



Am. Sub. H.B. 315

123rd General Assembly
(As Passed by the House)

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, Verich, Young, Olman, Harris, Metzger, Mottley, Buehrer, Tiberi, A. Core, Opfer, Ogg, Myers, Winkler, Buchy, Krebs, Corbin, Amstutz, Salerno, Jolivette, Austria

BILL SUMMARY

- Permits a board of township trustees to contract with one or more political subdivisions to obtain or provide certain road construction, reconstruction, resurfacing, improvement, maintenance, or repair services in an emergency.
- Specifies that the tort liability and immunity from tort liability provisions of the Political Subdivision Sovereign Immunity Law apply to a contracting political subdivision and its employees performing services outside the political subdivision under such a contract in the same manner as the provisions apply when the employees are performing similar services within the contracting political subdivision.
- Allows employees of a contracting political subdivision who are performing services outside of the political subdivision 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 the political subdivision.

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 and, 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(B).)

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 **Current law**," above, but only in the case of *emergency* situations, any board of township trustees may contract with one or more political subdivisions to obtain or provide emergency road construction, reconstruction, resurfacing, improvement, maintenance, or repair services. An "emergency" is defined as an action needed to preserve the public health and safety of the township *receiving* the 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. The bill also gives *explicit* authority for the legislative authority of any other political subdivision to enter into these contracts. (Sec. 5571.01(A) and (E)(1).)

A political subdivision that enters into, and an employee performing services outside of the employee's political subdivision under, a contract for emergency road construction, reconstruction, resurfacing, improvement, maintenance, or repair services has the same potential tort liability and immunities from tort liability as if the services were performed within the employee's political subdivision (sec. 5571.01(E)(2)).¹ Employees also are permitted to participate in any pension or

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), two 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*

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 political subdivision under a contract, to the same extent as if they were performing the services within their political subdivision (sec. 5571.01(E)(3)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-28-99	p. 490
Reported, H. Local Gov't & Townships	06-01-99	p. 735
Passed House (97-1)	06-08-99	pp. 781-782

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purpose, in bad faith, or in a wanton or reckless manner or unless another statute expressly imposes liability upon an employee.

