Elizabeth K. Mase *Legislative Service Commission*

Am. H.B. 187

123rd General Assembly
(As Reported by H. Local Government & Townships)

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**

BILL SUMMARY

- Replaces specific requirements for the financing of certain township purchases with a general authorization for townships to issue securities to finance those purchases under the Uniform Public Securities Law.

- 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.

- 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 commission recommendations on county zoning codes.

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CONTENT AND OPERATION

Changes in township debt issuance

Current law imposes specific requirements for the financing of certain township purchases. The bill 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 bill are as follows:

Township parks

Current law permits 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 may issue notes. If installment payments are made, at least one-fourth of the price must be paid in cash at the time of purchase, and the remainder of the price must be paid in annual installments equaling at least one-fourth of the total purchase price. (Sec. 505.261.)

The bill 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 bill 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 current law, the board of township trustees, by unanimous vote, may 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 are made, at least one-tenth of the price or cost must be paid in cash at the time of purchase, and the remainder of the price

or cost must be paid annually in equal amounts over no more than nine years. (Sec. 505.262.)

The bill 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

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

The bill 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

Currently, a board of township trustees, the board of fire district trustees of a joint fire district, or the legislative authority of a municipal corporation may 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 must be paid in cash at the time of purchase, and the remainder of the price or cost must be paid in equal amounts over no more than eight years. (Sec. 505.37(D).)

The bill 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 bill 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

Current law generally requires 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 may issue notes of the township to finance each installment, for which the board must 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 are not subject to the Uniform Public Securities Law. The board also may enter into lease-purchase agreements under which the board generally pays at least three-twentieths of the total cost in cash, with no specified requirements for the installment payments. (Sec. 5549.02.)

The bill 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

Current 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 bill). 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 bill, 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.)

"Limited home rule" townships

The bill 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, 504.16, 504.17, 709.50, 1901.026, 2921.421, 3737.46, 3767.03, and 4301.28). The bill 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

Current law permits *any township* to adopt a limited self-government form of township government by holding an election at which a majority of the voters approve the change. The bill 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.[1] 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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[1] *Subject to the subsequently described population requirements, the bill does not affect current 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).)[2]

Debt limitation for limited home rule townships

Under current law, no township *regardless of its form of government* may incur net indebtedness that exceeds 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 must be authorized by a vote of the electors. (Sec. 133.09.)

The bill 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 appropriate from money distributed to the township under the Motor Vehicle

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[2] *The bill 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.*

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

Current law prohibits a limited self-government township from adopting sewer regulations and does not authorize such a township to provide sewer services, although it may provide water and operate water supply facilities. The bill 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 bill 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 current law. To pay for sewer services, the bill 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 bill also makes it clear that these 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 bill authorizes limited home rule townships to adopt a general plan for sewer services in the manner it is currently authorized to do to supply water. However, the bill 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 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 and, if a regional water and sewer district exists that includes any territory to be covered by the plan, also notify the board of trustees of that district, 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 board of county commissioners and, if applicable, the board of trustees of the regional water and sewer district, then 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 or special district already provides the proposed water supply or sewer services to the area to be served, (2) the county 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, or (3) the provision of the proposed water supply or sewer services by the township would make it impossible (financially or

otherwise) for the county or special district to provide the water supply or sewer services outlined in its existing plan. (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 or special district has not met the criteria described in (1) to (3) 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 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 bill 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.[3] (Sec. 504.20(B).)

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[3] *The bill also relocates certain provisions of existing 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 current 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 bill 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 current 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. This notice must be sent by certified mail, return receipt requested. The bill 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 bill 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 current law, a county planning commission includes eight citizens of the county appointed by the board of county commissioners. 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 bill keeps this provision for large cities, but otherwise changes who can be appointed to the county planning commission 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).)

In addition, the bill permits a county planning commission to adopt a policy under which members of the board of county commissioners (who are ex officio members of the commission) must abstain from participating 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(C).)

HISTORY

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Introduced	02-16-99	p.	200
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