



Lynda J. Jacobsen

*Final Analysis*  
*Legislative Service Commission*

**Am. Sub. H.B. 187**  
123rd General Assembly  
(As Passed by the General Assembly)

**Reps. Olman, Jolivette, Boyd, Buchy, Cates, Clancy, Gerberry, Harris, Jacobson, Krebs, Maier, Mottley, O'Brien, Roman, Sulzer, Taylor, Terwilleger, Van Vyven, Williams, Young, Opfer, Schuler, Calvert, Evans, Buehrer, Tiberi, Corbin, Krupinski, Perz, Hartnett, Verich, Vesper, Haines, Schuring, Willamowski, Bender, Winkler**

**Sens. Latell, Schafrath, Spada, Blessing, Gardner, Prentiss, White, Drake, Nein, Hagan, Armbruster, Latta, Mumper, Cupp, Kearns, DiDonato**

**Effective date:** \*

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**ACT SUMMARY**

- Replaces specific requirements for the financing of certain township purchases with a general authorization for townships to issue securities under the Uniform Public Securities Law to finance those purchases.
- Permits townships to finance through general obligation bonds the purchase of real property for transfer to a community improvement corporation.
- Establishes debt limitations for limited home rule townships that differ from other townships, and provides an exemption from net indebtedness calculations for all townships in connection with securities issued for establishing township parks or purchasing firefighting equipment, buildings, or sites.
- Specifies that the published notice relating to the adoption of a township fire code only must be published "once" a week for three consecutive weeks in a newspaper of general circulation in a township.

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\* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

- Permits townships to reimburse township officers and employees under certain circumstances for their out-of-pocket premiums for health insurance policies with specified types of benefits.
- Changes the name of townships that have adopted the limited self-government form of township government to "limited home rule townships" and designates certain of those townships as "urban townships."
- Changes the procedure for becoming, and limits the townships that may become, limited home rule townships.
- Permits limited home rule townships to construct, maintain, and finance sewer systems under certain circumstances.
- Permits limited home rule townships to contract with county sewer districts and regional water and sewer districts, as well as municipal corporations and private operators, to supply water and sewer services.
- Changes the procedure for supplying a township water supply in a limited home rule township.
- Permits limited home rule townships to issue general obligation bonds for the costs of water supply facilities and sewer improvements.
- Permits a limited home rule township to hire an independent professional engineer in lieu of using the county engineer for specific road projects.
- Changes the Subdivision Law to require the board of county commissioners to provide townships with notice of proposed changes to, or the adoption of, subdivision rules.
- Changes the composition of the membership of county planning commissions, and permits these commissions to adopt a policy to have county commissioners refrain from participating in commission recommendations on county zoning codes.

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## TABLE OF CONTENTS

Changes in township debt issuance.....	3
Township parks .....	3



Township buildings .....	4
Energy conservation measures .....	4
Fire equipment.....	5
Road equipment.....	5
Purchasing property for a community improvement corporation .....	6
Publication of notice of township fire code .....	6
Township reimbursement for out-of-pocket health care premiums .....	6
"Limited home rule" townships.....	7
Procedures and qualifications for becoming a limited home rule township and an urban township.....	8
Debt limitation for limited home rule townships .....	9
Provision of water supply and sewer services.....	10
Hiring independent engineer for road projects.....	12
Subdivision Law changes.....	12
County planning commissions .....	13

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## CONTENT AND OPERATION

### Changes in township debt issuance

Former law imposed specific requirements for the financing of certain township purchases. The act generally replaces these specific provisions with authorizations for townships to finance these purchases under the Uniform Public Securities Law (R.C. Chapter 133). (Secs. 505.261, 505.262, 505.264, 505.37, 5549.02, and 5549.021.)

The specific changes made by the act are as follows:

#### Township parks

Former law permitted townships to establish township parks and to acquire lands or materials for the parks by conveyance, lease, purchase by cash or installment payments, lease-purchase agreement, or lease with the option to purchase. For "purchase" arrangements payable over a specified period of time (maximum of four years), the township was permitted to issue notes. If installment payments were made, at least one-fourth of the price was required to be paid in cash at the time of purchase, and the remainder of the price was required to be paid in annual installments equaling at least one-fourth of the total purchase price. (Sec. 505.261.)

The act permits a township to acquire lands and materials, including landscape planting and other site improvement materials and playground, athletic,

and recreational equipment and apparatus, for a township park without limiting the manners of acquisition. Then, it changes the financing arrangements by permitting the issuance of securities and other public obligations by the board of township trustees as provided in the Uniform Public Securities Law. This allows the board to issue securities to finance *land* purchases; those securities must have a maximum maturity of 30 years. The board also may issue securities to finance purchases of *materials*; those securities must have a maximum maturity of ten years. Securities issued under the act for township park purposes cannot be included in the calculation of a township's net indebtedness. (Secs. 133.09(C) and 505.261.)

### **Township buildings**

Under former law, the board of township trustees, by unanimous vote, was permitted to issue notes to finance purchases or construction of township buildings, equipment, and sites, payable over a period not to exceed nine years. If installment payments for the purchase price or construction cost were made, at least one-tenth of the price or cost was required to be paid in cash at the time of purchase, and the remainder of the price or cost was required to be paid annually in equal amounts over no more than nine years. (Sec. 505.262.)

The act replaces these financing arrangements with an authorization for the board to issue securities for the purchase or construction of township buildings, equipment, and sites. The maturity of the securities is to be determined under the Uniform Public Securities Law, which generally permits securities with a maximum maturity of 30 years for acquisition of real property and ten years for equipment. (Sec. 505.262.)

### **Energy conservation measures**

Former law provided that the installation or modification of energy conservation measures in township buildings could be financed through installment payment contracts, the interest charges and financing terms of which were not subject to competitive bidding. At least one-tenth of a contract's costs was required to be paid within two years of the date of purchase, and the remainder of the costs was required to be paid within ten years of the date of purchase (or within five years if the contract was for cogeneration systems). Notes of the township could be issued to assist in the payment of the energy conservation measures. (Sec. 505.264(D) and (E).)

The act repeals the initial payment and remainder payment requirements for installment payments and permits a township to issue securities in general (not just notes) to pay the costs of energy conservation measures. The maximum maturity

on the issued securities is ten years, as provided in the Uniform Public Securities Law. (Sec. 505.264(D) and (E).)

### **Fire equipment**

Formerly, a board of township trustees, the board of fire district trustees of a joint fire district, or the legislative authority of a municipal corporation was permitted to purchase firefighting equipment, buildings, and sites or construct buildings necessary to house firefighting equipment and pay for them over a period of nine years. At least one-ninth of the purchase price or construction cost was required to be paid in cash at the time of purchase, and the remainder of the price or cost was required to be paid in equal amounts over no more than eight years. (Sec. 505.37(D).)

The act replaces these financing arrangements with an authorization for the political subdivisions to issue securities with maximum maturities as provided in the Uniform Public Securities Law. The act also removes the debt obligation of these securities from the calculation of a township's net indebtedness. (Secs. 133.09(C) and 505.37(D).)

### **Road equipment**

Former law generally required boards of township trustees, when purchasing machinery, tools, trucks, and other equipment used in constructing, maintaining, and repairing roads, to pay in cash at least one-fourth of the purchase price and to pay the remainder of the price in not more than five equal annual installments. The board was permitted to issue notes of the township to finance each installment, for which the board was required to annually levy and collect a tax sufficient to pay the interest and provide a sinking fund for the redemption of the notes at maturity. These notes were not subject to the Uniform Public Securities Law. The board also was permitted to enter into lease-purchase agreements under which the board generally paid at least three-twentieths of the total cost in cash, with no specified requirements for the installment payments. (Sec. 5549.02.)

The act replaces these financing arrangements with an authorization for a board of township trustees to purchase such equipment under any terms it can arrange and to finance those purchases by issuing general obligation bonds, subject to the Uniform Public Securities Law, that pledge the full faith and credit of the township. (Secs. 5549.02 and 5549.021.)

### **Purchasing property for a community improvement corporation**

Continuing law provides for the creation of community improvement corporations, which are nonprofit corporations organized to advance, encourage, and promote the industrial, economic, commercial, and civic development of a community or area, and provides that such a corporation may be designated as the agency of a municipal corporation, township, or county for these kinds of development (secs. 1724.01 and 1724.10--not in the act). A township, by unanimous vote of its board of trustees, may designate, participate in, and cooperate with such a corporation and may give financial or other assistance to it to defray its administrative expenses. Moneys that the township contributes to the corporation for that purpose must be drawn from the township's general fund. (Sec. 505.701.)

The act, while retaining these provisions, permits a township to purchase real property for the purpose of transferring that property to a community improvement corporation, and to finance that purchase by issuing general obligation bonds of the township (pledging the full faith and credit of the township) in accordance with the Uniform Public Securities Law (sec. 505.701).

### **Publication of notice of township fire code**

Under continuing law, a board of township trustees, by resolution, may adopt by incorporation by reference a standard code pertaining to fire, fire hazards, and fire prevention prepared and promulgated by the state or any state department, board, or agency, or any model or standard code prepared and promulgated by a public or private organization. Continuing law requires the board of township trustees to then give in specified manners public notice identifying the adopted code, stating its purpose, stating that a complete copy of the code is on file with the township clerk for inspection by the public and also on file in the county law library, and informing citizens that the township clerk has copies of the code available for distribution to the public at cost. Formerly, the notice was required to be posted in five conspicuous places in the township for 30 days before becoming effective and was required to be published in a newspaper of general circulation in the township *for three consecutive weeks*. The act generally continues these provisions but specifies that the published notice is required to be published only *once a week* for three consecutive weeks. (Sec. 505.373.)

### **Township reimbursement for out-of-pocket health care premiums**

Continuing law permits a township to procure health insurance policies with specified types of benefits or group health care services from health insuring corporations for all of its officers and employees and their immediate dependents,

provided that the coverage is uniform for township officers and full-time employees and their immediate dependents.<sup>1</sup> Any township officer or employee may refuse to accept procured health insurance coverage without affecting its availability for other officers or employees. (Sec. 505.60.)

The act additionally authorizes townships to reimburse a township officer or employee who is *denied coverage* under a township health care plan or who *elects not to participate* in the township's plan for out-of-pocket premiums for insurance policies with the specified types of benefits that the officer or employee otherwise obtains. The reimbursement cannot exceed an amount equal to the average premium paid by the township for its officers and employees under policies it procures. "Premium" does not include any deductible or health care costs paid directly by a township officer or employee. (Sec. 505.60(C) and (F)(2).)

The act also authorizes a township that *does not procure health care benefits* for its officers and employees to reimburse any officer or employee for each out-of-pocket premium that the officer or employee incurs for insurance policies with the specified types of benefits, if all of the following conditions are met: (1) the board of township trustees adopts a resolution stating that the township has chosen not to procure a health care plan and has chosen instead to reimburse its officers and employees for each out-of-pocket premium that they incur for insurance policies they otherwise obtain, (2) the resolution provides for a uniform maximum monthly or yearly payment amount for each officer or employee beyond which the township will not reimburse the officer or employee, and (3) the resolution states the specific benefits (limited to those currently authorized by law--see footnote 1) for which the township will reimburse all officers and employees of the township. (Sec. 505.601.)

The act also moves existing authority for townships to procure and pay for group life insurance for township officers and full-time employees (former sec. 505.60(B) to a new and separate section, sec. 505.602).

### **"Limited home rule" townships**

The act changes the name for townships that have adopted a limited self-government form of government to "limited home rule townships" (secs. 109.14, 133.09, 309.09(B), 504.01, 504.02, 504.03, 504.04, 504.12, 504.13, 504.14,

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<sup>1</sup> *The specified types of insurance benefits are those "for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, prescription drugs, or sickness and accident insurance" or any combination of the foregoing.*

504.16, 504.17, 709.50, 1901.026, 2921.421, 3737.46, 3767.03, and 4301.28). The act also makes the changes described below in the laws that apply to those townships.

**Procedures and qualifications for becoming a limited home rule township and an urban township**

Former law permitted *any township* to adopt a limited self-government form of township government by holding an election at which a majority of the voters approved the change. The act requires a township to have a population of *at least 5,000* in the unincorporated territory of the township in order to become a limited home rule township (sec. 504.01(C)). It subjects townships to one of two sets of procedures for the adoption of a limited home rule government, depending on the population of the township.<sup>2</sup> These procedures are described below. (Secs. 504.01 and 504.02.)

In a township with a population in the unincorporated territory *of at least 5,000 but less than 15,000*, the board of township trustees, by a majority vote, may adopt a resolution to have an election on the question of whether the township should have a limited home rule government. If a majority of the voters at that election approve the change, a limited home rule government becomes the township's government on January 1 immediately following the election. (Secs. 504.01(A) and 504.02(C).)

In a township with a population in the unincorporated territory *of 15,000 or more*, the board of township trustees, after at least one public hearing, may unanimously adopt a resolution *establishing* a limited home rule government. Such a resolution becomes effective within 30 days after its adoption unless, within that period, a petition is filed requesting the board to submit the question of establishing a limited home rule government to a vote. That petition must be signed by registered electors of the unincorporated area of the township equal in number to at least 10% of the total vote cast for Governor in that area at the most recent general election for that office. If a majority of the voters at the election approve the change, a limited home rule government becomes the township's government on January 1 immediately following the election. Townships that

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<sup>2</sup> *Subject to the subsequently described population requirements, the act does not affect continuing law's procedure under which electors of the unincorporated area of a township may petition the board of township trustees to adopt a resolution to submit the question of whether the township should adopt a limited home rule government to a vote of the electors of the unincorporated area of the township (sec. 504.01(D)).*

adopt a limited home rule government as described in this paragraph are to be called "urban townships." (Secs. 504.01(B) and 504.02(C).)<sup>3</sup>

**Debt limitation for limited home rule townships**

Under former law, no township *regardless of its form of government* was permitted to incur net indebtedness that exceeded an amount equal to 5% of its tax valuation. Except for debt issued for the construction of buildings or the purchase of equipment, buildings, and sites for township purposes (sec. 505.262), township indebtedness generally was required to be authorized by a vote of the electors. (Sec. 133.09.)

The act changes the debt limitations for *limited home rule townships only*. It prohibits limited home rule townships from incurring net indebtedness that exceeds an amount equal to 10 1/2% of its tax valuation, or incurring without a vote of the electors net indebtedness that exceeds an amount equal to 5 1/2% of that tax valuation. In calculating the net indebtedness of these townships, none of the following securities may be considered (sec. 133.09(B)):

- (1) Self-supporting securities issued for any purpose;
- (2) Securities issued for the purpose of purchasing, constructing, improving, or extending water or sanitary or surface and storm water sewerage systems or facilities, or a combination of those systems or facilities, to the extent that an agreement entered into with another subdivision requires the other subdivision to pay to the township amounts equivalent to debt charges on the securities;
- (3) Securities that are not general obligations of the township;
- (4) Voted securities issued for the purposes of redevelopment to the extent that their principal amount does not exceed an amount equal to 2% of the township's tax valuation;
- (5) Securities issued for the purpose of acquiring or constructing roads, highways, bridges, or viaducts, or for the purpose of acquiring or making other highway permanent improvements, to the extent that the resolution of the board of township trustees authorizing the issuance of the securities includes a covenant to

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<sup>3</sup> *The act alternatively permits the board of township trustees, after at least one public hearing, to adopt a resolution (by a majority vote) submitting the question of establishing a limited home rule government to a vote of the electors of the unincorporated area of the township.*

appropriate from money distributed to the township under the Motor Vehicle Licensing and Motor Vehicle Fuel Tax Laws a sufficient amount to cover debt charges on and financing costs relating to the securities as they become due;

(6) Securities issued for energy conservation measures (sec. 505.264).

**Provision of water supply and sewer services**

Former law prohibited a limited self-government township from adopting sewer regulations and did not authorize such a township to provide sewer services, although it could provide water and operate water supply facilities. The act repeals the prohibition against adopting sewer regulations and permits a limited home rule township to provide sewer services by contract with any municipal corporation, county sewer district, or regional water and sewer district or any private operator. The act also expands the sources by which these townships may provide water by permitting contracts with county sewer districts and regional water and sewer districts, in addition to municipal corporations and private operators as under continuing law. To pay for sewer services, the act authorizes these townships to levy special assessments and issue unvoted securities in anticipation of those levies, as the townships currently may do for water supply facilities. The act also makes it clear that assessments and securities may pay for all water supply services provided, not just the water supply facilities themselves. (Secs. 504.04(A)(3) and (B)(3) and 504.18.)

In addition, the act authorizes a limited home rule township to adopt a general plan for sewer services in the manner continuing law authorizes it to do to supply water. However, the act changes the proceedings applicable to both water supply and sewer services general plans in the following ways. After a general plan is adopted, the board of township trustees must immediately notify (1) the board of county commissioners if territory served by a county water supply facility or a county sewer district includes territory to be covered by the plan, (2) the legislative authority of a municipal corporation that operates a water supply or sewer system in any of the territory to be covered by the plan, and (3) the board of trustees of any regional water and sewer district that includes any territory to be covered by the plan, of the township's intention to provide water supply or sewer services. The notice must describe the area where the township proposes to provide water supply or sewer services. The notified board of county commissioners, legislative authority of a municipal corporation, and board of trustees of the regional water and sewer district have 30 days from the date of notification to comment and object in writing to the township's provision of water supply or sewer services. An objection may be based on the fact that (1) the county, municipal corporation, or special district already provides the proposed water supply or sewer services to the area proposed to be served or (2) the county,

municipal corporation, or special district has in its service plan provisions to provide the proposed water supply or sewer services in the future to the proposed area within a reasonable period of time. (Sec. 504.19(A).)

Within 15 days after receiving objections, the board of township trustees may request in writing to the objecting party that the issue of the township's provision of the proposed water supply or sewer services be mediated. The mediation must be performed either by the Ohio Commission on Dispute Resolution and Conflict Management, or by having each party select a mediator and having those two mediators select a third mediator, who together must conduct the mediation. (Sec. 504.19(A).)

Within 45 days after a request for mediation is submitted, any mediation must be completed, and any agreements reached between the parties must be filed in writing with the parties. Thereafter, the respective governing boards may adopt the agreements, making those agreements binding on the parties or, if one or more of the agreed-upon points are rejected, that rejection must be considered a final decision of the governing board for purposes of an appeal. The board of township trustees may file an appeal under the Local Government Appellate Law regarding its provision of the proposed water supply or sewer services. In addition to any findings that the court may make under the Local Government Appellate Law, the court may determine that the county, municipal corporation, or special district has not met the criteria described in (1) and (2) in the second preceding paragraph, and, therefore, the township may provide its proposed water supply or sewer services or, in the alternative, may determine that the township could provide the proposed water supply or sewer services more expediently than the county, municipal corporation, or special district with no substantial increase in cost to users and, therefore, order that the township may provide its proposed water supply or sewer services. (Sec. 504.19(A).)

To cover the costs of acquiring, constructing, maintaining, improving, repairing, or operating a water supply facility or sewer improvement, the act authorizes a board of township trustees of a limited home rule township to issue general obligation bonds (pledging the full faith and credit of the township) in accordance with the Uniform Public Securities Law. That law provides a maximum maturity of 40 years for general obligation securities for water facilities or sewers.<sup>4</sup> (Sec. 504.20(B).)

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<sup>4</sup> *The act also relocates certain provisions of continuing law that relate to water supply facilities from section 504.18 to section 504.20 of the Revised Code and expands those provisions to cover sewer improvements.*

### **Hiring independent engineer for road projects**

Under continuing law, the county engineer has charge of and supervises the construction and maintenance of county bridges and highways, and the construction, reconstruction, resurfacing, or improvement of roads by boards of township trustees (secs. 5543.01 and 5543.09). This involves making surveys, plans, profiles, cross sections, estimates, and specifications required for each township project (sec. 5573.01).

The act provides that, for any particular project, after notifying or obtaining the approval of the county engineer, respectively, the board of township trustees of a limited home rule township may hire an independent professional engineer to be in charge of (instead of the county engineer), or to assist the county engineer with the supervision of, the construction, reconstruction, resurfacing, or improvement of township roads (secs. 5543.01(B), 5543.09(B), and 5573.01). When the independent professional engineer is *in charge of* any of those activities, the county engineer, however, must review all of the independent professional engineer's plans for improvements and provide the board of township trustees with comments on those plans within ten working days after receiving them. The county engineer also must monitor all plans for improvements in order to maintain compliance with existing construction standards and thoroughfare plans, and coordinate construction timelines within the county. (Secs. 5543.01(B) and 5573.01.)

### **Subdivision Law changes**

Under continuing law, when a plat is submitted for approval to a board of county commissioners, county planning commission, or regional planning commission for the adoption of a subdivision plan, those entities must schedule a meeting to consider the plat and send a written notice of the meeting to the clerk of the board of township trustees of the township in which the plat is located. Under former law, this notice was required to be sent by certified mail, return receipt requested. The act changes this provision to require that the written notice be sent by regular mail. (Secs. 711.05(A) and 711.10.)

In addition, before a board of county commissioners may amend or adopt subdivision rules, the act requires it to notify all the townships within the county of the proposed amendments or rules by regular mail at least 30 days before the public meeting at which the proposed amendments or rules are to be considered (sec. 711.05(B)).

### County planning commissions

Under continuing law, a county planning commission includes eight citizens of the county appointed by the board of county commissioners plus the members of the board itself. If the population of any city in the county exceeds 50% of the total population of the county, at least three of the appointed members must be selected from persons nominated by the planning commission of that city. The act keeps this provision for large cities but clarifies that the population *of the portion of any city located* in the county is the population that must exceed 50% of the county population. The act otherwise changes who can be appointed to a county planning commission (except as noted below for certain counties) as follows: three members must be appointed from municipal corporations within the county; three members must be appointed from the unincorporated area of the county from persons nominated by the townships to the county; if the county contains one or more limited home rule townships, then at least one of the three township representatives must be from the nominees of a limited home rule township; and the remaining two appointees must be selected at the discretion of the board of county commissioners, but they must be citizens of the county, one residing in the unincorporated area of the county representing townships and the other residing in the incorporated area of the county representing municipal corporations. (Sec. 713.22(A).) As an *exception* to the latter county planning commission membership requirements, the act provides that, if a county contains *two or less townships with unincorporated territory*, all eight appointees to the commission must be selected by the board of county commissioners at their discretion from citizens of the county, but, if the population of the portion of any city located in the county exceeds 50% of the total county population, then at least three of the appointed members must be selected from persons nominated by the planning commission of that city. (Sec. 713.22(B).)

In addition, the act permits a county planning commission to adopt a policy under which members of the board of county commissioners (as ex officio members of the commission) must abstain from participating in and voting on the commission's recommendations, whenever the commission is required under the County Zoning Law to approve, deny, or modify a proposed amendment to the county zoning code or to approve, disapprove, or make suggestions about a proposed county zoning code. This policy may require that a quorum of the commission under these circumstances be determined on the basis of an eight-member commission instead of an 11-member commission. (Sec. 713.22(E).)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
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Introduced	02-16-99	p.	200
Reported, H. Local Gov't & Townships	03-30-99	pp.	374-375
Passed House (91-7)	04-14-99	pp.	409-411
Reported, S. State & Local Gov't & Veterans Affairs	05-25-99	p.	477
Passed Senate (33-0)	05-25-99	pp.	481-482
Concurrence (97-0)	05-26-99	pp.	717-718

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