



S.B. 83

123rd General Assembly
(As Introduced)

Sens. Nein, Kearns, Mumper

BILL SUMMARY

- Authorizes a board of county commissioners to enter into an agreement with a transportation improvement district for the county to perform the functions and exercise the powers of the transportation improvement district in accordance with the terms of the agreement, subject to restrictions applicable to the exercise of the powers by the transportation improvement district.
- Authorizes a transportation improvement district to enter into an agreement with a county for the transportation improvement district to perform the functions and exercise the powers of the county in accordance with the terms of the agreement, subject to restrictions applicable to the exercise of the powers by the county.
- In regard to the payment of assessments for county road improvements, increases from ten to 20 years the maximum period over which the assessments are payable and increases the number of semiannual installments from not more than 20 to not more than 40.
- Removes a monetary limit on the purchase by a board of county commissioners and resale to a township, of construction materials for township road and building improvements.
- Declares an emergency.

CONTENT AND OPERATION

I. Overview

The bill adds a transportation improvement district (TID) as a contracting subdivision with whom a board of county commissioners may enter into an agreement and on behalf of whom a county may exercise any power, perform any authorized function, and render any service that the TID is authorized to exercise, perform, or render. In the exercise of such authority, a county is subject to the limitations of the agreement and restrictions applicable to a TID. Similarly, the bill allows a TID to exercise any power, perform any authorized function, and render any service that the county is authorized to exercise, perform, or render.

The bill addresses two other issues. In regard to the payment of assessments for county road improvements, it increases from ten to 20 years the maximum period over which the assessments are payable and increases the number of semiannual installments from not more than 20 to not more than 40. The bill also removes a monetary limit on the purchase by a board of county commissioners and resale to a township, of construction materials for township road and building improvements.

II. Intergovernmental agreement authority

Existing law

Overview. In general, section 307.15 of the Revised Code authorizes a board of county commissioners to enter into agreements with other specific political subdivisions named in the law for the performance of part or all of the powers of such subdivision. Section 307.15 also authorizes a municipal corporation to enter into an agreement with a board of county commissioners to perform part or all of the powers of the county. The law establishes the conditions under which both types of agreements operate. (Sec. 307.15.)

Grant of power to a county. Section 307.15 authorizes a board of county commissioners to enter into an agreement to exercise any power, perform any function, or render any service that a contracting subdivision is authorized to exercise, perform, or render. A county may enter into an agreement with the legislative authority of any of the following: (1) a municipal corporation, (2) a township, (3) a port authority, (4) a water or sewer district, (5) a school district, (6) a library district, (7) a health district, (8) a park district, (9) a soil and water conservation district, (10) a water conservancy district, (11) any other taxing

district, and (12) the board of any other county. Collectively, these entities are referred to as "contracting subdivisions."¹

Within the limitations of such an intergovernmental agreement, the board of county commissioners may exercise the same powers as the contracting subdivision possesses with respect to the performance of any function or the rendering of any service that the county undertakes to perform or render. When acting under such an agreement, the county may exercise "all powers necessary or incidental thereto, as amply as [those] powers are possessed and exercised by the contracting subdivision directly." Neither the law authorizing the agreement nor the agreement itself suspend the possession by a contracting subdivision of any power or function exercised or performed by the board. When exercising power on behalf of a contracting subdivision under an intergovernmental agreement, the county is governed by the terms of the agreement and by any restrictions placed upon the exercise of that authority by the contracting subdivision.

Additionally, current law specifies that an intergovernmental agreement does not authorize the board of county commissioners to levy taxes within, and on behalf of, a contracting subdivision, unless the tax levy is approved by a majority of the electors of the contracting subdivision. (Sec. 307.15.)

Grant of power to a municipal corporation. Section 307.15 authorizes the legislative authority of a municipal corporation to enter an agreement with a county and exercise any power, perform any function, or render any service on behalf of the county or the board that the county or board may exercise, perform, or render.

Under such a contract, the municipal corporation may exercise the same powers as the county possesses with respect to the performance of any function or the rendering of any service, which by the agreement, the municipal corporation undertakes to perform or render as amply as the powers are possessed and exercised by the county directly. Neither the law authorizing the agreement nor the agreement itself suspend the possession by a county of any power or function exercised or performed by the municipal corporation. When exercising power on behalf of a county under an intergovernmental agreement, the municipal

¹ As used in section 307.15 of the Revised Code, "legislative authority" means the board of county commissioners, board of township trustees, or the board, council, or commission of a contracting subdivision, and "contracting subdivision" means any governmental subdivision or taxing district of the state that, by its legislative authority, enters into an agreement with a board of county commissioners under the authority of sections 307.14 to 307.19. (Sec. 307.14, not in the bill.)

corporation is governed by the terms of the agreement and by any restrictions placed upon the exercise of that authority by the county. (Sec. 307.15.)

TID authority. Chapter 5540. of the Revised Code governs transportation improvement districts. A TID is created by the board of county commissioners of a county. A TID is a body both corporate and politic, governed by an appointed board of trustees. (Sec. 5540.02.)

In addition to general authority to conduct business, a TID may do all of the following: (1) purchase, construct, maintain, repair, sell, exchange, police, operate, or lease a street, highway, or other transportation project, (2) issue revenue bonds, (3) accept loans and grants from the federal or any state or local government, or from any agency, entity, or instrumentality of the federal or a state or local government, (4) acquire property by purchase, lease, appropriation, or otherwise, (5) levy special assessments, (6) establish and collect tolls or user charges for its projects, and (7) levy an annual motor vehicle license tax of not more than \$20 per motor vehicle. (Secs. 4504.21, 5540.03, 5540.031, and 5540.04, not in the bill.)

The board of trustees of a TID may provide for the construction, reconstruction, improvement, alteration, or repair of any road, highway, public place, building, or other infrastructure and levy special assessments, if the board determines that the public improvement will benefit the area where it will be constructed, reconstructed, improved, altered, or repaired. In taking such action, a TID is not restricted to the territory of the TID; however, if the improvement is proposed for territory in a political subdivision located outside the district's territory, the legislative authority of that political subdivision must approve the undertaking of the improvement within the political subdivision. (Sec. 5540.031, not in the bill.)

Contracts and projects of a TID are exempt from the following: (1) Department of Administrative Services (DAS) authority over public works, (2) DAS requirements governing personnel, (3) DAS authority over office services, including competitive bidding requirements, affirmative action, and minority business enterprise requirements, (4) public improvement law, (5) prevailing wage requirements, and (6) county competitive bidding law (sec. 5540.03(B), not in the bill).

The bill

The bill adds a TID as one of the contracting subdivisions with whom a county may enter into an agreement and on behalf of whom a county may exercise any power, perform any authorized function, and render any service that the TID is

authorized to exercise, perform, or render. When operating under such an agreement, the board of county commissioners may exercise the same necessary and incidental powers as the TID possesses with respect to the performance of any function or the rendering of any service that the county undertakes to perform or render, as amply as those powers are possessed and exercised by the TID directly.

When acting under an agreement with a TID, a county assumes the complete authority of the TID. If the direct exercise of a power by a TID is exempt from certain state laws (see discussion above under "**TID authority**"), then a county also would act free of the state law requirements.

The bill also authorizes a TID to enter into an agreement and exercise any power or perform any function that a county or board of county commissioners may exercise or perform. Under such an agreement, the TID may exercise the same powers as the county possesses with respect to the performance of any function or the rendering of any service, which by the agreement, the TID undertakes to perform or render. Again, the power is possessed as amply as the powers are possessed and exercised by the county directly.

As a subdivision of the state, the authority of a county includes the provision of services, police power, and the authority to levy property, sales, and use taxes. Under an agreement authorized by the bill, a TID could exercise any authority of a county, subject to the terms of the agreement and any restrictions placed upon the exercise of that authority by the county. (Sec. 307.15.)

III. Assessments for county road improvements

Under current law, assessments for county road improvements must be paid in not more than 20 semiannual installment payments, extending over a period of not more than ten years. The bill extends the time under which such assessments may be paid. Under the bill, assessments for county road improvements must be paid in not more than 40 semiannual installment payments, extending over a period of not more than 20 years. (Sec. 5555.46.)

Purchase of construction material

Under current law, the board of county commissioners may enter into an agreement with the board of township trustees of any township within the county, for the board of county commissioners or any county official designated by the board, to 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. The board of county commissioners then sells the materials to the township at the cost to the county, including the purchase price

and any expenses incurred in such purchase. However, the amount of the purchase may not exceed \$1,000. The bill removes the monetary limit on this purchase of materials by the board of county commissioners. (Sec. 307.15(A)(1).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-23-99	p. 145

S0083-I.123/jc

