided in the statutes applies:

> "Any subdivision that fails to submit its budget to the County Auditor on or before the twentieth day of July, unless the tax commissioner on or before the twentieth day of July prescribes a later date for submission of the budget by that subdivision, shall not receive an apportionment from the undivided local government fund distribution for the ensuing calendar year, unless upon review of the matter the commissioner determines that the budget was adopted by the subdivision on or before the fifteenth day of July, but was not submitted to the County Auditor by the twentieth day of July or the later time prescribed by the tax commissioner because of ministerial error by the subdivision or its officers, employees, or other representatives".

9.	First Monday in August	County Budget Commission	Shall consist of three members, the County Auditor, the County Treasurer, and the County Prosecuting Attorney. The commission shall meet at the office of the County Auditor in each county on the first Monday in August, annually, and shall complete its work on or before the first day of September annually, unless for good cause the tax commissioner extends the time for completing its work. O.R.C. 5705.27.
		County Auditor	Shall be secretary of the commission and shall keep full and accurate record of all proceedings. O.R.C. 5705.27.

10.	First Monday in August or time as extended by the Tax Commissioner	County Auditor	At the meeting shall present to the budget commission the annual budget submitted to him, together with an estimate of the amount of any state levy, the rate of any school tax levy as previously determined and such other information as required by the commission or prescribed by the tax commissioner. O.R.C. 5705.31.
		County Budget Commission	At the August meeting shall perform the following duties: A) Examine all budgets. O.R.C. 5705.31. B) Ascertain the total amount to be raised in the County for the purpose of each subdivision or other taxing unit therein. O.R.C. 5705.31. C) Approve all levies in excess of the ten mill limitation, all levies for debt charges not provided for by levies in excess of the ten mill limitation, and if debt charges are omitted, the commission shall include them. O.R.C. 5705.31. D) Ascertain and approve firemen's pension fund and police relief fund levies. (O.R.C. 741.09 - 741.40), minimum guaranteed levies, O.R.C. 5705.31, Par. D, and general health district levies. (O.R.C. 3709.28) O.R.C. 5705.31. E) Shall revise and adjust the estimate of balances and receipts from all sources to each fund and shall determine the total appropriation that may be made there from. O.R.C. 5705.32.

			F) May fix the amount of proceeds of classified property taxes, collected within the county, to be distributed to each board of public library trustees under O.R.C. 5705.28 board of township park commissioners, municipal corporation and county. O.R.C. 5705.32. G) Before the final determination of the amount to be allotted to each subdivision from any source, the commission shall permit representatives of each subdivision and of each board of public library trustees to appear before it to explain its financial needs. O.R.C. 5705.32. The pertinent part of O.R.C. 5747.51(B) reads as follows: "The commission after extending to the representative of each subdivision an opportunity to be heard, under oath administered by any member of the commission, and considering all the facts and information presented to it by the auditor, shall determine the amount of the undivided local government fund needed by and to be apportioned to each subdivision for current operation expenses, as shown in the tax budget of the subdivision". O.R.C. 5747.51(B).
11.	When Revision of the budget is complete	County Budget Commission	On or before the first day of September shall certify its action to the taxing authority in the form of a summary known as the "official certificate of estimated resources" attached to the copy of the budget returned to the taxing authority. O.R.C. 5705.34 and 5705.35.

12.	When Revision of the budget is complete	County Auditor	Furnishes each taxing authority with an estimate of the rate of each tax necessary to be levied. O.R.C. 5705.34.
13.	Upon Receipt of the "Official Certificate of Estimated Resources"	Board of Trustees	Has several alternatives at this point. They may: A) Accept the budget commission's decision and certify the levy to the county auditor by October 1st, unless extended by the tax commissioner. O.R.C. 5705.34. B) Appeal any action to the Board of Tax Appeals within 30 days after receipt of an official certificate or notice through the fiscal officer or the clerk in the case of a library board. The finding of the board shall be substituted for the findings of the budget commission O.R.C. 5705.37. C) If revenues available are insufficient, reduce their proposed expenditures in accordance with the anticipated revenues. or Adopt a resolution to levy an additional tax to be certified to the board of elections, not less than 60 days before the election upon which it will be voted. O.R.C. 5705.19. If levy is approved and the resolution specified that such additional tax is to be placed upon the tax list of the current year, the taxing authority, after certification of the board of elections, shall make the levy and certify it to the County Auditor, who shall extend it on the tax list for collection. O.R.C. 5705.25.

14.	After results of elections are fully canvassed	Budget Commission	Revised action on budget of subdivision on whose behalf the tax is levied. O.R.C. 5705.34.
15.	On or about January 1st	Fiscal Officer	Certify to the County Auditor on or before January 1st the amount available for expenditures in each fund in the tax budget, with year-end balance. O.R.C. 5705.36. Unexpended balances at year-end for unliquidated obligations may not be included in amount available for expenditure in subsequent fiscal year. O.R.C. 5705.40.
16.	On or about January 1st	Budget Commission	Revise estimate of resources and certify to taxing authority. O.R.C. 5705.36.
17.	On or about January 1st	Board of Trustees	Appropriation measure to be adopted. O.R.C. 5705.38.
18.	Not later than April 1st	Board of Trustees	Permanent appropriation to be adopted. In form prescribed by the bureau. O.R.C. 5705.38.
19.	In adoption of appropriations	Auditor; Board of Trustees	A) Appropriations may not exceed certified estimated resources. B) Appropriations not effective until auditor files with appropriating authority certificate that total appropriations do not exceed amended official certificate. C) Appropriations from fund shall be made only for purpose for which fund was established. O.R.C. 5705.39.

20.	In amending appropriations	Board of Trustees; Budget Commission	A) Amended appropriations may not be reduced below the amount to cover unliquidated and outstanding contracts or obligations certified against appropriation. B) Intra-Fund transfers (amended appropriations) require taxing authority approval. O.R.C. 5705.40. C) Supplemental appropriations due to new or unexpected revenues require amended official certificate of estimated resources from budget commission to reflect such revenue. O.R.C. 5705.36.

TAX BUDGET

Township of _____,

_____ County, Ohio,

_____, _____
(date)

This Budget must be adopted by the Board of Trustees body on or before July 15th, and two copies must be submitted to the County Auditor on or before July 20th. FAILURE TO COMPLY WITH SEC. 5705.30 R.C. SHALL RESULT IN LOSS OF LOCAL GOVERNMENT FUND ALLOCATION.

To the Auditor of said County:

The following Budget for the fiscal year beginning January 1, _____, has been adopted by the Board of Trustees of _____, and is herewith submitted for consideration of the County Budget Commission.

Township Fiscal officer _____

SCHEDULE A

SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET COMMISSION AND COUNTY AUDITOR'S ESTIMATED TAX RATES

COUNTY AUDITOR'S ESTIMATED TAX VALUATION $_____

	FOR TOWNSHIP USE	FOR BUDGET COMMISSION USE		FOR COUNTY AUDITOR'S USE	
FUND	Total Amount Requested (Per Tax Budget)	Amount Approved By Budget Commission Inside 10 Mill Limit	Amount Approved By Budget Commission Outside 10 Mill Limit	County Auditor's Estimate of Tax Rate To Be Levied	
				Inside 10 Mill Limit	Outside 10 Mill Limit
	Column I	Column II	Column III	IV	V
General Fund					
Road and Bridge Fund					
Fire District Fund					
Sinking Fund					
Permanent Improvement Fund					
Trust Fund					
TOTAL					

Budget Continued . . .

SCHEDULE B

For County Budget Commission Only

LEVIES OUTSIDE 10 MILL LIMITATION, EXCLUSIVE OF DEBT LEVIES

Authority For & Purpose of Levy	Date of Vote	Tax Year		Maximum Rate Authorized To Be Levied	Reduced Rate Per O.R.C. 5705.261	County Auditor's Estimate of Yield of Levy	
		Levy Begins	Levy Ends				

EXHIBIT 1

Comparative and Estimated Receipts, Disbursements and Balances

GENERAL FUND	For _____ Actual		For _____ Actual		Current Year Estimated For _____		Budget Year Estimated For _____	
GENERAL FUND C REVENUES								
BALANCE JANUARY 1ST								
TAXES REVENUES:								
Taxes - Real Estate								
Taxes - Personal Property								
Taxes - Other								
CHARGES FOR SERVICES								
LICENSES, PERMITS AND FEES								
FINES AND FORFEITURES								
INTERGOVERNMENTAL RECEIPTS:								
Local Government Distribution								
Estate Tax								
RHPE								
SPECIAL ASSESSMENTS								
INTEREST								
OTHER REVENUE								
TOTAL REVENUES								
TOTAL REVENUES AND BALANCE								

GENERAL FUND	For _____ Actual		For _____ Actual		Current Year Estimated For _____		Budget Year Estimated For _____	
GENERAL FUND - EXPENDITURES								
GENERAL GOVERNMENT:								
Personal Services								
Other								
PUBLIC SAFETY:								
Personal Services								
Other								
PUBLIC WORKS:								
Personal Services								
Other								
HEALTH:								
Personal Services								
Other								
HUMAN SERVICES:								
Personal Services								
Other								
CONSERVATION/ RECREATION:								
Personal Services								
Other								
MISCELLANEOUS:								
Personal Services								
Other								
CAPITAL OUTLAY:								
Personal Services								
Other								

GENERAL FUND	For _____ Actual		For _____ Actual		Current Year Estimated For _____		Budget Year Estimated For _____	
GENERAL FUND - EXPENDITURES								
DEBT SERVICE:								
Principal								
Interest and Fiscal Charges								
TOTAL EXPENDITURES								

GENERAL FUND	For _____ Actual		For _____ Actual		Current Year Estimated For _____		Budget Year Estimated For _____	
GENERAL FUND - OTHER FINANCING SOURCES & USES								
OTHER FINANCING SOURCES & USES:								
Proceeds of Bonds								
Proceeds of Notes								
Transfers In								
Advances In								
Other Financing Sources								
Transfers Out								
Advances Out								
Contingencies								
Other Financing Uses								
TOTAL OTHER FINANCING SOURCES & USES								
BALANCE DECEMBER 31,								
Less: Encumbrances								
UNENCUMBERED BALANCE DECEMBER 31,								

EXHIBIT 1 (Continued)

Comparative and Estimated Receipts, Disbursements and Balances

_____ FUND	For _____ Actual		For _____ Actual		Current Year Estimated For _____		Budget Year Estimated For _____	
_____ FUND C REVENUES								
BALANCE JANUARY 1ST								
TAXES REVENUES:								
Taxes - Real Estate								
Taxes - Personal Property								
Taxes - Other								
CHARGES FOR SERVICES								
LICENSES, PERMITS AND FEES								
FINES AND FORFEITURES								
INTERGOVERNMENTAL RECEIPTS:								
Local Government Distribution								
Estate Tax								
RHPE								
SPECIAL ASSESSMENTS								
INTEREST								
OTHER REVENUE								
TOTAL REVENUES								
TOTAL REVENUES AND BALANCE								

_____ FUND	For _____ Actual		For _____ Actual		Current Year Estimated For _____		Budget Year Estimated For _____	
_____ FUND - EXPENDITURES								
GENERAL GOVERNMENT:								
Personal Services								
Other								
PUBLIC SAFETY:								
Personal Services								
Other								
PUBLIC WORKS:								
Personal Services								
Other								
HEALTH:								
Personal Services								
Other								
HUMAN SERVICES:								
Personal Services								
Other								
CONSERVATION/ RECREATION:								
Personal Services								
Other								
MISCELLANEOUS:								
Personal Services								
Other								
CAPITAL OUTLAY:								
Personal Services								
Other								

_____ FUND	For _____ Actual		For _____ Actual		Current Year Estimated For _____		Budget Year Estimated For _____	
_____ FUND - EXPENDITURES								
DEBT SERVICE:								
Principal								
Interest and Fiscal Charges								
TOTAL EXPENDITURES								

_____ FUND	For _____ Actual		For _____ Actual		Current Year Estimated For _____		Budget Year Estimated For _____	
_____ FUND - OTHER FINANCING SOURCES & USES								
OTHER FINANCING SOURCES & USES:								
Proceeds of Bonds								
Proceeds of Notes								
Transfers In								
Advances In								
Other Financing Sources								
Transfers Out								
Advances Out								
Contingencies								
Other Financing Uses								
TOTAL OTHER FINANCING SOURCES & USES								
BALANCE DECEMBER 31,								
Less: Encumbrances								
UNENCUMBERED BALANCE DECEMBER 31,								

Exhibit 2

Inside Debt, General Bonds and Notes as of January 1st of Coming Year
Requirements of Bond Retirement Fund

Purpose of Bonds and Notes Payable From Tax Levies Outside 10 Mill Limit	Ordi-nance/ Reso-lution Number	Date Due	Rate of Interest	Amount of Bonds and Notes Outstanding Jan. 1st (1)		Amount Required for Principal (2)*		Amount Required for Interest (3)*		Total Amount Required for Principal and Interest (4)*	
Payable From Bond Retirement Fund											
Serial Bonds and Notes											
ISSUED:											
SUBTOTAL											
Proposed:											
TOTAL (Carry total of Columns 2 and 3 to Bond Retirement Fund, Exhibit 1)											
*Exclude any amount of principal and interest requirements being met from special assessments, user charges, or other non-property tax sources.											

Exhibit 2 (Continued)

Inside Debt, General Bonds and Notes as of January 1st of Coming Year
Requirements of Bond Retirement Fund

Purpose of Bonds and Notes Payable From Tax Levies Outside 10 Mill Limit	Ordi-nance/ Reso-lution Number	Date Due	Rate of Interest	Amount of Bonds and Notes Outstanding Jan. 1st (1)		Amount Required for Principal (2)*		Amount Required for Interest (3)*		Total Amount Required for Principal and Interest (4)*	
Payable From Bond Retirement Fund											
Serial Bonds and Notes											
ISSUED:											
SUBTOTAL											
Proposed:											
TOTAL (Carry total of Columns 2 and 3 to Bond Retirement Fund, Exhibit 1)											
*Exclude any amount of principal and interest requirements being met from special assessments, user charges, or other non-property tax sources.											

Exhibit 3

Amounts Requested From General Property Tax and Estimated Tax Rates
City/Village of _____ fiscal officer's estimated tax value $_____

Fund	Total Amount Requested	Estimate Amount to be Derived from Levies Outside the 10 Mill Limit	Estimated Amount Requested Inside the 10 Mill Limit	Municipal Estimate of Tax Rates to be Levied	
				Inside 10 Mill Limit	Outside 10 Mill Limit
	Column I	Column II	Column III	IV	V
General Fund					
Bond Retirement Fund					
Road and Bridge					
Total					

Proposed Tax Levies

Purpose	Date of Vote	Tax Rate to be Levied (In Mills)	Estimated Yield of Levy, Budget Year (Dollar Amount)	Tax year to Begin	Number of Years

Tax Levies and Rates For _____
(May be filled in by local fiscal officer - Memorandum entry only)

Governmental Unit	Amount Approved By Budget Commission			County Auditor's Estimate of Rate, In Mills		
	Inside 10 Mill Limit	Outside 10 Mill Limit	Total	Inside	Outside	Total
County						
Township						
School						
City or Village of _____						
Other						
Total						

CERTIFICATE OF THE COUNTY BUDGET COMMISSION

The Budget Commission of _____ County, Ohio, hereby makes the following official certificate of estimated resources for the Township of _____, for the fiscal year beginning January 1, _____.

FUND	Unencumbered Balance January 1st, _____		Property Tax		Other Sources		Total	
General Fund								
Road and Bridge Fund								
Fire District Fund								
Sinking Fund								
Permanent Improvement Fund								
Trust Fund								
TOTAL								

The Budget Commission further certifies that its action on the foregoing budget and the County Auditor's estimate of the rate of each tax necessary to be levied within and without the 10 mill limitation is set forth in the proper columns of the preceding pages and the total amount approved for each fund must govern the amount of appropriation from such fund.

Date _____ _____ Budget Commission
_____

COUNTY AUDITOR'S ESTIMATE

TAX LEVIES AND RATES FOR _____, IN TOWNSHIP

TAX VALUATION $

GOVERNMENTAL UNIT	Amount Approved By Budget Commission						County Auditor's Estimate of Rate, In Mills		
	Inside 10 Mill Limit		Outside 10 Mill Limit		Total		Inside	Outside	Total
County									
Township									
School									
Municipality									
Other									
Total									

CERTIFICATE OF
YEAR END BALANCES

Certificate of the Total Amount From All Sources Available
For Expenditures, and Balances
(Rev. Code, Sec. 5705.36)

From the :_____ _____County
_____, Ohio, as of _____, _____

To the County Auditor of said County:

The following is the total amount from all sources available for expenditure for all funds as set up in the tax budget (shown in the fiscal officer ledgers if no tax budget was required under 5705.281) that exist at the end of the fiscal year.

Fund Types	Cash Balance 12/31/_____	Encumbrances 12/31/_____	Reserve Balance Accounts	Advances Not Repaid	Carryover Balance Available For Appropriations	Total Estimated Revenue From All Sources	Total Carryover Balance Plus Estimated Resources
Governmental Fund Types							
General Fund							
Special Revenue							
Debt Service							
Capital Projects							
Permanent							
Proprietary Fund Types							
Enterprise							
Internal Service							
Fiduciary Fund Type							
Private Purpose Trust							
Total All Funds (Excluding Agency)							

Fund Types	Cash Balance 12/31/	Encumbrances 12/31/_____	Reserve Balance Accounts	Advances Not Repaid	Carryover Balance Available For Appropriations	Total Estimated Revenue From All Sources	Total Carryover Balance Plus Estimated Resources
Governmental Fund Types							
General Fund							
1000 General Fund							
Special Revenue Fund							
2011 Motor Vehicle License Tax							
2021 Gasoline Tax							
2031 Road and Bridge							
2041-2069 Cemetery Funds							
2071-2079 Garbage and Waste Dist.							
2081-2109 Police District							
2111-2139 Fire District							
2141-2169 Road District							
2171-2180 Park Levy							
2181-2189 Zoning Funds							
2191-2219 Special Levy Funds							
2221 Drug Law Enforcement							
2231 Permissive Motor Veh. Lic. Tax							
2241 Permissive Sales Tax							
2901-2999 Misc. Special Revenue							
Total Special Revenue Funds							

Fund Types	Cash Balance 12/31/_____	Encumbrances 12/31/_____	Reserve Balance Accounts	Advances Not Repaid	Carryover Balance Available For Appropriations	Total Estimated Revenue From All Sources	Total Carryover Balance Plus Estimated Resources
Debt Service Funds							
3101-3199 General (Bond/Note) Ret.							
3201-3299 Sinking Funds							
3301-3399 Special Assessment							
3901-3999 Miscellaneous Debt Serv.							
Total Debt. Service Funds							
Capital Service Funds							
4101-4199 Bond Funds							
4201-4299 Capital Equipment							
Note: Capital Equipment Funds Should							
not be in use after 1998							
4301-4399 Permanent Improvement							
4401-4499 Public Works Comm. Proj.							
4501-4599 Special Assess. Funds							
4901-4999 Misc. Capital Projects Funds							
Total Capital Projects Funds							

Fund Types	Cash Balance 12/31/_____	Encumbrances 12/31/_____	Reserve Balance Accounts	Advances Not Repaid	Carryover Balance Available For Appropriations	Total Estimated Revenue From All Sources	Total Carryover Balance Plus Estimated Resources
Permanent Fund Types							
4951-4999 Permanent Funds							
Total Permanent Funds							
Proprietary Fund Types							
Enterprise Funds							
5001-5999 Enterprise Funds							
Total Enterprise Funds							
Internal Service Funds							
6001-6999 Internal Service Funds							
Total Internal Service Funds							
Fiduciary Funds							
9751-9999 Private Purpose Trust Funds							
Total Fiduciary Funds							
Total All Funds (Excluding Agency)							

AMENDED OFFICIAL CERTIFICATE OF ESTIMATED RESOURCES

AMENDED OFFICIAL CERTIFICATE OF ESTIMATED RESOURCES
(Rev. Code, Sec. 5705.36)

To the Trustee of the Township of _____:

The following is the amended official certificate of estimated resources for the fiscal year beginning January 1st, _____, as revised by the Budget Commission of said County, which shall govern the total of appropriations made at any time during such fiscal year:

Fund Types	Unencumbered Balance 1/1/_____	Taxes	Other Sources	Total
Governmental Fund Types				
General				
Special Revenue				
Debt Service				
Capital Projects				
Permanent				
Proprietary Fund Types				
Enterprise				
Internal Service				
Fiduciary Fund Types				
Private Purpose Trust				
Total (Excluding Agency)				

Signed: _____

_____ Budget Commission

_____

Fund Types	Unencumbered Balance 1/1/_____	Taxes	Other Sources	Total
Governmental Fund Types				
General Fund				
1000-General				
Special Revenue Funds				
2011-Motor Vehicle License Tax Fund				
2021-Gasoline Tax Fund				
2031-Road and Bridge Fund				
2221-Drug Law Enforcement Fund				
Total Special Revenue Funds				
Debt Service Funds				
3101-General Obligation Bonds				
3301 Special Assess. Bond Retirement				
Total Debt Service Funds				
Capital Project Funds				
Total Capital Project Funds				
Permanent Funds				
Total Permanent Funds				
Proprietary Fund Types				
Enterprise Funds				
Total Enterprise Funds				
Internal Service Funds				

Fund Types	Unencumbered Balance 1/1/_____	Taxes	Other Sources	Total
Total Internal Service Funds				
Fiduciary Fund Types				
Private Purpose Trust Funds				
Total Private Purpose Trust Funds				
Total - All Funds (Excluding Agency)				

ANNUAL APPROPRIATIONS

TOWNSHIP ANNUAL APPROPRIATION RESOLUTION

The Board of Trustees of _____ Township, in _____ County, Ohio, met in _____ session on the _____ day of _____, 20__, at the office of _____ with the following members present:

_____ moved the adoption of the following Resolution:

BE IT RESOLVED by the Board of Trustees of _____ Township, _____ County, Ohio, that to provide for the current expenses and other expenditures of said Board of Trustees, during the fiscal year ending December 31, 20 ____, the following sums be and the same are hereby set aside and appropriated for the several purposes for which expenditures are to be made for and during said fiscal year, as follows, viz:

_____ seconded the Resolution and the roll being called upon its adoption the vote resulted as follows:

Adopted _____, 20

_____

Township Fiscal Officer

TOWNSHIP ANNUAL APPROPRIATIONS

GENERAL FUND

General Government

Administrative

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Townhalls, Memorial Buildings and Grounds

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Zoning

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL GENERAL GOVERNMENT **$0.00**

That there be appropriated for PUBLIC SAFETY:

Public Safety

Police Protection

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Fire Protection

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Emergency Medical Services

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Civil Defense

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL PUBLIC SAFETY **$0.00**

That there be appropriated for PUBLIC WORKS:

Public Works

Lighting

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Sanitary Dumps

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Highways

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL PUBLIC WORKS **$0.00**

That there be appropriated for HEALTH:

Health

Cemeteries

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Health Districts

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Underground Storage Tanks

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL HEALTH **$0.00**

That there be appropriated for HUMAN SERVICES**:**

Human Services

Human Services

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL HUMAN SERVICES **$0.00**

That there be appropriated for CONSERVATION-RECREATION:

Conservation - Recreation

Parks and Recreation

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL CONSERVATION - RECREATION **$0.00**

That there be appropriated for MISCELLANEOUS**:**
Miscellaneous

Personal Services	**$** _____	
Employee Fringe Benefits	**$** _____	
Purchased Services	**$** _____	
Supplies and Materials	**$** _____	
Other	**$** _____	
Capital Outlay	**$** _____	
Debt Service	**$** _____	
Other Financing Uses	**$** _____	
TOTAL MISCELLANEOUS		**$0.00**

That there be appropriated for CAPITAL OUTLAY:
Capital Outlay

Land	**$** _____	
Buildings	**$** _____	
Improvement of Sites	**$** _____	
Machinery, Equipment and Furniture	**$** _____	
Motor Vehicles	**$** _____	
Other Capital Outlay	**$** _____	
TOTAL CAPITAL OUTLAY		**$0.00**

That there be appropriated for DEBT SERVICE:
Debt Service

Principal Payments - Bonds	**$** _____	
Principal Payments - Notes	**$** _____	
Interest Payments	**$** _____	
Fiscal Changes	**$** _____	
TOTAL DEBT SERVICE		**$0.00**

That there be appropriated for OTHER FINANCING USES:
Other Financing Uses

Operating Transfers Out	**$** _____	
Advances Out	**$** _____	
Contingencies	**$** _____	
Other Financing Uses	**$** _____	
TOTAL OTHER FINANCING USES		**$0.00**
TOTAL GENERAL FUND		**$0.00**

_____ FUND

General Government

Administrative

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Townhalls, Memorial Buildings and Grounds

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Zoning

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL GENERAL GOVERNMENT **$0.00**

That there be appropriated for PUBLIC SAFETY:

Public Safety

Police Protection

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Fire Protection

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Emergency Medical Services

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Civil Defense

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL PUBLIC SAFETY **$0.00**

That there be appropriated for PUBLIC WORKS:

Public Works

Lighting

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Sanitary Dumps

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Highways

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL PUBLIC WORKS **$0.00**

That there be appropriated for HEALTH:

Health

Cemeteries

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Health Districts

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Underground Storage Tanks

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL HEALTH **$0.00**

That there be appropriated for HUMAN SERVICES:

Human Services

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL HUMAN SERVICES **$0.00**

That there be appropriated for CONSERVATION-RECREATION:

Conservation - Recreation

Parks and Recreation

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

Other

Personal Services	**$** _____
Employee Fringe Benefits	**$** _____
Purchased Services	**$** _____
Supplies and Materials	**$** _____
Other	**$** _____
Capital Outlay	**$** _____
Debt Service	**$** _____
Other Financing Uses	**$** _____

TOTAL CONSERVATION - RECREATION **$0.00**

That there be appropriated for MISCELLANEOUS:
Miscellaneous

Personal Services	**$** _____	
Employee Fringe Benefits	**$** _____	
Purchased Services	**$** _____	
Supplies and Materials	**$** _____	
Other	**$** _____	
Capital Outlay	**$** _____	
Debt Service	**$** _____	
Other Financing Uses	**$** _____	
TOTAL MISCELLANEOUS		**$0.00**

That there be appropriated for CAPITAL OUTLAY:
Capital Outlay

Land	**$** _____	
Buildings	**$** _____	
Improvement of Sites	**$** _____	
Machinery, Equipment and Furniture	**$** _____	
Motor Vehicles	**$** _____	
Other Capital Outlay	**$** _____	
TOTAL CAPITAL OUTLAY		**$0.00**

That there be appropriated for DEBT SERVICE:
Debt Service

Principal Payments - Bonds	**$** _____	
Principal Payments - Notes	**$** _____	
Interest Payments	**$** _____	
Fiscal Changes	**$** _____	
TOTAL DEBT SERVICE		**$0.00**

That there be appropriated for OTHER FINANCING USES:
Other Financing Uses

Operating Transfers Out	**$** _____	
Advances Out	**$** _____	
Contingencies	**$** _____	
Other Financing Uses	**$** _____	
TOTAL OTHER FINANCING USES		**$0.00**
TOTAL _____ FUND		**$0.00**
GRAND TOTAL OF ANNUAL APPROPRIATIONS FOR ALL FUNDS		**$0.00**

THE STATE OF OHIO, _____ **COUNTY**,

I, _____ Township Fiscal Officer of

_____ Township, in

County, Ohio, and in whose custody the Files, Journal, and Records of said Board are required by the Laws of the State of Ohio to be kept, do hereby certify that the foregoing **Annual Appropriation Resolution** is taken and copied from the original Resolution now on file with said Board, that the foregoing Resolution has been compared by me with the said original and that the same is a true and correct copy thereof.

WITNESS my signature, this _____ day of _____, 20_____.

_____

ANNUAL APPROPRIATION RESOLUTION
BOARD OF TOWNSHIP TRUSTEES

_____ Township,

_____ County, Ohio.

Passed _____, 20____

For the Fiscal Year Ending
December 31, 20_____

Filed _____, 20___

_____
County Auditor

By _____
Deputy

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APPENDIX IV

TOWNSHIP SAMPLE NUMERIC AND ALPHANUMERIC FUND AND ACCOUNT CODES

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SAMPLE NUMERIC CODES

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SAMPLE NUMERIC CODES
Numeric Fund Codes

GOVERNMENTAL FUNDS

Fund Number	Fund Name	Program Default
1000	General	defined by user
	SPECIAL REVENUE	
2011	Motor Vehicle License Tax	330
2021	Gasoline Tax	330
2031	Road and Bridge	330
2041-2069	Cemetery	410
2071-2079	Garbage and Waste Disposal District	320
2081-2109	Police District	210
2111-2139	Fire District	220
2141-2169	Road District	330
2171-2179	Park Levy	610
2181-2189	Zoning	130
2191-2219	Special Levy	defined by user
2221	Drug Law Enforcement	210
2231	Permissive Motor Vehicle License Tax	330
2241	Permissive Sales Tax	defined by user
2251	Federal Law Enforcement	210
2261	Law Enforcement Trust	210
2271	Enforcement and Education	210
2281-2289	Fire and Rescue, Ambulance and Emergency Medical Services	230
2291-2339	Underground Storage Tank	430
2401-2599	Special Assessment	defined by user
2901-2999	Miscellaneous Special Revenue	defined by user

SAMPLE NUMERIC CODES
Numeric Fund Codes

Fund Number	Fund Name	Program Default
	DEBT SERVICE	
3101-3199	General (Bond)(Note) Retirement	810, 820, 830
3201-3299	Sinking	810, 830
3301-3399	Special Assessment	810, 820, 830
3901-3999	Miscellaneous Debt Service	810, 820, 830
	CAPITAL PROJECTS	
4101-4199	Bond	760
4301-4399	Permanent Improvement	760
4401-4499	Public Works Commission Project - Issue 2	760
4501-4599	Special Assessment	760
4901-4949	Miscellaneous Capital Projects	760
	PERMANENT FUNDS	
4951-4999	Permanent	defined by user
	PROPRIETARY FUNDS	
5001-5999	Enterprise	defined by user
6001-6999	Internal Service	defined by user
	FIDUCIARY FUNDS	
	(only if being held for another government)	
9001-9249	Agency	defined by user
9501-9749	Investment Trust	defined by user
9751-9999	Private-Purpose Trust	defined by user

SAMPLE NUMERIC CODES
Numeric Revenue Codes

Revenue Code	*Revenue Account Title*	*Financial Report Caption Title*
	Property and Other Local Taxes	
101	General Property Tax - Real Estate	
102	Tangible Personal Property Tax	
103	Permissive Sales Tax	**Property and Other Local**
104	Permissive Motor Vehicle License (MVL) Tax - Township Levied	**Taxes**
199	Other - Local Taxes	
	Charges for Services	
201	Contracts for Fire Services	
202	Contracts for Emergency Medical Services	**Charges for Services**
203	Contracts for Police Protection	
299	Other - Charges for Services	
	Licenses, Permits and Fees	
301	Licenses and Permits	
302	Fees	**Licenses, Permits and Fees**
303	Cable Franchise Fees	
399	Other - Licenses, Permits and Fees	
	Fines and Forfeitures	
401	Fines	**Fines and Forfeitures**
402	Forfeitures	
403	Penalties	**Fines and Forfeitures**
499	Other - Fines and Forfeitures	

SAMPLE NUMERIC CODES
Numeric Revenue Codes

Revenue Code	*Revenue Account Title*	*Financial Report Caption Title*
	Intergovernmental	
511	Federal Funds	
512	Proceeds from Federal Law Enforcement Agencies	
519	Other - Federal Receipts	
531	Estate Tax	
532	Local Government Distribution	
533	Liquor Permit Fees	
534	Cigarette License Fees	
535	Property Tax Allocation	**Intergovernmental**
536	Motor Vehicle License Tax - State Levied	
537	Gasoline Tax	
538	Local Public Works Commission	
539	Other - State Receipts	
591	Intergovernmental Receipts (Non-State and Non-Federal)	
592	Motor Vehicle License Tax - County Levied	
599	Other - Other Intergovernmental	
	Special Assessments	
601	Special Assessments	**Special Assessments**
699	Other - Special Assessments	**Special Assessments**
	Earnings on Investments	
701	Interest	
799	Other - Earnings on Investments	

SAMPLE NUMERIC CODES
Numeric Revenue Codes

Revenue Code	*Revenue Account Title*	*Financial Report Caption Title*
	Miscellaneous	
801	Gifts and Donations	
802	Rentals and Leases	
803	Contributions	**Miscellaneous**
804	Sale of Cemetery Lots	
805	Other Local Grants (not from another government)	
806	Proceeds - Sale of Forfeited Property and Seized Contraband	
807	Payments in Lieu of Taxes	
810	Capital Contributions	
820	Contributions to a Permanent Fund	
891	Other - Miscellaneous Operating	
892	Other - Miscellaneous Non-Operating	
	Other Financing Sources	
911	Sale of Bonds	
912	Premium and Accrued Interest - Bonds	**Other Financing Sources**
919	Other - Sale of Bonds	
921	Sale of Notes	
922	Premium and Accrued Interest - Notes	
929	Other - Sale of Notes	
931	Transfers - In	
941	Advances - In	
951	Sale of Fixed Assets	**Other Financing Sources**
971	Other Debt Proceeds	
981	Special Items	
982	Extraordinary Items	
999	Other - Other Financing Sources	

SAMPLE NUMERIC CODES
Definitions for Numeric Revenue Codes

Revenue Code	*Revenue Source*	*Description*
	Property and Other Local Taxes	
101	General Property Tax - Real Estate	Semi-annual tax settlement from county auditor, including deductions.
102	Tangible Personal Property Tax	Semi-annual tax settlement from county auditor, including deductions.
103	Permissive Sales Tax	Sales tax levied by townships on hotel and motel lodging. Section 505.56, Revised Code.
104	Permissive Motor Vehicle License (MVL) Tax - Township Levied	Distribution of township levied permissive motor vehicle license tax from county auditor.
199	Other - Local Taxes	Receipt of any other taxes not described in revenue codes 101-104.
	Charges for Services	
201	Contracts for Fire Services	Receipts derived from furnishing fire protection services to other political subdivisions.
202	Contracts for Emergency Medical Services	Receipts derived from furnishing emergency medical services to other political subdivisions.
203	Contracts for Police Protection	Receipts derived from furnishing police services to other political subdivisions.
299	Other - Charges for Services	Receipts derived from furnishing services to other political subdivisions not described in revenue codes 201-203.
	Licenses, Permits and Fees	
301	Licenses and Permits	Receipts from the issuance of all local licenses and permits.
302	Fees	Constables', zoning, cemetery and other fees assessed by township.
303	Cable Franchise Fees	Revenue derived from cable franchise fees.
399	Other - Licenses, Permits and Fees	Receipt of any other licenses, permits and fees not described in revenue codes 301-302.

Fines and Forfeitures

401	Fines	Income from fines for parking, uniform traffic violations and zoning regulations. Sections 505.17, 4513.35, and 519.99, Revised Code; fines levied against trustees for failure to perform their duties as enumerated in sections 517.06 and 517.11, Revised Code. Fines levied against convicted drug offenders.
402	Forfeitures	Forfeitures of contractor's performance bonds.
403	Penalties	Receipts from the imposition of penalties.
499	Other - Fines and Forfeitures	Receipt of any other fines and forfeitures not described in revenue codes 401-403.

Intergovernmental

511	Federal Funds	Moneys received from Federal government for flood damage and flood control.
512	Proceeds from Federal Law Enforcement Agencies	Proceeds from Federal law enforcement agencies.
519	Other - Federal Receipts	Receipt of any other intergovernmental receipts not described in revenue codes 511-512.
531	Estate Tax	Semi-annual tax settlement from county auditor, including deductions.
532	Local Government Distribution	Monthly distribution of sales tax and financial institution tax, from county auditor.
533	Liquor Permit Fees	Distribution of liquor permit fees from the State of Ohio.
534	Cigarette License Fees	Annual settlement from county auditor, including deductions.
535	Property Tax Allocation	Money provided by the State as a reimbursement for statutory tax credits and reductions granted to real and personal property taxpayers to include 10% and 2.5% Rollback. Homestead Exemption. $10,000 Personal Property Tax Exemption. Utility Deregulation (electric and natural gas). Property Tax Replacement (kilowatt per hour and natural gas consumption taxes). Excess Distribution of Utility Deregulation Taxes. Tangible Personal Property Tax Loss and Other Property Tax Allocations.
536	Motor Vehicle License Tax - State Levied	Distribution of motor vehicle license tax from county auditor.
537	Gasoline Tax	Monthly distribution of gasoline excise tax from the county auditor.
538	Local Public Works Commission	Grants from the Ohio Public Works Commission (also known as Issue II bond proceeds).

539	Other - State Receipts	Receipts of any other state grants not described in revenue codes 531-538.
591	Intergovernmental Receipts (Non-State and Non-Federal)	Receipts from governmental entities other than the Federal or State government.
592	Motor Vehicle License Tax - County Levied	Distribution of motor vehicle license tax from county auditor.
599	Other - Other Intergovernmental	Receipts from any other governmental entities not described in revenue codes 591-592.
	Special Assessments	
601	Special Assessments	Semi-annual tax settlement from county auditor.
699	Other - Special Assessments	Special assessments receipts not included in revenue code 601.
	Earnings on Investments	
701	Interest	Interest income received from deposits and investments.
799	Other - Earnings on Investments	Other income received from deposits and investments not included in revenue code 701.
	Miscellaneous	
801	Gifts and Donations	Gifts and donations to board of trustees not specified for a particular purpose. Money, securities or property whose use is limited to the care of a particular cemetery burial plot or general improvement of the cemetery. Stocks should be assigned market value at time of receipt and carried on records at said value.
802	Rentals and Leases	Income received from rental or lease of township-owned facilities, school and ministerial lands.
803	Contributions	Contributions for repair and maintenance of township roads by county commissions. Section 5535.08, Revised Code.
804	Sale of Cemetery Lots	Income derived from the sale of cemetery lots. Section 517.07, Revised Code.
805	Other Local Grants (not from another government)	Grants from local non-profit organizations.
806	Proceeds - Sale of Forfeited Property and Seized Contraband	Receipts from the sale of property seized from or forfeited by convicted drug offenders.

807	Payments in Lieu of Taxes	Payment by a property owner not subject to a property tax to compensate government for not being required to pay the tax.
810	Capital Contributions	Contributions of cash from individuals, other funds or other governments whose use is restricted to capital acquisition or construction.
820	Contributions to a Permanent Fund	A contribution to support a program of the reporting government through the use of the interest earned on the contribution. The original contribution must be maintained intact and may not be spent.
891	Other - Miscellaneous Operating	Receipt of any other operating revenue not described in revenue codes 801-806.
892	Other - Miscellaneous Non-Operating	Receipt of any other non-operating revenue not described in revenue codes 801-806.
	Other Financing Sources	
911	Sale of Bonds	Proceeds from the sale of bonds.
912	Premium and Accrued Interest - Bonds	Premium and accrued interest from the sale of bonds.
919	Other - Sale of Bonds	Receipts from any other sale of bonds not described in revenue codes 911-912.
921	Sale of Notes	Proceeds from the sale of anticipatory notes.
922	Premium and Accrued Interest - Notes	Premium and accrued interest from the sale of notes.
929	Other - Sale of Notes	Receipts from any other sale of notes not described in revenues codes 921-922.
931	Transfers – In	Transfers into this fund, from other funds, identifying each fund source.
941	Advances – In	Receipts temporarily allocated to fund for cash flow purposes with the intent that the money will be repaid.
951	Sale of Fixed Assets	Income derived from the sale of township property, buildings, equipment, vehicles and other fixed assets.
971	Other Debt Proceeds	Receipts from the proceeds of any other debt.
981	Special Item	Significant transactions or other events within the control of management that are either unusual in nature or infrequent in occurrence.
982	Extraordinary Item	Significant transactions or other events that are both unusual in nature and infrequent in occurrence.
999	Other - Other Financing Sources	Receipts not otherwise described in revenue codes 911-982.

SAMPLE NUMERIC CODES
Numeric Program Codes

Program Code	*Program Name*	*Financial Report Caption Title*
	General Government	
110	Administrative	
120	Townhalls, Memorial Buildings and Grounds	**General Government**
130	Zoning	
190	Other	
	Public Safety	
210	Police Protection	
220	Fire Protection	**Public Safety**
230	Emergency Medical Services	
240	Civil Defense	
290	Other	
	Public Works	
310	Lighting	
320	Sanitary Dump	**Public Works**
330	Highways	
390	Other	
	Health	
410	Cemeteries	
420	Health Districts	**Health**
430	Underground Storage Tanks	
490	Other	

SAMPLE NUMERIC CODES
Numeric Program Codes

	Human Services	
510	Human Services	**Human Services**
590	Other	
	Conservation - Recreation	
610	Parks and Recreation	**Conservation - Recreation**
690	Other	
710	Other	**Other**
760	Capital Outlay	**Capital Outlay**
	Debt Service	
810	Bond Principal Payment	
820	Note Principal Payment	**Debt Service**
830	Interest	
840	Fiscal Charges	
850	Discount on Debt	
890	Other - Debt Service	
	Other Financing Uses	
910	Transfers	
920	Advances	**Other Financing Uses**
930	Contingencies	
990	Other Financing Uses	

SAMPLE NUMERIC CODES
Numeric Object Codes

Object Codes	*Object Codes*	*Direct Charges Posted?*
100	**Salaries**	Yes
110	***Salaries - Trustees' Office***	Yes
111	Salaries - Trustees	Yes
112	Salaries - Trustees' Staff	Yes
119	Other - Salaries - Trustees' Office	Yes
120	***Salaries – Township Fiscal Officer's Office***	Yes
121	Salary - Township Fiscal Officer	Yes
122	Salaries - Township Fiscal Officer's Staff	Yes
129	Other - Salaries - Township Fiscal Officer's Office	Yes
130	***Salaries - Administrator's Office***	Yes
131	Salary - Administrator	Yes
132	Salaries - Administrator's Staff	Yes
139	Other - Salaries - Administrator's Office	Yes
140	***Salaries - Legal Counsel's Office***	Yes
141	Salary - Legal Counsel	Yes
142	Salaries - Legal Counsel's Staff	Yes
149	Other - Salaries - Legal Counsel's Office	Yes
150	Compensation of Board and Commission Members	Yes
190	Other - Salaries	Yes

	Employee Fringe Benefits	
	Employer's Retirement Contributions	
211	Ohio Public Employees' Retirement System	Yes
212	Social Security	Yes
213	Medicare	Yes
214	Volunteer Firemen's Dependents Fund	Yes
215	Ohio Police and Fire Pension Fund	Yes
219	Other - Employer's Retirement Contributions	Yes
220	***Insurance Benefits***	No
221	Medical/Hospitalization	No
222	Life Insurance	No
223	Dental Insurance	No
228	Health Care Reimbursement	Yes
224	Vision Insurance	No
229	Other - Insurance Benefits	No
230	Workers' Compensation	Yes
240	Unemployment Compensation	Yes
250	***Employee Reimbursements***	No
251	Uniform, Tool and Equipment Reimbursements	No
259	Other - Employee Reimbursements	No
290	Other - Employee Fringe Benefits	No

SAMPLE NUMERIC CODES
Numeric Object Codes

300	**Purchased Services**	No
310	***Professional and Technical Services***	No
311	Accounting and Legal Fees	No
312	Auditing Services	No
313	Uniform Accounting Network Fees	No
314	Tax Collection Fees	Yes
315	Election Expenses	Yes
316	Engineering Services	No
317	Planning Consultants	No
318	Training Services	No
319	Other - Professional and Technical Services	No
320	***Property Services***	No
321	Rents and Leases	No
322	Garbage and Trash Removal	No
323	Repairs and Maintenance	No
329	Other - Property Services	No
330	Travel and Meeting Expense	No
340	***Communications, Printing and Advertising***	No
341	Telephone	No
342	Postage	No
343	Postage Machine Rental	No
344	Printing	No
345	Advertising	No
349	Other - Communications, Printing and Advertising	No

350	***Utilities***	No
351	Electricity	No
352	Water and Sewage	No
353	Natural Gas	No
354	Heating Oil	No
355	Coal	No
359	Other - Utilities	No
360	Contracted Services	No
370	Payment to Another Political Subdivision	No
380	***Insurance and Bonding***	No
381	Property Insurance Premiums	No
382	Liability Insurance Premiums	No
383	Fidelity Bond Premiums	No
389	Other - Insurance and Bonding	No
390	Other - Purchased Services	No
400	**Supplies and Materials**	No
410	Office Supplies	No
420	Operating Supplies	No
430	Small Tools and Minor Equipment	No
490	Other - Supplies and Materials	No
500	**Other**	No
510	***Dues and Fees***	No
519	Other - Dues and Fees	No
520	Compensation and Damages	No

590	***Other Expenses***		No
591	Contributions to Other Organizations		No
599	Other - Other Expenses		No
700	**Capital Outlay**	760	No
710	Land	760	No
720	Buildings	760	No
730	Improvement of Sites	760	No
740	Machinery, Equipment and Furniture	760	No
750	Motor Vehicles	760	No
790	Other - Capital Outlay	760	No
	Debt Service		
810	Principal Payments - Bonds	810	No
820	Principal Payments - Notes	820	No
830	Interest Payments	830	No
840	Fiscal Charges	840	No
850	Discount on Debt	850	No
890	Other - Debt Service	890	No
	Other Financing Uses		
910	Transfers - Out	910	Yes
920	Advances - Out	920	Yes
930	Contingencies	930	No
990	Other - Other Financing Uses	990	No

Direct Charges Posted?

Yes indicates that an expenditure may be charged directly to this account. The user is not required to establish a purchase order or a blanket certificate before charging expenditures to this account.

No indicates that a direct charge is not permitted to this account. A purchase order or a blanket certificate must be first established before expenditures can be charged to this account.

SAMPLE NUMERIC CODES
Definitions for Numeric Object Codes

Object Code	*Expenditure Object*	*Description*
100	**Salaries**	Salaries or wages paid to all persons employed by the township. Summary object code for Salaries. Comprises detail object codes 110-190.
110	***Salaries - Trustees' Office***	Sub-summary object code for Salaries - Trustees' Office. Comprises detail object codes 111-119.
111	Salaries - Trustees	Compensation paid to trustees, section 505.24, Revised Code.
112	Salaries - Trustees' Staff	Compensation paid to trustees' staff.
119	Other - Salaries - Trustees' Office	Other type of compensation paid to the trustees not included in codes 111-112.
120	***Salaries - Township Fiscal Officer's Office***	Sub-summary object code for Salaries - Township Fiscal Officer's Office. Comprises detail object codes 121-129.
121	Salary - Township Fiscal Officer	Compensation paid to the township fiscal officer. Section 507.09, Revised Code.
122	Salaries - Township Fiscal Officer's Staff	Compensation paid to township fiscal officer's staff.
129	Other - Salaries - Township Fiscal Officer's Office	Other type of compensation paid to the township fiscal officer not included in object codes 121-122.
130	***Salaries - Administrator's Office***	Sub-summary object code for Salaries - Administrator's Office. Comprises detail object codes 131-139.
131	Salary - Administrator	Compensation paid to the township administrator.
132	Salaries - Administrator's Staff	Compensation paid to administrator's staff.
139	Other - Salaries - Administrator's Office	Other type of compensation paid to the Administrator not included in object codes 131-132.
140	***Salaries - Legal Counsel's Office***	Sub-summary object code for Salaries - Legal Counsel's Office. Comprises object codes 141-149.
141	Salary - Legal Counsel	Salary and fees paid the township legal counsel. Section 309.09, Revised Code.
142	Salaries - Legal Counsel's Staff	Compensation paid to legal counsel's staff.
149	Other - Salaries - Legal Counsel's Office	Other type of compensation paid to the Legal Counsel not included in object codes 141-142.

150	Compensation of Board and Commission Members	Compensation paid to members of township boards and commissions.
190	Other - Salaries	Compensation paid to all township employees not included in object codes 110-150.
	Employee Fringe Benefits	
	Employers Retirement Contributions	
211	Ohio Public Employees' Retirement System	Township's share of retirement contributions, payable to the Ohio Public Employees' Retirement System.
212	Social Security	Township's share of retirement contributions, payable to the Social Security Administration for Social Security.
213	Medicare	Township's share of retirement contributions, payable to the Social Security Administration for Medicare.
214	Volunteer Firemen's Dependents Fund	Township's share of retirement contributions, payable to the Volunteer Firemen's Dependents Fund.
215	Ohio Police and Fire Pension Fund	Township's share of retirement contributions, payable to the Ohio Police and Fire Pension Fund.
219	Other - Employer's Retirement Contributions	Township's share of other retirement contributions not included in object codes 211-215.
220	***Insurance Benefits***	Township's payments for employee insurance benefits. Sub-summary object code for Insurance Benefits. Comprises detail object codes 221-240.
221	Medical/Hospitalization	Township's payment for employee hospitalization.
222	Life Insurance	Township's payment for employee life insurance.
223	Dental Insurance	Township's payment for employee dental insurance.
224	Vision Insurance	Township's payment for employee vision insurance.
228	Health Care Reimbursement	Payment for reimbursement of health insurance premiums.
229	Other - Insurance Benefits	Township's payment for other employee insurance benefits not included in object codes 221-224.
230	Workers' Compensation	Payments to the Ohio Bureau of Worker's Compensation.
240	Unemployment Compensation	Payments to the State for unemployment compensation.

250	***Employee Reimbursements***	Payments to township employees for uniform, tool, equipment and other reimbursements. Sub-summary object code for Employee Reimbursements. Comprises detail object codes 251-259.
251	Uniform, Tool and Equipment Reimbursements	Payments to township employees for uniform, tool and equipment reimbursements.
259	Other - Employee Reimbursements	Payments to township employees for other reimbursements.
290	Other - Employee Fringe Benefits	Payment of other employee fringe benefits not included in objects 211-259.
300	**Purchased Services**	Cost of services required for the administration of township functions when procured by contract from outside sources. Summary object code for Purchased Services. Comprises detail object codes 310-390.
310	***Professional and Technical Services***	Cost of professional services obtained from external sources. Sub-summary object code for Professional and Technical Services. Comprises detail object codes 310-319.
311	Accounting and Legal Fees	Accounting services provided by either the Auditor of State's-Local Governmental Services Division or by an independent professional accounting firm. Legal services provided by an external law firm.
312	Auditing Services	Auditing services provided by either the Auditor of State- Audit Division or by an independent professional accounting firm.
313	Uniform Accounting Network Fees	Participation fees paid to the Auditor of State for participation in the Uniform Accounting Network.
314	Tax Collection Fees	Expenses and fees as deducted by the county auditor, county treasurer and the state department of taxation for the collection and administration of taxes.
315	Election Expenses	Election expenses deducted by the county auditor.
316	Engineering Services	Architectural and engineering services.
317	Planning Consultants	Expenses and fees paid for planning services.
318	Training Services	Expenses and fees paid for training township officials and staff.

319	Other - Professional and Technical Services	Payment for other professional and technical services not included in objects 311-318, including fees and charges paid to financial institutions for such services as fiscal agent, trustee and safety deposit box rental.
320	***Property Services***	Expenses related to the care and upkeep of the township's property. Sub-summary object code for Property Services. Comprises detail object codes 321-329.
321	Rents and Leases	Cost of rents and leases of land, buildings, equipment and machinery.
322	Garbage and Trash Removal	Cost of garbage and trash pickup.
323	Repairs and Maintenance	Cost of service, maintenance, repair, overhaul or rework of owned equipment or machinery. Includes service, maintenance or repair on leased or rented equipment if such work is obtained by contracts separate from lease or rental contracts. Cost of routine maintenance and repair required to keep a facility up to a standard condition of service ability and the prevention or deterioration by the accomplishment of such work as periodic painting, tuck-pointing, exterior building cleaning, re-roofing; street, curb, and sidewalk repair; one-time emergency repair of damage to utility systems and facilities resulting from accidents or acts of God; includes custodial services by contract.
329	Other - Property Services	Payment for other property services not included in objects 321-323.
330	Travel and Meeting Expense	Includes the cost of travel and transportation, and incidental expenses, incurred for travel on official business; common carrier fares; rental of passenger -carrying vehicles; motor pool charges for passenger-carrying vehicles; mileage allowances, tools, subsistence and per diem allowances; incidental travel expenses such as baggage transfer and checking fee; communication expenses.
340	***Communications, Printing and Advertising***	Expenses for telephone and fax communications, printing and advertising. Sub-summary object code for Communications, Printing and Advertising. Comprises detail object codes 341-349.
341	Telephone	Telephone and fax expense.
342	Postage	Postage and shipping expense.
343	Postage Machine Rental	Postage machine rental expense.
344	Printing	Cost of contractual printing and reproduction such as work done on printing presses, lithographing, and other duplication, photo stating, blueprinting, photographing and microfilming.

345	Advertising	Expenses for publication of official notes, ads, legal advertising in newspapers and periodicals, including cost of publication of delinquent tax lists as deducted by county auditor.
349	Other - Communications, Printing and Advertising	Other communications, printing and advertising expenses not included in objects 341-345.
350	***Utilities***	Costs of heat, light, power, water, gas or electricity purchased from either privately owned or publicly operated utilities. Sub-summary object code for Utilities. Comprises detail object codes 351-359.
351	Electricity	Costs for electricity.
352	Water and Sewage	Costs for water and sewage.
353	Natural Gas	Costs for natural gas.
354	Heating Oil	Costs for heating oil.
355	Coal	Costs for coal.
359	Other - Utilities	Cost of utilities not included in object codes 351-355.
360	Contracted Services	Payments made for contracted trade services.
370	Payment to Another Political Subdivision	Payments made to another political subdivision for contracted services provided to the township, such as fire protection, County Health fees, police services, emergency medical services and garbage and refuse.
380	***Insurance and Bonding***	Cost of all insurance other than that related to personal services (objects 220-229). Sub-summary object code for Insurance and Bonding. Comprises detail object codes 381-389.
381	Property Insurance Premiums	Cost of property insurance.
382	Liability Insurance Premiums	Cost of liability insurance.
383	Fidelity Bond Premiums	Cost of fidelity and security bonds on officials and employees.
389	Other - Insurance and Bonding	Other insurance costs not included in objects 381-383.
390	Other - Purchased Services	Other purchased services not included in objects 310-389.
400	**Supplies and Materials**	Cost of supplies and materials used in repairs, maintenance and service of the township's facilities and equipment. Cost of articles and commodities which are ordinarily consumed or expended within one year after they are put to use. Summary object code for Supplies and Materials. Comprises detail object codes 410-490.

410	Office Supplies	Office stationary, forms, reproduction supplies, small items of equipment, maps and other supplies consumed in the office environment.
420	Operating Supplies	Diesel fuel, oil and lubricants, gasoline, chains, parts, materials used in the maintenance and repair of roads, cleaning and sanitation supplies, household and institutional supplies.
430	Small Tools and Minor Equipment	Hammers, saws, wrenches, garden tools, small power tools and other tools and equipment having a life expectancy of less than five years.
490	Other - Supplies and Materials	Other supplies not included in objects 410-430.
500	**Other**	Costs of other operating expenses not classified in any other category. Summary object code for Other. Comprises detail object codes 510-599.
510	***Dues and Fees***	Sub-summary object code for Dues and Fees. Comprises detail object codes 519-520.
519	Other - Dues and Fees	Payment for dues and fees.
520	Compensation and Damages	Payments for legal judgments against the township.
590	***Other Expenses***	Other expenses not included in objects 510-520. Sub-summary object code for Other Expenses. Comprises detail object codes 591-599.
591	Contributions to Other Organizations	Contributions made to other non-profit organizations for patriotic, educational and similar purposes.
599	Other - Other Expenses	Other township expenses not included in any other object codes.
700	**Capital Outlay**	Summary object code for Capital Outlay costs. Comprises detail object codes 710-790.
710	Land	Land and interest in land, when acquired by purchase.
720	Buildings	The acquisition or construction of buildings and structures and additions thereto; includes increases in value of buildings and structures resulting from major alterations, restoration or modifications.
730	Improvement of Sites	Improvements of sites such as landscaping, grading, fences, when acquired by monetary outlay. Includes cost of acquisition, construction or improvement of publicly owned parking lots. Includes cost of acquisition of fixtures and equipment which are permanently attached to or form a part of buildings or structures, such as elevators, plumbing, power-plant boilers, fire alarm systems, lighting or heating systems, air conditioning or refrigeration systems (when an addition or replacement).

740	Machinery, Equipment and Furniture	Cost of acquisition of tangible property of a more or less durable nature, other than land, buildings, or improvements other than buildings, which are useful in carrying on operations and which may be expected to have a period of service of a year or more without material impairment of its physical condition. Includes furniture, furnishings and fixtures, books for permanent collections, power tools and instruments. Excludes commodities which are converted in the process of construction or manufacture, or which are used to form a ...
750	Motor Vehicles	Cost of acquisition of automobiles, trucks and other motorized vehicles.
790	Other - Capital Outlay	Other expenses not included in object codes 710-750.
	Debt Service	
810	Principal Payments - Bonds	Payments for the retirement of outstanding bond principal balances.
820	Principal Payments - Notes	Payments for the retirement of outstanding note principal.
830	Interest Payments	Interest payments on outstanding note/bond indebtedness.
840	Fiscal Charges	Payments to lenders for debt service expenses not included in objects 810-830.
850	Discount on Debt	The discount on debt is the difference between the principle amount of the debt issued and the price paid (by the investor) for the debt. This difference, the discount, is caused by the stated interest rate on the bonds being less than the market interest rate (i.e. the stated rate on the bonds is 5.75 percent and the market rate is 6.0 percent).
890	Other - Debt Service	Other payments not included in object codes 810-850.
	Other Financial Uses	
910	Transfers - Out	Transfers into other funds, from this fund.
920	Advances - Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid to this fund.
930	Contingencies	Expenses of an unusual, unexpected nature. Appropriation account only; no actual expenditures are charged to this account.
990	Other - Other Financing Uses	Other expenses not included in objects 910-930.

SAMPLE NUMERIC CODES
Treatment of Interest Revenue Accounts

Interest Earned By This Fund Number	System Posts Income to This Interest Account	Conditional Interest Account
1000	1000-701	
2011	2011-701	
2021	2021-701	
2031	1000-701	
2041-2069	1000-701	
2071-2079	1000-701	
2081-2109	1000-701	
2111-2139	1000-701	
2141-2169	1000-701	
2171-2179	1000-701	
2181-2189	1000-701	
2191-2219	1000-701	
2221	1000-701	
2231	2231-701	
2241	1000-701	
2251	1000-701	
2261	1000-701	
2271	1000-701	
2281-2289	1000-701	
2291-2339	1000-701	
2401-2499	1000-701	
2901-2999	1000-701	29xx-701
3101-3199	1000-701	31xx-701
3201-3299	1000-701	32xx-701
3301-3399	1000-701	33xx-701
3901-3999	1000-701	39xx-701
4101-4199	1000-701	41xx-701
4301-4399	1000-701	43xx-701
4401-4499	1000-701	
4501-4599	1000-701	45xx-701
4901-4949	1000-701	49xx-701
4951-4999	1000-701	49xx-701
5001-5999	1000-701	5xxx-701
6001-6999	1000-701	6xxx-701
9001-9249	1000-701	9xxx-701
9501-9749	1000-701	9xxx-701
9751-9999	1000-701	9xxx-701

Explanation of funds with conditional interest accounts:
Users will designate the funds that can receive interest at the fund level. Funds that have a conditional interest account designation will allow the users to select if that fund will receive the interest or if it will be posted to the General fund.

Note: The conditional interest account must be activated prior to posting the interest receipt.

SAMPLE ALPHANUMERIC CODES
Alphanumeric Funds

If a township elects to use the alphanumeric system of accounting codes, the funds of the township should be organized within the following fund groups and identified by the codes provided.

Major Fund Group	***Fund Code***		***Individual Funds Within Major Fund Group***
Governmental Fund Types			
General Fund	01		General Fund
Special Revenue Funds	02		Motor Vehicle License Tax Fund
	03		Gasoline Tax Fund
	04		Road & Bridge Fund
	05		Cemetery Fund
	06	A	Cemetery Bequest Fund A
	06	B	Cemetery Bequest Fund B
	06	C	Cemetery Bequest Fund C
	06	D	Cemetery Bequest Fund D
	06	E	Cemetery Bequest Fund E
	06	F	Cemetery Bequest Fund F
	06	G	Cemetery Bequest Fund G
	07	A	Lighting Assessment A
	07	B	Lighting Assessment B
	07	C	Lighting Assessment C
	07	D	Lighting Assessment D
	07	E	Lighting Assessment E
	07	F	Lighting Assessment F
	07	G	Lighting Assessment G
	08		Garbage and Waste Disposal District
	09		Police District Fund
	10		Fire District Fund
	11		Road District Fund
	12		Park Levy Fund
	13		Zoning Fund
	14	A	Miscellaneous Fund A
	14	B	Miscellaneous Fund B
	14	C	Miscellaneous Fund C
	14	D	Miscellaneous Fund D
	14	E	Miscellaneous Fund E
	14	F	Miscellaneous Fund F
	14	G	Miscellaneous Fund G
	20	A	Special Levy Fund A

	20	B	Special Levy Fund B
	20	C	Special Levy Fund C
	20	D	Special Levy Fund D
	20	E	Special Levy Fund E
	20	F	Special Levy Fund F
	20	G	Special Levy Fund G
	22		Drug Law Enforcement Fund
	23		Permissive Motor Vehicle License Tax Fund
	24		Permissive Sales Tax Fund
	25		Federal Law Enforcement Fund
	28		Ambulance and Emergency Medical Service Fund
	32		Law Enforcement Trust Fund
	33		Enforcement and Education Fund
	34		Underground Storage Tank Fund
Debt Service Funds	15		General (Bond)(Note) Retirement Fund
	16		Special Assessment Bond Retirement Fund
	29		Sinking Fund
Capital Projects Funds	07	A	Lighting Assessment A
	07	B	Lighting Assessment B
	07	C	Lighting Assessment C
	07	D	Lighting Assessment D
	07	E	Lighting Assessment E
	07	F	Lighting Assessment F
	07	G	Lighting Assessment G
	18		Bond Fund
	21	A	Capital Equipment Fund A
	21	B	Capital Equipment Fund B
	21	C	Capital Equipment Fund C
	21	D	Capital Equipment Fund D
	21	E	Capital Equipment Fund E
	21	F	Capital Equipment Fund F
	21	G	Capital Equipment Fund G
	26		Permanent Improvement Fund
	30	A	Public Works Commission Fund A
	30	B	Public Works Commission Fund B
	30	C	Public Works Commission Fund C

	30	D	Public Works Commission Fund D
	30	E	Public Works Commission Fund E
	30	F	Public Works Commission Fund F
	30	G	Public Works Commission Fund G
Permanent Funds			
	06	A	Cemetery Bequest Fund A
	06	B	Cemetery Bequest Fund B
	06	C	Cemetery Bequest Fund C
	06	D	Cemetery Bequest Fund D
	06	E	Cemetery Bequest Fund E
	06	F	Cemetery Bequest Fund F
	06	G	Cemetery Bequest Fund G
	35	A	Permanent Fund A
	35	B	Permanent Fund B
	35	C	Permanent Fund C
	35	D	Permanent Fund D
	35	E	Permanent Fund E
	35	F	Permanent Fund F
	35	G	Permanent Fund G
PROPRIETARY FUND TYPES			
Enterprise Funds	37	A	Enterprise Fund A
	37	B	Enterprise Fund B
	37	C	Enterprise Fund C
	37	D	Enterprise Fund D
	37	E	Enterprise Fund E
	37	F	Enterprise Fund F
	37	G	Enterprise Fund G
Internal Service Funds	38	A	Internal Service Fund A
	38	B	Internal Service Fund B
	38	C	Internal Service Fund C
	38	D	Internal Service Fund D
	38	E	Internal Service Fund E
	38	F	Internal Service Fund F
	38	G	Internal Service Fund G

FIDUCIARY FUND TYPES

Private Purpose Trust Funds	06	A	Cemetery Bequest Fund A
	06	B	Cemetery Bequest Fund B
	06	C	Cemetery Bequest Fund C
	06	D	Cemetery Bequest Fund D
	06	E	Cemetery Bequest Fund E
	06	F	Cemetery Bequest Fund F
	06	G	Cemetery Bequest Fund G
	36	A	Private Purpose Trust Fund A
	36	B	Private Purpose Trust Fund B
	36	C	Private Purpose Trust Fund C
	36	D	Private Purpose Trust Fund D
	36	E	Private Purpose Trust Fund E
	36	F	Private Purpose Trust Fund F
	36	G	Private Purpose Trust Fund G
Agency Funds	27	A	Agency Fund A
	27	B	Agency Fund B
	27	C	Agency Fund C
	27	D	Agency Fund D
	27	E	Agency Fund E
	27	F	Agency Fund F
	27	G	Agency Fund G

SAMPLE ALPHANUMERIC CODES
Alphanumeric Receipt Accounts

Each township electing to use the alphanumeric system of accounting codes should use the following accounting codes for corresponding:

Code	***Receipt Account Description***	
01 GENERAL FUND		
01-A	General Property Tax Real Estate (Gross)	Semi Annual Tax Settlement from County Auditor, including deductions.
01-B	Tangible Personal Property Tax (Gross)	Semi Annual Tax settlement from County Auditor, including deductions.
01-C	Inheritance Tax (Gross)	Semi Annual Tax settlement from County Auditor, including deductions.
01-D	Local Government Distribution	Monthly distribution of sales tax and financial institution tax, from County Auditor.
01-E	Permissive Sales Tax	Sales tax levied by townships on hotel and motel lodging.
01-F	Liquor Permit Fees	Distribution of liquor permit fees from State of Ohio.
01-G	Cigarette License Fees And Fines (Gross)	Annual settlement from Auditor, including deductions.
01-H	Gifts and Donations	Gifts and donations to board of trustees not specified for a particular purpose. Stocks should be assigned market value at time of receipt and carried on the records at said value.
01-I	Interest	Income received from deposits and investments.
01-J	Rentals and Leases	Income received from rental or lease of township owned facilities, school and ministerial lands.
01-K	Fines	Income from fines for parking, uniform traffic violations and zoning regulations. O.R.C. 505.17, 4513.35 and 519.99, fines levied against trustees for failure to perform their duties as enumerated in O.R.C. 517.06 and 517.11.

01-L	Fees	Constables' fees and services, O.R.C. 509.15; fees charged for digging of graves, O.R.C. 517.06; for disinterment O.R.C. 517.23 and cost of foundations for cemetery markers. Income from zoning permit fees for amending and supplementing resolutions and certificates.
01-M	Contracts	Receipts derived from furnishing services to other political subdivisions, such as fire, police, and dump.
01-N	Adjustments Refunds	Monies received from payments made by insurance companies for claims, overpayments, etc., and other adjustments and refunds not listed.
01-O	Notes	Proceeds from the sale of anticipatory notes.
01-P	Other	All other income included in 1-A through 1-O and 1-Q through 1-S.
01-Q	Transfers – In	Transfers to General Fund from other funds, identifying each fund source.
01-R	Rollback Homestead and Personal Property Tax Exemption	Receipts from the State of Ohio which represent reimbursements for reduction in property taxes. O.R.C 319.302 and 323.152.
01-S	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

02 MOTOR VEHICLE LICENSE TAX FUND

02-A	Motor Vehicle License Tax	Distribution of motor vehicle license tax from the County Auditor.
02-B	Other	Refunds and all other items of income not included elsewhere.
02-C	Interest	Interest received from deposits and investments.
02-D	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

02-E	Transfers – In	Transfer to motor vehicles license fund, from other funds, identifying each fund source.
03 GASOLINE TAX FUND		
03-A	Gasoline Tax	Monthly distribution of gasoline excise tax from the County Auditor.
03-B	Other	Refunds and all other items of income not included elsewhere.
03-C	Interest	Interest received from deposits and investments.
03-D	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
03-E	Transfers – In	Transfer to the gasoline tax fund from other funds, identifying each fund source.
04 ROAD AND BRIDGE FUND		
04-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from the County Auditor, including deductions.
04-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from the County Auditor, including deductions.
04-C	Contributions	Contributions for repair and maintenance of township Roads by County Commissioners. O.R.C. 5535.08.
04-D	Notes	Proceeds from the sale of anticipatory notes.
04-E	Federal Funds	Monies received from the Federal Government for flood damage and flood control.
04-F	Other	Refunds and all other income not included in 4-A through 4-D and 4-G through 4-I.
4-G	Transfers – In	Transfer to Road and Bridge Fund from other funds, identifying each fund source.

04-H	Rollback, Homestead and Personal Property Tax Exemption	Receipts from the State of Ohio which represent reimbursements for reductions in property taxes. O.R.C. 319.302 and 323.152.
04-I	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
05 CEMETERY FUND		
05-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
05-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
05-C	Sale of Lots	Income derived from the sale of cemetery lots. O.R.C. 517.07.
05-D	Fees	Fees charged from digging of graves. O.R.C. 517.06, for disinterment O.R.C. 517.23 and cost of foundations for cemetery markers.
05-E	Fines	Fines levied against trustees for failure to perform their duties as enumerated in O.R.C. 517.06 and 517.11.
05-F	Other	Refunds and all other items of income not included in 5-A through 5-E and 5-G through 5-I.
05-G	Transfers	Transfer to cemetery fund from other funds, identifying each fund source.
05-H	Rollback, Homestead and Personal Property Exemption	Receipts from the State of Ohio which represent reimbursements for reduction in property taxes. O.R.C. 319.02 and 323.152.
05-I	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

06 CEMETERY BEQUEST FUND

06-B	Bequests	Monies, securities, or property whose use is limited to interest income for the care of a particular burial lot or general improvement.
06-D	Other	Refunds and all other items of income not included in 6-B and 6-E through 6-F.
06-E	Transfers – In	Transfers to cemetery bequest fund from other funds, identifying each fund source.
06-F	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

07 LIGHTING ASSESSMENT FUND

07-A	Special Assessments	Semi-annual tax settlement from the County Auditor.
07-B	Other	All other income not included in 7-A, 7-C, or 7-D.
07-C	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
07-D	Transfers – In	Transfer to lighting assessment fund from other funds, identifying each fund source.

08 GARBAGE AND WAST DISPOSAL DISTRICT FUND

08-A	General Property Tax – Real Estate (Gross)	Semi-annual Tax settlement from County Auditor, including deductions.
08-B	Tangible Personal Property Tax (Gross)	Semi-annual Tax settlement from County Auditor, including deductions.
08-C	Rent and Service Charges	Rents, Service charges and payments on contracts for the use of disposal facilities.
08-D	Other	Refunds and all other items of income not included in 8-A through 8-C and 8-E through 8-G.

08-E	Transfers	Transfers to the garbage and waste disposal district fund from other funds, identifying each fund source.
08-F	Rollback, Homestead and Personal Property Tax Exemption	Receipts from the State of Ohio which represent reimbursements for reductions in property taxes. O.R.C. 319.302 and 323.152.
08-G	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
09 POLICE DISTRICT FUND		
09-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
09-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
09-C	Fees	Constables' fees for services.
09-D	Notes	Proceeds from the sale of anticipatory notes. O.R.C. 505.53.
09-E	Bonds	Proceeds from the sale of bonds. O.R.C. 505.52.
09-F	Other	Refunds and all other items of income not included in 9-A through 9-E and 9-G through 9-I.
09-G	Transfers – In	Transfers to police district funds from other funds, identifying each fund source.
09-H	Rollback, Homestead and Personal Property Tax Exemption	Receipts from the State of Ohio which represent reimbursements for reductions in property taxes. O.R.C. 319.302 and 323.152.
09-I	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

10 FIRE DISTRICT FUND

10-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
10-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
10-C	Contracts	Receipts derived from furnishing fire protection to other political subdivisions.
10-D	Notes	Proceeds from the sale of anticipatory notes.
10-E	Other	Refunds and all other items of income not included in 10-A through 10-D and 10-F through 10-H.
10-F	Transfers	Transfers to the Fire District Fund from other funds, identifying each source.
10-G	Rollback, Homestead and Personal Property Tax Exemption	Receipts from the State of Ohio which represent reimbursements for reductions in property taxes. O.R.C. 319.302 and 323.152.
10-H	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

11 ROAD DISTRICT FUND

11-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
11-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
11-C	Notes	Proceeds from the sale of anticipatory notes.
11-D	Other	Refunds and all items of income not included in 11-A through 11-C and 11-E through 11-G.

11-E	Rollback, Homestead and Personal Property Tax Exemption	Receipts from the State of Ohio which represent reimbursements for reductions in property taxes. O.R.C. 319.302 and 323.152.
11-F	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
11-G	Transfers – In	Transfers to the Road District Fund from other funds, identifying each fund source.
12 PARK LEVY FUND		
12-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
12-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
12-C	Fines and Penalties	Fines and penalties assessed for breaking the park's rules and regulations.
12-D	Other	Refunds and all items of income not included in 12-A through 12-C and 12- E through 12-G.
12-E	Transfers – In	Transfers to the Park Levy Fund from other funds, identifying each fund source.
12-F	Rollback, Homestead and Personal Property Tax Exemption	Receipts from the State of Ohio which represent reimbursements for reductions in property taxes. O.R.C. 319.302 and 323.152.
12-G	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
13 ZONING FUND		
13-A	Fees	Income from zoning permit fees, for amending and supplementing resolutions and certificates.

13-B	Other	Refunds and all items of income not included in 13-A, 13-C, and 13-D.
13-C	Transfers – In	Transfers to the Zoning Fund from other funds, identifying each fund source.
13-D	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
14 MISCELLANEOUS FUNDS		
14-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
14-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
14-C	Other	Refunds and all items of income not included in 14-A, 14-B and 14-D through 14-G.
14-D	Transfers – In	Transfers to the Miscellaneous Fund from other funds, identifying each fund source.
14-E	Rollback, Homestead and Personal Property Tax Exemption	Receipts from the State of Ohio which represent reimbursements for reductions in property taxes. O.R.C. 319.302 and 323.152.
14-F	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
14-G	Interest	Interest received from deposits and investments.
15 GENERAL BOND (NOTE) RETIREMENT FUND		
15-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
15-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from County Auditor, including deductions.

15-C	Premium and Accrued Interest	Premium and accrued interest from the sale of bonds.
15-D	Other	Refunds and all items of income not included in 15-A through 15-C and 15-E through 15-G.
15-E	Rollback, Homestead and Personal Property Tax Exemption	Receipts from the State of Ohio which represent reimbursements for reductions in property taxes. O.R.C. 319.302 and 323.152.
15-F	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
15-G	Transfers – In	Transfers to the General Bond (Note) Retirement Fund from other funds, identifying each fund source.
16 SPECIAL ASSESSMENT BOND RETIREMENT FUND		
16-A	Special Assessments	Special Assessment payments as listed on the semi-annual tax settlement from County Auditor, including deductions.
16-B	Premium and Accrued Interest	Premium and accrued interest from the sale of bonds.
16-C	Other	Refunds and all items of income not included in 16-A through 16-B and 16-D through 16-E.
16-D	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
16-E	Transfers – In	Transfers to the Special Retirement Bond Fund from other funds, identifying each fund source.
18 BONDS FUNDS		
18-A	Bonds	Proceeds from bond issues.
18-B	Interest	Interest earned on investments.
18-C	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

18-D	Transfers – In	Transfers to the Bonds Fund from other funds, identifying each fund source.
20 SPECIAL LEVY FUNDS		
20-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
20-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
20-C	Rollback, Homestead and Personal Property Tax Exemption	Receipts from the State of Ohio which represent reimbursements for reductions in property taxes. O.R.C. 319.302 and 323.152.
20-D	Other	Refunds and all items of income not included in 20-A through 20-C and 20-E through 20-F.
20-E	Transfers – In	Transfers to the Special Levy Fund from other funds, identifying each fund source.
20-F	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
21 CAPITAL EQUIPMENT FUND		
21-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
21-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
21-C	Rollback, Homestead and Personal Property Tax Exemption	Receipts from the State of Ohio which represent reimbursements for reductions in property taxes. O.R.C. 319.302 and 323.152.
21-D	Interest	Interest earned on investments.
21-E	Other	Refunds and all items of income not included in 21-A through 21-D, 21-F and 21-G.

21-F	Transfers – In	Transfers to the Capital Equipment Fund from other funds, identifying each fund source.
21-G	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
22 DRUG LAW ENFORCEMENT FUND		
22-A	Fines and Forfeitures	Fines and forfeitures levied against convicted drug offenders.
22-B	Other	Refunds and all items of income not included in 22-A, 22-C and 22-D.
22-C	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
22-D	Transfers – In	Transfers to the Drug Law Enforcement Fund from other funds, identifying each fund source.
23 PERMISSIVE MOTOR VEHICLE LICENSE TAX		
23-A	Motor Vehicle License Tax – Township Levied	Distribution of motor vehicle license tax from the County Auditor.
23-B	Interest Earnings	Interest received on deposits and investments.
23-C	County Distribution for County Levied Tax	Distribution of County levied tax from the County Auditor.
23-D	Other	Refunds and all items of income not included in 23-A through 23-C, 23-E and 23-F.
23-E	Transfers – In	Transfers to the Permissive Motor Vehicle License Tax Fund from other funds, identifying each fund source.
23-F	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

24 PERMISSIVE SALES TAX FUND

24-A	Permissive Sales Tax	Receipt of sales tax allocation from the County Auditor.
24-B	Other	Refunds and all items of income not included in 24-A, 24-C, and 24-D.
24-C	Transfers – In	Transfers to the Permissive Sales Tax Fund from other funds, identifying each fund source.
24-D	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

25 FEDERAL LAW ENFORCEMENT FUND

25-A	Proceeds from Federal Law Enforcement Agencies	Proceeds from federal law enforcement agencies.
25-B	Other	Refunds and all items of income not included in 25-A, 25-C, and 25-D.
25-C	Transfers – In	Transfers to the Federal Law Enforcement Fund from other funds, identifying each fund source.
25-D	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

26 PERMANENT IMPROVEMENT FUND

26-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
26-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
26-C	Other	Refunds and all items of income not included in 26-A, 26-B and 26-D through 26-H, including Rollback, Homestead and Personal Property Tax Exemption.
26-D	Proceeds of Notes	Proceeds from sale of anticipatory notes.

26-E	Transfers – In	Transfer to the Permanent Improvement Fund from other funds, identifying each fund source.
26-F	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
26-G	Sale of Asset	Proceeds from sale of fixed assets.
26-H	Interest	Income received on deposits and investments.
27 AGENCY FUND		
27-A	Receipt Related to Nature of the Fund	Revenues that are related to the nature of the Agency Fund.
27-B	Issue 2 and/or Gasoline Tax	Portion of issue 2 and/or Gasoline Tax that is being held for others.
27-C	Receipts from Other Government Entities	Revenue from other government agencies that is being held for other.
27-D	Other	Refunds and all items of income not included in 27-C, 27-E through 27-G.
27-E	Transfers – In	Transfers to Agency Funds from other funds, identifying each fund source.
27-F	Interest	Income received on deposits and investments.
27-G	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
28 AMBULANCE AND EMERGENCY MEDICAL SERVICES FUND		
28-A	Charges for Ambulance or Emergency Medical Services	Charges received for Ambulance runs.
28-B	Other	Refunds and all items of income not included in 28-A, 28-C, and 28-D.
28-C	Transfers – In	Transfers to the Ambulance and Emergency Medical Services Fund from other funds, identifying each fund source.

28-D	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
29 SINKING FUND		
29-A	General Property Tax – Real Estate (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
29-B	Tangible Personal Property Tax (Gross)	Semi-annual tax settlement from County Auditor, including deductions.
29-C	Other	Refunds and all items of income not included in 29-A, 29-B, and 29-D through 29-F, including Rollback, Homestead and Personal Property Tax Exemption.
29-D	Transfers – In	Transfers to the Sinking Fund from other funds, identifying each fund source.
29-E	Intergovernmental Revenues	Revenue received from other Governmental agencies, including Rollback, Homestead and Personal Property Tax Exemption.
29-F	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be paid back.
30 PUBLIC WORKS COMMISSION PROJECT FUND		
30-A	State share of Issue Two and/or Gasoline Tax	Receipt of state share of Issue 2 and/or Gasoline Tax.
30-B	Federal Grant	Revenue received from Federal Grant Programs.
30-C	State Grants	Revenue received from State Grant Programs.
30-D	Proceeds of Sale of Notes	Proceeds from sale of anticipatory notes.
30-E	Transfers – In	Transfers to the Public Works Commission Project Fund from other funds, identifying each fund source.
30-F	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

30-G	Other	Refunds and all items of income not included in 30-A through 30-F and 30-H.
30-H	Proceeds of Sale of Bonds	Proceeds from Sale of Bonds.
32 LAW ENFORCEMENT TRUST FUND		
32-A	Proceeds from Sale of Forfeited Property And Seized Contraband	Proceeds from sale of forfeited property and seized contraband.
32-B	Donations	Donations to the board of trustees for a specific purpose. Stocks should be assigned market value at the time of receipt and carried on the records at said value.
32-C	Other	Refunds and all items of income not included in 32-A, 32-B, 32-D, and 32-E.
32-D	Transfers – In	Transfers to the Law Enforcement Trust Fund from other funds, identifying each fund source.
32-E	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.
33 ENFORCEMENT AND EDUCATION FUND		
33-A	Fines	Income received from fines.
33-B	Donations	Donations to the board of trustees for a specific purpose. Stocks should be assigned market value at the time of receipt and carried on the records at said value.
33-C	Other	Refunds and all items of income not included in 33-A, 33-B, 33-D, and 33-E.
33-D	Transfers – In	Transfers to the Enforcement and Education Fund from other funds, identifying each fund source.
33-E	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

34 UNDERGROUND STORAGE TANK FUND

34-A	Donations	Donations to the board of trustees for a specific purpose. Stocks should be assigned market value at the time of receipt and carried on the records at said value.
34-B	Transfers – In	Transfers to Underground Storage Tank Fund from other funds, identifying each fund source.
34-C	Other	Refunds and all items of income not included in 34-A and 34-B.

35 PERMANENT FUNDS

35-A	Gifts and Donations	Monies, securities, or property whose use is limited to principal or interest.
35-B	Bequests	Monies, securities, or property whose use is limited to interest income for the care of a particular purpose or general improvement.
35-C	Transfers – In	Transfers to the Permanent Fund from other funds, identifying each fund source.
35-D	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

36 PRIVATE PURPOSE TRUST FUNDS

36-A	Gifts and Donations	Revenue received from gifts and donations.
36-B	Bequests	Revenue received from estates.
36-C	Transfers – In	Transfers to the Private Purpose Trust Fund from other funds, identifying each fund source.
36-D	Advances – In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

37 ENTERPRISE FUNDS

37-A	Charges for Services	Charges received from providing Services to Township residents
37-B	Tap-In Fees	Charges received from customers tapping into township water and sewer services
37-C	Special Assessments	Special Assessment payments as listed on the semi-annual tax settlement from County Auditor, including deductions.
37-D	Other Operating Revenue	Refunds and all items of income not included in 37-A through 37-C and 37-E through 37-I.
37-E	Grants	Revenue received from Federal and State grant programs
37-F	Other Non-Operating Revenue	Receipt of any other non-operating revenue not described in revenue codes 37-A through 37-E and 37-G through. 37-I.
37-G	Investment Income	Revenue received from interest on investments.
37-H	Transfers-In	Transfers to the Enterprise Funds from other funds, identifying each fund source.
37-I	Advances-In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

38 INTERNAL SERVICE FUNDS

38-A	Charges for Services	Charges received from providing Services to Township residents
38-B	Tap-In Fees	Charges received from customers tapping into township water and sewer services
38-C	Special Assessments	Special Assessment payments as listed on the semi-annual tax settlement from County Auditor, including deductions.
38-D	Other Operating Revenue	Refunds and all items of income not included in 38-A through 38-C and 38-E through 38-I.

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Alphanumeric Receipt Accounts

38-E	Grants	Revenue received from Federal and State grant programs
38-F	Other Non-Operating Revenue	Receipt of any other non-operating revenue not described in revenue codes 38-A through 38-E and 38-G through. 38-I.
38-G	Investment Income	Revenue received from interest on investments.
38-H	Transfers-In	Transfers to the Internal Service Funds from other funds, identifying each fund source.
38-I	Advances-In	Receipts temporarily allocated to a fund for cash flow purposes with the intent that the money will be repaid.

SAMPLE ALPHANUMERIC CODES
Alphanumeric Appropriation Accounts

If a township elects to use the alphanumeric system of accounting codes, the appropriation accounts within each township fund should be organized as follows, with each appropriation account identified by the alphanumeric code provided:

Code	***Appropriation Account***	***Description***
1-GENERAL FUND		
1-A – ADMINISTRATIVE		
	1-A-1 Salaries – Trustees	Compensation paid to trustees, O.R.C. 505.24.
	1-A-2 Salary – Clerk	The salary of the clerk. O.R.C. 507.09.
	1-A-3 Travel and Other Expenses of Officials	Expenses incurred attending association meetings and in the performance of official business.
	1-A-4 Supplies-Administration	All expendable supplies for the administration offices, such as paper, pens, pencils, postage, letterhead, envelopes, warrants, ledgers, minute books, etc.
	1-A-5 Equipment - Administration	New equipment and equipment to replace that now in use, or that being taken out of use, in the administration offices such as desks, chairs, tables, typewriters, adding machines, duplicators, etc.
	1-A-6 Insurance	Premiums for fire, comprehensive, hospitalization, liability, health, and accident insurance and surety bonds.
	1-A-7 Burial Expenses	Expenses incurred in burying indigent persons who were legal residents of the township.
	1-A-10 Legal Counsel	Fees paid to legal counsel. O.R.C. 309.09.
	1-A-11 Memorial Day Expenses	Expenses as determined by trustees or each veterans' organization post or camp in the township. O.R.C. 307.66.
	1-A-12 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System.

1-A-13 Assessments and Contributions	All payments for assessments and contributions to the volunteer fireman's dependent's fund, O.R.C. 146, and the Ohio Police and Fire Pension Fund, O.R.C. 742.34.
1-A-15 Workers' Compensation	Charges deducted by the County Auditor on Tax Settlements.
1-A-16 General Health District	Charges deducted by the County Auditor on Tax Settlements.
1-A-17 Auditor and Treasurer Fees	Charges deducted by the County Auditor on Tax Settlements.
1-A-18 Advertising Delinquent Lands	Charges deducted by the County Auditor on Tax Settlements.
1-A-19 State Examiners' Charges	Charges for Audits.
1-A-21 Election Expense	Charges deducted by the County Auditor on Tax Settlements.
1-A-22 Hospital Contribution	Payment of taxable share to hospital association. O.R.C. 513.01.
1-A-23 Library Contributions	Payment of taxable share to Library Fund. O.R.C. 3375.10 and 3375.11.
1-A-24 Civil Defense	Township's share to civil defense agency created under O.R.C. 5915.07.
1-A-25 Contingency Account	Unanticipated emergency expenses not to exceed 35 percent of the total appropriation for current expense.
1-A-26 Other Expenses	Any miscellaneous items of expense not included in 1-A-1 through 1-A-25 and 1-A-27 through 1-A-81.
1-A-27 Transfers – Out	Transfers from the General Fund to other Funds, identifying each fund transferred to.
1-A-28 Contractual Services	Payments made for contracted services.
1-A-80 Unemployment Compensation	Payment to the state for unemployment compensation.
1-A-81 Salary – Administrator	Compensation paid to the township Administrator.

1-B-TOWN HALLS, MEMORIAL BUILDINGS AND GROUNDS

1-B-1 Salaries	Compensation paid to janitors, Engineers, cleaning personnel and all persons employed to perform maintenance and repair on buildings, grounds, furniture, and equipment.
1-B-2 Improvement of Sites	Site improvement such as blacktopping, grading, ditching, fencing, landscaping, etc.
1-B-3 New Building and Additions	New building construction, addition to present facilities, and purchase of real estate.
1-B-4 Utilities	All water, sewerage, electric, telephone, and heat bills.
1-B-5 Maintenance Supplies and Materials	All expendable supplies used in general maintenance and repair of buildings and grounds.
1-B-6 Equipment Purchases and Replacements	Purchase and replacement of scrubbers, waxers, sweepers, tools, and maintenance equipment.
1-B-7 Repairs	Repairs to building and equipment by outside contractors including labor and materials.
1-B-8 Other Expenses	Any other items of expense not included in 1-B-1 through 1-B-7.

1-C – FIRE PROTECTION

1-C-1 Salaries	Compensation paid to township employees for fire protection.
1-C-2 Equipment Purchases and Replacements	Purchase and replacement of fire fighting and emergency equipment.
1-C-3 Improvement of Sites	Site improvement such as blacktopping, grading, ditching, fencing, landscaping, etc.
1-C-4 New Buildings and Additions	New building construction, addition to present facilities, and purchase of real estate.

1-C-5 Contracts	Payments for fire protection received, pursuant to a contract with another political subdivision.
1-C-6 Supplies	Chemicals, Gasoline, Oil, Tires, Anti-Freeze, Wearing Apparel, etc.
1-C-7 Repairs	Repairs to building and equipment by outside contractors including labor and materials.
1-C-8 Other Expenses	Any other items of expense not included in 1-C-1 through 1-C-7.

1-D – CEMETERIES

1-D-1 Salaries	Compensation paid to township employees for the operation and maintenance of cemeteries.
1-D-2 Improvement of Sites	Site improvement such as blacktopping, grading, ditching, fencing, landscaping, etc.
1-D-3 Land Purchases	Acquisition of land for cemetery purposes.
1-D-4 New Buildings and Equipment	New building construction, addition to present facilities, and purchase of real estate.
1-D-5 Tools and Equipment	Purchase or lease of tools, equipment, and machinery.
1-D-6 Supplies	Sod, grass seed, flowers, shrubs, trees, gravel, sand, cement, etc.
1-D-7 Repairs	Repairs to buildings and equipment by outside contractors, including labor and materials.
1-D-8 Union Cemetery	Township's share for the operation of a union cemetery. O.R.C. 739.23.
1-D-9 Other Expenses	Any other items of expense not included in 1-D-1 through 1-D-8.

1-E – LIGHTING

1-E-1 Contracts	Payment for township's share of lighting costs in accordance with contracts. O.R.C. 505.01.

1-E-2 Other Expenses	All other items of expense not included in 1-E-1.
1-F – PARKS AND RECREATION	
1-F-1 Salaries	Compensation paid to township employees for operation and maintenance of parks and recreation centers.
1-F-2 Improvement of Sites	Site improvements such as blacktopping, grading, ditching, fencing, landscaping, etc.
1-F-3 Land Purchases	Acquisition of additional land for park and recreation areas.
1-F-4 New Buildings and Additions	New building construction, addition to present facilities, and purchase of real estate.
1-F-5 Tools and Equipment	Purchase or lease of tools, equipment, and machinery.
1-F-6 Supplies	Brick, lumber, concrete, pipe, glass, hardware, shrubs, trees, gravel, sand, etc.
1-F-7 Repairs	Repairs to buildings and equipment by outside contractors, including labor and materials.
1-F-8 Other Expenses	All other items of expense not included in 1-F-1 through 1-F-7.
1-G – POLICE PROTECTION	
1-G-1 Salaries	Compensation paid to township constables and police officers.
1-G-2 Equipment Purchases and Replacements	Purchase and replacement of cruisers and police equipment.
1-G-3 Contracts	Payments for police protection received, pursuant to a contract with another political subdivision.
1-G-4 Supplies	Gasoline, oil, tires, anti-freeze, guns, ammunition, radio parts, apparel, etc.
1-G-5 Repairs	Repairs to vehicles and equipment by outside contractors, including labor and materials.

1-G-6 Other Expenses	Any other items of expense not included in 1-G-1 through 1-G-5.

1-H – SANITARY DUMP

1-H-1 Salaries	Compensation paid to township employees for operation and maintenance of dump facilities.
1-H-2 Land Purchases and Leases	Acquisition of site or sites by lease or purchase for dump facilities.
1-H-3 Tools and Equipment	Purchase or lease of tools, equipment, and machinery.
1-H-4 Supplies	Diesel fuel, oil, gasoline, chains, etc.
1-H-5 Repairs	Repairs to equipment by outside contractors, including labor and materials.
1-H-6 Contracts	Payments made for dump facilities pursuant to a contract with other political subdivisions.
1-H-7 Other Expenses	Any other items of expense not included in 1-H-1 through 1-H-6.

1-J – ZONING

1-J-1 Salaries and Fees	Inspectors' fees and compensation to clerk and members of zoning board of appeals and zoning commission.
1-J-2 Supplies	Office supplies and forms.
1-J-3 Other Expenses	Any other items of expense not included in 1-J-1 through 1-J-2.

1-K – HIGHWAYS MISCELLANEOUS

1-K-1 Salaries – Trustees	Compensation paid to trustees for services in relation to roads.
1-K-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System, based on the amount of compensation paid from the Motor Vehicle License Tax Fund.
1-K-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements based on the amount of compensation paid from the Motor Vehicle License Tax Fund.

1-K-4 Tools and Equipment	Purchase or lease of tools, equipment, and machinery.
1-K-5 Supplies	Diesel fuel, gasoline, chains, parts, etc.
1-K-6 Repairs	Repairs to equipment and road machinery by outside contractors, including labor and materials.
1-K-7 Maintenance of Equipment	Expenses incurred in maintaining road machinery and equipment.
1-K-8 Buildings and Additions	Building construction, or purchase, addition to present facilities and purchase of real estate.
1-K-9 Utilities	Water, Electric, Utility, Telephone, and heat bills associated with work on highways.
1-K-10 Insurance	Premiums for insurance.
1-K-11 Other Expenses	Any other items of expense not included in 1-K-1 through 1-K-10, and 1-K-80.
1-K-80 Unemployment Compensation	Payments to the State for unemployment compensation.

1-L – HIGHWAYS – MAINTENANCE

1-L-1 Salaries	Compensation paid to township employees for work performed in the maintenance and repair of roads.
1-L-2 Material	Expenses for necessary materials used in the maintenance and repair of roads.
1-L-3 Contracts	Payments to contractors for road maintenance and repair projects including labor and materials.
1-L-4 Other Expenses	Any other items of expense for the maintenance and repair of roads not included in 1-L-1 through 1-L-3.

1-M – HIGHWAYS – IMPROVEMENTS

1-M-1 Salaries	Compensation paid to township employees for work performed on road improvement projects.
1-M-2 Material	Expenses for necessary material used in road improvement projects.

1-M-3 Contracts	Payments to contractors for road improvement projects, including labor and materials.
1-M-4 Other Expenses	Any other items of expense for road improvement projects not included in 1-M-1 through 1-M-3.

1-N - ADVANCES

1-N-1 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

2 – MOTOR VECHCLE LICENSE TAX FUND

2-A – MISCELLANEOUS

2-A-1 Salaries – Trustees	Compensation paid to trustees for services in relation to roads.
2-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System, based on the amount of compensation paid from the Motor Vehicle License Tax Fund.
2-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements based on the amount of compensation paid from the Motor Vehicle License Tax Fund.
2-4-A Tools and Equipment	Purchase or lease of tools, equipment and road machinery.
2-A-5 Supplies	Diesel fuel, gasoline, chains, parts, etc.
2-A-6 Repairs	Repairs to equipment and road machinery by outside contractors, including labor and materials.
2-A-7 Maintenance of Equipment	Expenses incurred in maintaining road machinery and equipment.
2-A-8 Other Expenses	Any other items of expense for road improvement projects not included in 2-A-1 through 2-A-7, 2-A-10, and 2-A-80.
2-A-10 Transfers – Out	Transfer from Motor Vehicle License Tax Fund to other funds, identifying each fund transferred to.

2-A-80 Unemployment Compensation	Payments to State for unemployment compensation.
2-B – MAINTENANCE	
2-B-1 Salaries	Compensation paid to township employees for work performed in the maintenance and repair of roads.
2-B-2 Material	Expenses for necessary material used in the maintenance and repair of roads.
2-B-3 Contracts	Payments to contractors for road maintenance and repair projects, including labor and material.
2-B-4 Other Expenses	Any other items of expense not for the maintenance and repair of roads not included in 2-B-1 through 2-B-3.
2-C – IMPROVEMENT	
2-C-1 Salaries	Compensation paid to township employees for work performed on road improvement projects.
2-C-2 Material	Expenses for necessary material used in road improvement projects.
2-C-3 Contracts	Payments to contractors for road improvement projects, including labor and material.
2-C-4 Other Expenses	Any other items of expense for the maintenance and repair of roads not included in 2-C-1 through 2-C-3.
2-D – ADVANCES	
2-D-1 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
3 – GASOLINE TAX FUND	
3-A – MISCELLANEOUS	
3-A-1 Salaries – Trustees	Compensation paid to trustees for services in relation to roads.

3-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System, based on the amount of compensation paid from the Gasoline Tax Fund.
3-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements based on the amount of compensation paid from the Gasoline Tax Fund.
3-A-4 Tools and Equipment	Purchase or lease of tools, equipment, and road machinery.
3-A-5 Supplies	Diesel fuel, gasoline, chains, parts, etc.
3-A-6 Repairs	Repairs to equipment and road machinery by outside contractors, including labor and materials.
3-A-7 Maintenance of Equipment	Expenses incurred in maintaining road machinery and equipment.
3-A-8 Buildings and Additions	Building construction, or purchase, addition to present facilities and acquisition of buildings to house road equipment.
3-A-10 Other Expenses	Any other items of expense for the maintenance and repair of roads not included in 3-A-1 through 3-A-8, 3-A-11, and 3-A-80.
3-A-11 Transfers – Out	Transfer from Gasoline Tax Fund to other funds, identifying each fund transferred to.
3-A-80 Unemployment Compensation	Payments to State for unemployment compensation.

3-B – MAINTENANCE

3-B-1 Salaries	Compensation paid to township employees for work performed in the maintenance of roads.
3-B-2 Material	Expenses for necessary material used in the maintenance and repair of roads.
3-B-3 Contracts	Payments to contractors for road maintenance and repair projects, including labor and material.

3-B-4 Other Expenses	Any other items of expense for the maintenance and repairs of roads not included in 3-B-1 through 3-B-3.
3-C – IMPROVEMENTS	
3-C-1 Salaries	Compensation paid to township employees for work performed on road improvement projects.
3-C-2 Material	Expenses for necessary material used in road improvement projects.
3-C-3 Contracts	Payments to contractors for road improvement projects, including labor and materials.
3-C-4 Other Expenses	Any other items of expense for the maintenance and repair of roads not included in 3-C-1 through 3-C-3.
3-D – ADVANCES	
3-D-1 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
4 – ROAD AND BRIDGE FUND	
4-A – MISCELLANEOUS	
4-A-1 Salaries – Trustees	Compensation paid to trustees for services in relation to roads.
4-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System, based on the amount of compensation paid from the Road and Bridge Fund.
4-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements based on the amount of compensation paid from the Road and Bridge Fund.
4-A-4 Tools and Equipment	Purchase or lease of tools, equipment and road machinery.
4-A-5 Supplies	Diesel fuel, gasoline, chains, parts, etc.
4-A-6 Repairs	Repairs to equipment and road machinery by outside contractors, including labor and materials.

4-A-7 Maintenance of Equipment	Expenses incurred in maintaining road machinery and equipment.
4-A-8 Buildings and Additions	Building construction, or purchase, addition to present facilities and acquisition of buildings to house road equipment.
4-A-9 Utilities	Water, Electric, Utility, Telephone, and heat bills for highway garage.
4-A-10 Insurance	Premiums for fire, comprehensive, and liability insurance.
4-A-13 Other Expenses	Any other items of expense not included in 4-A-1 through 4-A-10, 4-A-14, and 4-A-80.
4-A-14 Transfers – Out	Transfer from Road and Bridge Fund to other funds, identifying each fund transferred to.
4-A-80 Unemployment Compensation	Payments to State for unemployment compensation.

4-B – MAINTENANCE

4-B-1 Salaries	Compensation paid to township employees for work performed in the maintenance and repair of roads.
4-B-2 Material	Expenses for necessary material used in the maintenance and repair of roads.
4-B-3 Contracts	Payments to contractors for road maintenance and repair projects, including labor and materials.
4-B-4 Other Expenses	Any other items of expense for the maintenance and repair of roads not included in 4-B-1 through 4-B-3.

4-C – IMPROVEMENT

4-C-1 Salaries	Compensation paid to township employees for work performed on road improvement projects.
4-C-2 Material	Expenses for necessary material used in road improvement projects.

4-C-3 Contracts	Payments to contractors for road improvement projects, including labor and material.
4-C-4 Other Expenses	Any other items of expense for the maintenance and repair of roads not included in 4-C-1 through 4-C-3.

4-D – ADVANCES – OUT

4-D-1 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

5 – CEMETERY FUND

5-A-1 Salaries – Trustees	Compensation paid to trustees for services in relation to cemeteries.
5-A-2 Salaries	Compensation paid to township employees for work performed in the operation, maintenance, and care of cemeteries.
5-A-3 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System, based on the amount of compensation paid from the Cemetery Fund.
5-A-4 Workers' Compensation	Charges deducted by the County Auditor on tax settlements based on the amount of compensation paid from the Cemetery Fund.
5-A-5 Improvement of Sites	Site improvement such as blacktopping, grading, ditching, fencing, landscaping, etc.
5-A-6 Land Purchases	Acquisition cost of additional land for cemetery purposes from monies derived from tax levies only.
5-A-7 New Buildings and Additions	New building construction and additions to existing facilities from monies derived from tax levies only.
5-A-8 Tools and Equipment	Purchase or lease of tools and equipment.
5-A-9 Supplies	Brick, lumber, concrete, pipe, shrubs, trees, gravel, sand, etc.

5-A-10 Repairs	Repairs to buildings and equipment by outside contractors, including labor and materials.
5-A-11 Contracts	Payments for maintenance and care of cemeteries pursuant to a contract with an independent contractor.
5-A-12 Other Expenses	Any other items of expense for the maintenance and care of cemeteries not included in 5-A-1 through 5-A-11, 5-A-13, 5-A-14, and 5-A-80.
5-A-13 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
5-A-14 Transfers – Out	Transfer from Cemetery Fund to other funds, identifying each fund transferred to.
5-A-80 Unemployment Compensation	Payments to State for unemployment compensation.

6 – CEMETERY BEQUEST FUND

6-A-1 Salaries	Compensation paid to township employees for work performed in the operation, maintenance, and care of cemeteries.
6-A-2 Contracts	Payments for contract services.
6-A-3 Supplies and Materials	Payments for supplies and materials used in the upkeep of cemetery plots.
6-A-4 Capital Outlay	Payments for equipment, tools, and machinery.
6-A-5 Transfers – Out	Transfer from Cemetery Bequest Fund to other funds, identifying each fund transferred to.
6-A-6 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

7 – LIGHTING ASSESSMENT FUND

7-A-1 Contracts	Payments for contract services.
7-A-2 Other Expenses	Any other items of expense not included in 7-A-1, 7-A-3, and 7-A-4.

7-A-3 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
7-A-4 Transfers – Out	Transfer from Lighting Assessment Fund to other funds, identifying each fund transferred to.

8 – GARBAGE AND WASE DISPOSAL DISTRICT FUND

8-A-1 Salaries	Compensation paid to township employees for work performed in the operation and maintenance of disposal facilities.
8-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System, based on the amount of compensation paid from the Garbage and Waste Disposal District Fund.
8-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements based on the amount of compensation paid from the Garbage and Waste Disposal District Fund.
8-A-4 Land Purchases	Acquisition of site or sites by lease or purchase for waste disposal facilities.
8-A-5 Tools and Equipment	Purchase or lease of tools, equipment, and machinery.
8-A-6 Supplies	Gasoline, diesel fuel, oil, tires, etc.
8-A-7 Repairs	Repairs to equipment and machinery by outside contractors, including labor and materials.
8-A-8 Contracts	Payments for waste disposal service received, pursuant to a contract with another political subdivision or private contractor.
8-A-9 Other Expenses	Any other items of expense not included in 8-A-1 through 8-A-8, 8-A-10, 8-A-11, and 8-A-80.
8-A-10 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

8-A-11 Transfers – Out	Transfers from Garbage and Waste Disposal District Fund to other funds, identifying each fund transferred to.
8-A-80 Unemployment Compensation	Payments to State for unemployment compensation.

9 – POLICE DISTRICT FUND

9-A-1 Salaries	Compensation paid to township constables and police officers.
9-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System, based on the amount of compensation paid from the Police District Fund.
9-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements based on the amount of compensation paid from the Police District Fund.
9-A-4 Assessments and Contributions	All payments for assessment and contributions to police and firemen's disability and pension fund. O.R.C. 742.23.
9-A-5 Land Purchases	Acquisition of land for housing police equipment.
9-A-6 New Buildings and Additions	New building construction, addition to present facilities, and acquisition of buildings to house police equipment.
9-A-7 Tools and Equipment	Purchase or lease of tools, equipment, vehicles, and machinery.
9-A-8 Supplies	Gasoline, oil, tires, anti-freeze, guns, ammunition, radio parts, wearing apparel, etc.
9-A-9 Repairs	Repairs to vehicles and equipment by outside contractors, including labor and materials.
9-A-10 Contracts	Payments for police protection received, pursuant to a contract with another political subdivision.
9-A-12 Insurance	Premiums for fire, comprehensive and collision insurance.

9-A-13 Training	Tuition and expenses for additional police training.
9-A-14 Other Expenses	Any other items of expense not included in 9-A-1 through 9-A-13, 9-A-15, 9-A-16, and 9-A-80.
9-A-15 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
9-A-16 Transfers – Out	Transfers from the Police District Fund to other funds, identifying each fund transferred to.
9-A-80 Unemployment Compensation	Payments to State for unemployment compensation.

10 – FIRE DISTRICT FUND

10-A-1 Salaries	Compensation paid to township firemen, employees, and volunteers.
10-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System, based on the amount of compensation paid from the Fire District Fund.
10-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements based on the amount of compensation paid by the Fire District Fund.
10-A-4 Assessments and Contributions	All payments for assessment and contributions to the volunteer firemen's dependents fund and to the police and firemen's disability pension fund.
10-A-5 Land Purchases	Acquisition of land for housing fire department and ambulances.
10-A-6 New Buildings and Equipment	New building construction, addition to present facilities and acquisition of buildings to house fore equipment, ambulances and communication equipment.
10-A-7 Utilities	All water, sewerage, electric, telephone, and heat bills for fire stations.
10-A-8 Tools and Equipment	Purchase or lease of tools, equipment, vehicles and machinery.

10-A-9 Supplies	Gasoline, oil, tires, anti-freeze, pipe, parts, wearing apparel, etc.
10-A-10 Repairs	Repairs to vehicles and equipment by outside contractors, including labor and materials.
10-A-11 Contracts	Payments for fire protection received, pursuant to a contract with another political subdivision or private fire company
10-A-14 Insurance	Premiums for fire, comprehensive, and collision insurance.
10-A-15 Other Expenses	Any other items of expense not included in 10-A-1 through 10-A-14, 10-A-16, 10-A-17 and 10-A-80.
10-A-16 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
10-A-17 Transfers – Out	Transfers from the Fire District Fund to other funds, identifying each fund transferred to.
10-A-80 Unemployment Compensation	Payments to State for unemployment compensation.

11 – ROAD DISTRICT FUND

11-A – MISCELLANEOUS

11-A-1 Salaries	Compensation paid to trustees for services in relation to roads.
11-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System, based on the amount of compensation paid from the Road District Fund.
11-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements based on the amount of compensation paid from the Road District Fund.
11-A-4 Tools and Equipment	Purchase or lease of tools, equipment, and machinery.
11-A-5 Supplies	Diesel fuel, gasoline, chains, parts, etc.

11-A-6 Repairs	Repairs to equipment and road machinery by outside contractors, including labor and materials.
11-A-7 Maintenance of Equipment	Expenses incurred in maintaining road machinery and equipment.
11-A-8 Buildings and Additions	New building construction, addition to present facilities, and acquisition of buildings to house road equipment.
11-A-9 Insurance	Premiums for fire, comprehensive, and liability insurance.
11-A-12 Other Expenses	Any other items of expense not included in 11-A-1 through 11-A-9, 11-A-14, and 11-A-80.
11-A-80 Unemployment Compensation	Payments to State for unemployment compensation.

11-B – MAINTENANCE

11-B-1 Salaries	Compensation paid to township employees for work performed in the maintenance and repair of roads.
11-B-2 Material	Expenses for necessary material used in the maintenance and repair of roads.
11-B-3 Contracts	Payment to contractors for road maintenance and repair projects, including labor and materials.
11-B-4 Other Expenses	Any other items of expense for the maintenance and repair of roads not included in 11-B-1 through 11-B-3.

11-D – ADVANCES

11-D-1 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

12 – PARK LEVY FUND

12-A-1 Salaries	Compensation paid to township employees for operation and maintenance of parks and recreation centers.

12-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System, based on the amount of compensation paid from the Park Levy Fund.
12-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements based on the amount of compensation paid from the Park Levy Fund.
12-A-4 Improvement of Sites	Site improvements such as blacktopping, grading, ditching, fencing, landscaping, etc.
12-A-5 Tools and Equipment	Purchase or lease of tools, equipment, and machinery.
12-A-6 Supplies	Brick, lumber, concrete, pipe, glass, hardware, shrubs, trees, gravel, sand, etc.
12-A-7 Repairs	Repairs to buildings and equipment by outside contractors, including labor and materials.
12-A-8 Other Expenses	All other items of expense not included in 12-A-1 through 12-A-7, 12-A-9, 12-A-12, and 12-A-80.
12-A-9 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
12-A-10 Transfers – Out	Transfers from the Park Levy Fund to other funds, identifying each fund transferred to.
12-A-80 Unemployment Compensation	Payments to State for unemployment compensation.

13 – ZONING FUND

13-A-1 Salaries and Fees	Inspectors' fees and compensation to clerk and members of zoning board of appeals and zoning commission.
13-A-2 Expenses	Expenses incurred by members of the Board of Appeals in the performance of official business.
13-A-3 Supplies	Office supplies and forms.

13-A-4 Contracts	Payments pursuant to employment on contracts with planning consultants.
13-A-5 Other Expenses	Any other items of expense not included in 13-A-1 through 13-A-4, 13-A-6, and 13-A-7.
13-A-6 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
13-A-7 Transfers – Out	Transfers from the Zoning Fund to other funds, identifying each fund transferred to.

14 – MISCELLANEOUS FUND

14-A-1 Salaries – Trustees	Compensation paid to Township Employees for services rendered for the individual fund.
14-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System, based on the amount of compensation paid from the Miscellaneous Fund.
14-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements based on the amount of compensation paid from the Miscellaneous Fund.
14-A-4 Tools and Equipment	Purchase or lease of tools, equipment, and road machinery.
14-A-5 Supplies	Various supplies necessary in relation to the individual fund.
14-A-6 Repairs	Repairs to tools, equipment, and machinery by outside contractors, including labor and materials.
14-A-7 Contracts	Payments for services pursuant to a contract with another political subdivision or private contractor.
14-A-8 Other Expenses	Any other items of expense not included in 14-A-1 through 14-A-7, 14-A-9, 14-A-19, and 14-A-80.
14-A-9 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

14-A-10 Transfers – Out	Transfer from the Miscellaneous Fund to other funds, identifying each fund transferred to.
14-A-80 Unemployment Compensation	Payments to State for unemployment compensation.

15 – GENERAL BOND (NOTE) RETIREMENT FUND

15-A-1 Principal	Payments for the retirement of outstanding indebtedness principal.
15-A-2 Other Expenses	All other items of expense not included in 15-A-1, and 15-A-3 through 15-A-5.
15-A-3 Transfers – Out	Transfers from the Bond Retirement Fund to other funds, identifying each fund transferred to.
15-A-4 Interest	Interest payments on outstanding indebtedness.
15-A-5 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

16 – SPECIAL ASSESSMENT BOND RETIREMENT FUND

16-A-1 Principal	Payments for the retirement of outstanding indebtedness principal.
16-A-2 Other Expenses	All other items of expense not included in 16-A-1 and 16-A-3 through 16-A-5.
16-A-3 Transfers – Out	Transfers from Bond Retirement Fund to other funds, identifying each fund transferred to.
16-A-4 Interest	Interest payments on outstanding indebtedness.
16-A-5 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

18 – BONDS FUND

18-A-1 Fees	Compensation for engineering services.
18-A-2 Contracts	Payments for services pursuant to a contract with a private contractor, including labor and materials.
18-A-3 Other Expenses	Any other items of expense not included in 18-A-1, 18-A-3, and 18-A-4.
18-A-4 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

20 – SPECIAL LEVY FUNDS

20-A-1 Salaries	Compensation paid to township employees for services rendered for the individual fund.
20-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System.
20-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements.
20-A-4 Tools and Equipment	Purchase or lease of tools, equipment, and machinery.
20-A-5 Supplies	Payments for materials and supplies used in the operation of the township.
20-A-6 Repairs	Payments for repairs to tools, equipment, machinery, roads, etc., within the purpose of the levy.
20-A-7 Contracts	Payments for contract services.
20-A-8 Other Expenses	Other expenses not included in 20-A-1 through 20-A-7, and 20-A-9 through 20-A-80.
20-A-9 Transfers – Out	Transfers from Special Levy Fund to other funds, identifying each fund transferred to.
20-A-10 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

20-A-11 Assessments and Contributions	All payments for assessment and contributions to police and firemen's disability and pension fund. O.R.C. 742.23.
20-A-12 Land Purchases	Acquisition of land for housing police equipment.
20-A-13 New Buildings and Additions	New building constriction, addition to present facilities and acquisition of buildings within the purpose of the levy.
20-A-14 Utilities	All water, sewerage, electric, telephone, and heat bills within the purpose of the levy.
20-A-15 Insurance	Premiums for fire, comprehensive, collision, and liability insurance.
20-A-80 Unemployment Compensation	Payments to State for unemployment compensation.

21 – CAPITAL EQUIPMENT FUND

21-A-1 Police Equipment	Payments for Police Equipment.
21-A-2 Fire Equipment	Payments for Fire Equipment
21-A-3 Road Equipment	Payments for Road Equipment
21-A-4 Other Expenses	Other expenses associated with the purchase of Police, Fire, or Road Equipment.
21-A-5 Transfers – Out	Transfers from capital equipment fund to other funds, identifying each fund transferred to.
21-A-6 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

22 – DRUG LAW ENFORCEMENT FUND

22-A-1 Salaries	Compensation paid to the township employees for services rendered for the individual fund.
22-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System.
22-A-3 Workers' Compensation	Charged deducted by the County Auditor on tax settlement.

22-A-4 Contracts	Payments for services pursuant to a contract with a private contractor including labor and material.
22-A-5 Supplies	Gasoline, oil, tires, anti-freeze, guns, ammunition, radio, parts, wearing apparel, etc.
22-A-6 Capital Outlay	Acquisition cost of new land, new buildings construction, additions to present facilities, acquisition of buildings, and purchase or lease of tools, equipment, vehicles, and machinery.
22-A-7 Other Expenses	Any other item of expense not included in 22-A-1 through 22-A-6, 22-A-8, 22-A-9, and 22-A-80.
22-A-8 Transfers – Out	Transfers from Drug Law Enforcement Fund to other funds, identifying each fund transferred to.
22-A-9 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
22-A-80 Unemployment Compensation	Payment to the State for unemployment compensation.

23 – PERMISSIVE MOTOR VEHICLE LICENSE TAX
23-A – MISCELLANEOUS

23-A-1 Salaries	Compensation paid to Township employees for services rendered for the individual fund.
23-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System.
23-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements.
23-A-4 Tools and Equipment	Purchase or lease of tools, equipment, and road machinery.
23-A-5 Supplies and Materials	Various supplies necessary in relation to the individual fund.
23-A-6 Purchased Services	Payments to contractors for services.

23-A-7 Other Expenses	Any other items of expense not included in 23-A-1 through 23-A-6, 23-A-8, 23-A-9, and 23-A-80.
23-A-8 Transfers – Out	Transfer from Permissive Vehicle License Tax Fund to other funds, identifying each fund transferred to.
23-A-9 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
23-A-80 Unemployment Compensation	Payments to State for unemployment compensation.

23-B – CONSTRUCTION, RECONSTRUCTION, IMPROVEMENT, MAINTENANCE AND REPAIR

23-B-1 Salaries	Compensation paid to all persons employed by the township to perform construction, reconstruction, improvement, and maintenance and repair on projects in relation to the individual fund.
23-B-2 Supplies and Materials	All expendable supplies used in construction, reconstruction, improvement, and maintenance and repair of projects in relation to the individual fund.
23-B-3 Purchased Services - Contracts	Payments to contractors for services or repairs for the construction, reconstruction, improvement, and maintenance and repair on projects in relation to the individual fund.
23-B-4 Other Expenses	Any other items of expense not included in 23-B-1 through 23-B-3.

23-C – PURCHASING, ERECTING, AND MAINTAINING SIGNS

23-C-1 Salaries	Compensation paid to all persons employed by the township to perform purchasing, erecting, and maintaining signs for projects in relation to the individual fund.
23-C-2 Supplies and Materials	All expendable supplies used in purchasing, erecting, and maintaining signs for projects in relation to the individual fund.
23-C-3 Equipment and Machinery	Purchase or lease of new equipment and machinery for erecting and maintaining signs for projects in relation to the individual fund.

23-D – ROAD MACHINERY, EQUIPMENT, MARKERS, LIGHTS, SIGNALS, BUILDINGS, AND OTHERS.

23-D-1 Salaries	Compensation paid to all persons employed by the township to operate, install, and maintain road machinery, equipment, markers, lights and signals, buildings, and other for projects in relation to the individual fund.
23-D-2 Supplies and Materials	All expendable supplies used in purchasing, erecting, and maintaining signs for projects in relation to the individual fund.
23-D-3 Equipment and Machinery	Purchase or lease of new equipment and machinery for erecting and maintaining signs for projects in relation to the individual fund.
23-D-4 Buildings	Building construction of purchase, additions to present facilities and purchase of real estate.
23-D-5 Other	Any other items of expense not included in 23-D-1 through 23-D-4.

24 – PERMISSIVE SALES TAX FUND

24-A-1 Salaries and Wages	Compensation paid to township employees for services rendered for the individual fund.
24-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System.
24-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements.
24-A-4 Tools and Equipment	Purchase or lease of tools, equipment, and road machinery.
24-A-5 Supplies and Materials	Various supplies necessary in relation to the individual fund.
24-A-6 Contracts	Payments for services pursuant to a contract with a private contractor including labor and materials.
24-A-7 Equipment and Machinery	Purchase or lease of new equipment and machinery in relation to the individual fund.

24-A-8 Buildings	New building construction, additions to present facilities and acquisition of buildings within the purpose of the fund.
24-A-9 Other Expenses	Any other items of expense not included in 24-A-1 through 24-A-8, 24-A-10, 24-A-11, and 24-A-80.
24-A-10 Transfers – Out	Transfer from Permissive Sales Tax Fund to other funds, identifying each fund transferred to.
24-A-11 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
24-A-80 Unemployment Compensation	Payments to the State for unemployment compensation.

25 – FEDERAL LAW ENFORCEMENT FUND

25-A-1 Salaries and Wages	Compensation paid to township employees for services rendered for the individual fund
25-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System.
25-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements.
25-A-4 Tools and Equipment	Purchase or lease of tools, equipment, and road machinery.
25-A-5 Supplies and Materials	Various supplies necessary in relation to the individual fund.
25-A-6 Contracts	Payments for services pursuant to a contract with a private contractor including labor and material.
25-A-7 Equipment and Machinery	Purchase or lease of new equipment and machinery in relation to the individual fund.
25-A-8 Buildings	New building construction, additions to present facilities and acquisitions of buildings within the purpose of the fund.
25-A-9 Other Expenses	Any other items of expense not included in 25-A-1 through 25-A-8, 25-A-10, 25-A-11, and 25-A-80.

25-A-10 Transfers – Out	Transfer from Federal Law Enforcement Fund to other funds, identifying each fund transferred to.
25-A-11 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
25-A-80 Unemployment Compensation	Payments to the State for unemployment compensation.

26 – PERMANENT IMPROVEMENT FUND

26-A-1 Salaries and Wages	Compensation paid to township employees for services rendered for the individual fund.
26-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System.
26-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements.
26-A-4 Land Purchases	Acquisition cost of land for uses within the purpose of the individual fund.
26-A-5 Tools and Equipment	Purchase or lease of tools, equipment, and road machinery.
26-A-6 Supplies	Various supplies necessary in relation to the individual fund.
26-A-7 Repairs	Payments for repairs to tools, equipment, machinery, roads, etc., within the purpose of the individual fund.
26-A-8 Contracts	Payments for services pursuant to a contract with a private contractor including labor and material.
26-A-9 Other Expenses	Any other items of expense not included in 26-A-1 through 26-A-8, 26-A-10 through 26-A-80.
26-A-10 Buildings	New building construction, additions to present facilities and acquisitions of buildings within the purpose of the fund.
26-A-11 Equipment	Purchase of lease of new equipment in relation to the individual fund.

26-A-12 Transfers – Out	Transfer from Permanent Improvement Fund to other funds, identifying each fund transferred to.
26-A-13 Advances – Out	Disbursement temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
26-A-80 Unemployment Compensation	Payments to the State for unemployment compensation.

27 – AGENCY FUNDS

27-A-1 Salaries and Wages	Compensation paid to township employees for services rendered for the individual fund
27-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System.
27-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements.
27-A-4 Land Purchases	Acquisition cost of land for uses within the purpose of the individual fund.
27-A-5 Tools and Equipment	Purchase or lease of tools, equipment and machinery.
27-A-6 Supplies	Various supplies necessary in relation to the individual fund.
27-A-7 Repairs	Payments for repairs to tools, equipment, machinery, roads, etc., within the purpose of the individual fund.
27-A-8 Contracts	Payments for services pursuant to a contract with a private contractor including labor and material.
27-A-9 Other Expenses	Any other items of expense not included in 27-A-1 through 27-A-8, 27-A-10 through 27-A-80.
27-A-10 Transfers – Out	Transfer from Agency Funds to other funds, identifying each fund transferred to.
27-A-11 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
27-A-80 Unemployment Compensation	Payments to the State for unemployment compensation.

28 – AMBULANCE AND EMERGENCY MEDICAL SERVICES FUND

28-A-1 Salaries and Wages	Compensation paid to township employees for services rendered for the individual fund.
28-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System.
28-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements.
28-A-4 Land Purchases	Acquisition cost of land for uses within the purpose of the individual fund.
28-A-5 Tools and Equipment	Purchase or lease of tools, equipment, and machinery.
28-A-6 Supplies	Various supplies necessary in relation to the individual fund.
28-A-7 Repairs	Payments for repairs to tools, equipment, machinery, roads, etc., within the purpose of the individual fund.
28-A-8 Contracts	Payments for services pursuant to a contract with a private contractor including labor and materials.
28-A-9 Other Expenses	Any other items of expense not included in 28-A-1 through 28-A-8, 28-A-11 through 28-A-80.
28-A-10 Transfers – Out	Transfer from Ambulance and Emergency Medical Services Fund to other funds, identifying each fund transferred to.
28-A-11 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
28-A-80 Unemployment Compensation	Payments to the State for unemployment compensation.

29 – SINKING FUND

29-A-1 Principal	Payments for the retirement of the outstanding indebtedness principal.
29-A-2 Interest	Interest payments on outstanding indebtedness.

29-A-3 Other	All other items of expense not included in 29-A-1, 29-A-2, 29-A-4, and 29-A-5.
29-A-4 Transfers – Out	Transfer from Sinking Fund to other funds, identifying each fund transferred to.
29-A-5 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

30 – PUBLIC WORKS COMMISSION PROJECT FUND

30-A-1 Salaries and Wages	Compensation paid to township employees for services rendered for the individual fund.
30-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System.
30-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements.
30-A-4 Contracts	Payments for services pursuant to a contract with a private contractor including labor and material.
30-A-5 Supplies	Various supplies necessary in relation to the individual fund.
30-A-6 Capital Outlay	Payments for repair, construction, or purchase of equipment, machinery, buildings, roads, etc., in relation to the individual fund.
30-A-7 Transfers – Out	Transfer from Public Works Commission Project Fund to other funds, identifying each fund transferred to.
30-A-8 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.
30-A-9 Other Expenses	Any other items of expense not included in 30-A-1 through 30-A-8, and 30-A-80.
30-A-8- Unemployment Compensation	Payments to the State for unemployment compensation.

32 – LAW ENFORCEMENT TRUST FUND

32-A-1 Salaries and Wages	Compensation paid to township employees for services rendered for the individual fund
32-A-2 Employer's Retirement Contribution	Township's share payable to the Public Employees' Retirement System.
32-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements.
32-A-4 Unemployment Compensation	Payments to the State for unemployment compensation.
32-A-5 Tools and Equipment	Purchase or lease of tools, equipment, and machinery.
32-A-6 Supplies	Various supplies necessary in relation to the individual fund.
32-A-7 Contracts	Payments for services pursuant to a contract with a private contractor including labor and materials.
32-A-8 Equipment and Machinery	Purchase or lease of new equipment and machinery, in relation to the individual fund
32-A-9 Buildings	New building construction, additions to present facilities, and acquisitions of buildings within the purpose of the fund.
32-A-10 Other Expenses	Any other items of expense not included in 32-A-1 through 32-A-9, 32-A-11, and 32-A-12.
32-A-11 Transfers – Out	Transfers from Law Enforcement Trust Fund to other funds, identifying each fund transferred to.
32-A-12 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

33 – ENFORCEMENT AND EDUCATION FUND

33-A-1 Salaries and Wages	Compensation paid to Township employees for services rendered for the individual fund
33-A-2 Employers' Retirement Contribution	Township's share payable to the Public Employees' Retirement System.

33-A-3 Workers' Compensation	Charges deducted by the County Auditor on tax settlements.
33-A-4 Unemployment Compensation	Payments to the State for unemployment compensation.
33-A-5 Tools and Equipment	Purchase or lease of tools, equipment, and machinery.
33-A-6 Supplies and Materials	Various supplies necessary in relation to the individual fund.
33-A-7 Contracts	Payments for services pursuant to a contract with a private contractor including labor and material.
33-A-8 Equipment and Machinery	Purchase or lease of new equipment and machinery, in relation to the individual fund
33-A-9 Buildings	New building construction, additions to present facilities and acquisitions of buildings within the purpose of the fund.
33-A-10 Other Expenses	Any other items of expense not included in 33-A-1 through 33-A-9, 33-A-11, and 33-A-12.
33-A-11 Transfers – Out	Transfer from Enforcement and Education Fund to other funds, identifying each fund transferred to.
33-A-12 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

34 – UNDERGROUND STORAGE TANK FUND

34-A-1 Site Development	Expenses to improve underground storage site.
34-A-2 Liability	To compensate third parties for bodily injury and property damage caused by accidental petroleum releases.
34-A-3 Other Expenses	Other items of expense not included in 34-A-1 and 34-A-2.

35 – PERMANENT FUNDS

35-A-1 Payout	Amounts disbursed in accordance with the individual trust agreement.

35-A-2 Other Expenses	All other items of expense not included in 35-A-1, 35-A-3, and 35-A-4.
35-A-3 Transfers – Out	Transfers from Permanent Funds to other funds, identifying each fund transferred to.
35-A-4 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with

36 – PRIVATE PURPOSE TRUST FUNDS

36-A-1 Payout related to the Trust	Amounts disbursed in accordance with the individual trust agreement.
36-A-2 Other Expenses	All other items of expense not included in 36-A-1, 36-A-3, and 36-A-4.
36-A-3 Transfers – Out	Transfers from Private Purpose Trust Fund to other funds, identifying each fund transferred to.
36-A-4 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

37 – ENTERPRISE FUNDS

37-A-1 Personal Services	Salaries and wages paid to employees.
37-A-2 Fringe Benefits	Employer retirement and insurance contributions.
37-A-3 Contractual Services	Payments made for services provided by outside parties.
37-A-4 Materials and Supplies	Disbursements made for consumable materials and supplies.
37-A-5 Other Expenses	All other items of expense not included in 37-A-1 through 37-A-4, and 37-A-6 through 37-A-9.
37-A-6 Principal Retirement	Payments made for the retirement of debt service principal.
37-A-7 Interest and Fiscal Charges	Payments made for interest and fiscal charges on debt service
37-A-8 Transfers - Out	Transfers from Enterprise Funds to other funds, identifying each fund transferred to.

37-A-9 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

38 – INTERNAL SERVICE FUNDS

38-A-1 Personal Services	Salaries and wages paid to employees.
38-A-2 Fringe Benefits	Employer retirement and insurance contributions.
38-A-3 Contractual Services	Payments made for services provided by outside parties.
38-A-4 Materials and Supplies	Disbursements made for consumable materials and supplies.
38-A-5 Other Expenses	All other items of expense not included in 38-A-1 through 38-A-4, and 38-A-6 through 38-A-9.
38-A-6 Principal Retirement	Payments made for the retirement of debt service principal.
38-A-7 Interest and Fiscal Charges	Payments made for interest and fiscal charges on debt service.
38-A-8 Transfers - Out	Transfers from Internal Service Funds to other funds, identifying each fund transferred to.
38-A-9 Advances – Out	Disbursements temporarily allocated to another fund for cash flow purposes with the intent that the money will be repaid.

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APPENDIX V

UNIFORM ACCOUNTING NETWORK (UAN)

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UNIFORM ACCOUNTING NETWORK
UAN

PROGRAM SUMMARY

The Auditor of State is providing to participating local governments a complete computer system, training and support to improve local government management and accounting procedures. This program is being provided at a minimal cost to the local governments in exchange for the benefits that standardization will provide to the State of Ohio.

BENEFITS TO ENTITIES

Reduced Clerical Burden
Complete Support for System
On-going System Training
Low Cost System with Many Features

UAN PROGRAM

The Uniform Accounting Network, UAN, is a computerized, integrated financial management and information system administered by the Auditor of State to serve local governments. The program consists of computer hardware, computer software, training and operational procedures necessary to support local personnel. There are two major features of the UAN integrated computer program. The Accounting System provides the ability to process all accounting transactions through the system. The system also provides a multitude of financial management reports as well as the annual financial report. The Payroll System provides the ability to process all payroll transactions through the system. Information regarding all earnings and withholdings is available through internal reports and most reports required by regulating agencies (IRS, OPERS, ODJFS, etc.) are also provided. Additionally, the system contains tax budget, cemetery, inventory, word processing, and spreadsheet applications. UAN changes the nature and scope of the manual and automated systems previously used to manage local government finances.

PROGRAM PURPOSE

The UAN program provides benefits through standardization to many local governments in Ohio. The objectives of the UAN program are to:

- Reduce the clerical effort and complexity associated with financial record keeping and management of government entities.
- Provide more accurate and comparable financial reporting of local governments.
- Create a mechanism for the state to maintain and report statewide financial, statistical and demographic data of local governments.
- Provide the participating governments with current technology that can be expanded in the future at a limited cost to the participating local governments.

BENEFITS TO ENTITIES

This program provides many benefits to Ohio local governments, the Auditor of State's Office and other state officials. Local governments will receive many immediate tangible benefits from the system. These benefits are explained below:

Reduced Clerical Burden

Local government financial officers can anticipate a reduced clerical burden associated with managing the finances of the local government. Data transactions are entered into the system once and all required posting, reporting and record keeping requirements are done automatically. The need for awkward journals and posting ledgers are eliminated and most manual calculations will be performed automatically.

Complete Support for the System

Support will be available to help solve any problems relating to the system. Clients will be able to email and/or call toll free and get answers to questions and problems. Also, if the computer requires service or fails to operate, on site service is provided at the local government by technical specialists.

On-going System Training

A feature of participation in the program is that the training needed to use the system and perform the government functions will be repeatable and available as needed in the future. This can eliminate many problems that entities experience when a new fiscal officer takes over. The on-going training can be achieved through either formal classroom training or though an on-line training format.

Low Cost System with Many Features

The features provided by this system relative to the cost make the system attractive to all local governments. The Auditor of State and the General Assembly are providing this system to ensure that local governments have the tools they need to effectively perform their responsibilities. The participating local governments contribute through a user fee based on total resources from the prior year as reported in the Annual Financial Report plus a $50 hardware surcharge.

Professional Installation Support

Local Governments who join UAN will receive a complete computer system fully loaded with software.

SYSTEM COMPONENTS

The program provides a complete computer system for the local government. The system will include the computer, software, training and conversion assistance that will make it easy for local governments to automate their accounting functions.

Hardware

Computer	Desktop or laptop computer.
Printer	Laser single or multifunction printer with letter and legal paper trays.

Software Applications

Accounting	Assists in accounting transactions, record keeping and reporting. Provides the GASB Cash Basis, Modified Cash Basis and the Regulatory Annual Financial Reports.
Payroll	Assists in the preparation of payroll and withholding checks and payroll processing for employees.
Tax Budget	Tracks prior year information and simplifies the creation of the tax budget.
Cemetery Tracking	Assists in cemetery tracking responsibilities.

Inventory	Assists with tracking of inventory items.
Word Processing	Assists with correspondence and other word processing requirements. The application features include a spell checker, thesaurus, print preview function and many other features to produce professional quality documents.
Spreadsheet	Assists in performing repetitive calculations or numerical comparisons.
Internet/Email	Assists in providing ability to access information from the internet and provides email access.

ON-GOING SUPPORT

One of the most important features of the program is the on-going support that the program provides. Answers to system questions are a simple email and/or toll free phone call away. The program employs a full-time support team that will be able to solve problems or answer procedural questions quickly. This support will be provided over the telephone.

COST TO LOCAL GOVERNMENTS

The UAN program is funded through the UAN fees paid by the participating local governments.

Program Participation Fee

The fee to local governments for participating in this program is based on total resources from the prior year as reported in the Annual Financial Report plus a $50 hardware surcharge. This price represents a full, system package including software, training, conversion assistance and support.

Operational Costs

Local governments will be responsible for the operational cost of the system. Operational costs include insurance, electricity and supplies. The supplies the local government will be responsible for include checks, paper and forms, printer supplies and storage media.

COMMON QUESTIONS AND ANSWERS

< **Who is responsible for this program?**

The State Auditor's Office supports the UAN program and provides on-going support to the participating local government.

< **Who actually owns the hardware and software?**

The Auditor of State is the owner of the hardware and software. However, the hardware and software will remain at the local government for as long as the local government continues to operate under the terms and conditions of the program.

< **We are a very small entity. This seems like overkill for our amount of processing.**

Small local governments can benefit from the features and new automated applications provided by the system. Participation by smaller entities is important to realize state-wide fiscal reporting comparability and productivity gains. Be careful not to limit your estimate of the system benefits to only the clerical savings that the system will provide. Other benefits that the small local governments should consider include improved organization, reduced possibility of errors, support and ongoing training, office automation tools and future applications.

< **Will I still have to manually prepare documents such as purchase orders prior to entering the information on the system?**

All source documents such as purchase orders, blanket certificates, warrants, Electronic Funds Transfer (EFT's) and receipts are generated through the system as well as payroll related documents.

< **Can I use the computer and software for other things besides accounting?**

Yes, the office automation software will enable you to do word processing and spreadsheet analysis for tasks besides the ones that we have identified. As we identify new uses that will benefit other local governments, we may distribute additional applications.

< **Can we be forced to participate in the UAN program?**

Participation in the UAN program is totally voluntary. The program is provided as a service for local governments in Ohio. Any local government that does not wish to receive these low cost services has no obligation to participate.

< **What are the hours of the support services?**

UAN Support will provide service through the use of email, your phone and/or internet during normal business hours. Extended support hours are available during year end. Local governments will be able to contact UAN Support directly.

< **What training materials will be used to help us learn the system?**

The training materials that will be made available include written procedure manuals, interactive computer training and training practice software. In addition, the support staff is also available to answer your questions.

< **Is there an additional cost for the internet access?**

No, current clients have the ability to utilize a dial-up tool. This feature is not available for entities that wish to join in the future.

< **Who can I contact for more information?**

Auditor of State
Uniform Accounting Network
88 East Broad Street
Columbus, Ohio 43215
800-833-8261
Email: UAN_Support@OhioAuditor.gov
Fax: 877-727-0088