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Bill Analysis
Legislative Service Commission

H.B. 315

123rd General Assembly
(As Introduced)

Reps. Haines, Carey, Netzley, Calvert, Allen, Hartnett, Padgett, Sulzer, Willamowski, Taylor, Schuler, Maier, Clancy, Bender, Schuring, Britton, Distel, Evans, O'Brien, Vesper, Ferderber, Barrett, Grendell, Terwilleger, Hollister

BILL SUMMARY

- Permits a board of township trustees to contract with one or more other boards of township trustees to obtain or provide road construction, reconstruction, resurfacing, improvement, maintenance, or repair services.
- Specifies that the tort liability and immunity from tort liability provisions of the political subdivision Sovereign Immunity Law apply to a township and township employees performing services outside the township under such a contract in the same manner as the provisions apply when township employees are performing similar services within their township.
- Allows township employees performing services outside of their township under such a contract to participate in any pension or indemnity fund, and to have all workers' compensation rights and benefits, to the same extent as when performing similar services within their township.

CONTENT AND OPERATION

Current law

Current law permits a board of township trustees to construct, reconstruct, resurface, or improve any public road under its jurisdiction or, after submitting plans and specifications to a board of county commissioners or to the Director of Transportation and receiving the requisite improvement approval, any county road, intercounty highway, or state highway within its township. A board of township

trustees also may widen, straighten, or change the direction of any part of a road in connection with its improvement. (Sec. 5571.01(A).)

Changes proposed by the bill

Under the bill, in order *to obtain assistance* or *to provide assistance* in carrying out the road or highway work described under "**Existing law**," above, and in maintaining and repairing roads, a board of township trustees may contract with one or more other boards of township trustees to obtain or provide road construction, reconstruction, resurfacing, improvement, maintenance, or repair services. The contract may provide for a fixed annual charge to be paid at times agreed upon and stipulated in the contract, and the cost of the contract may be paid from the township general fund or from the "maintenance and repair fund" that section 5575.10 of the Revised Code requires a township to establish for the deposit of moneys arising from tax levies for dragging, maintaining, and repairing township roads. (Sec. 5571.01(D)(1).)

A township and any township employee performing services outside of the township under a contract for road construction, reconstruction, resurfacing, improvement, maintenance, or repair services, have the same potential tort liability and immunities from tort liability as if the services were performed within the township (sec. 5571.01(D)(2)).¹ Township employees also are permitted to participate in any pension or indemnity fund established by their employer, and are entitled to all rights and benefits afforded by the Workers' Compensation Law, while performing services outside of their township under a contract, to the same extent as if they were performing the services within their township (sec. 5571.01(D)(3)).

¹ *The relevant tort liability and immunity from tort liability provisions are set forth in sections 2744.02 and 2744.03 (not in the bill), tow statutes in the Political Subdivision Sovereign Immunity (PSSI) Law (R.C. Chapter 2744.). Generally, under section 2744.02, townships and other political subdivisions are immune from tort liability unless any of five specified exceptions applies. One of those exceptions is potential tort liability for harm caused by an employee's negligent operation of a motor vehicle upon the public roads while engaged within the scope of the employee's employment and authority. Another exception is potential tort liability for harm caused by a political subdivision's "negligent failure to keep public roads in repair and other negligent failure to remove obstructions from public roads." The employee immunity provision of the PSSI Law found in section 2744.03(A)(6) provides an employee with immunity from tort liability unless the employee's acts or omissions (1) were manifestly outside the scope of the employee's employment or official responsibilities or (2) committed or omitted with malicious purpose, in bad faith, or in a wanton or reckless manner or unless another statute expressly imposes liability upon an employee.*

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-28-99	p. 490

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