



## **H.B. 513**

124th General Assembly  
(As Introduced)

**Reps. Seitz, Schmidt, Raga, Brinkman, Hagan, Faber, Collier, Carano, Seaver, Schaffer, Lendrum, Fessler, Grendell, Blasdel, Schneider**

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### **BILL SUMMARY**

- Authorizes taxing authorities to create multiple reserve balance accounts for rainy day funds.
- Expands the authority of townships pertaining to the permanent endowment fund for their cemeteries.
- Authorizes townships to sell real property under certain circumstances without a public auction or competitive bidding.
- Authorizes townships to declare a highway obstruction to be a nuisance and to order its removal.
- Permits authorized township officers and employees to incur obligations of up to \$2,500 without prior approval.

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### **CONTENT AND OPERATION**

#### **Reserve balance accounts**

Currently, political subdivisions may create not more than one reserve balance account for each of the following purposes: (1) budget stabilization, (2) self-insurance programs, and (3) workers' compensation payments.<sup>1</sup> A budget

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<sup>1</sup> *In this case, the political subdivisions affected are counties, townships, municipal corporations, township police districts, township fire districts, joint fire districts, joint ambulance districts, joint emergency medical services districts, fire and ambulance districts, joint recreation districts, township waste disposal districts, township road districts, community college districts, technical college districts, detention facility districts, single-county and joint-county juvenile facilities districts, combined juvenile facilities and detention facility districts, joint-county alcohol, drug addiction, and mental*

stabilization reserve balance account must be established in the general fund of the political subdivision, and the money reserved in the account in any fiscal year cannot exceed 5% of the revenue in that fund in the preceding fiscal year. (Sec. 5705.13(A).)

The bill permits a political subdivision to have more than one reserve balance account for budget stabilization and to establish those accounts in either the general fund or in one or more special funds of the subdivision. The amount of money reserved in *each* account in any fiscal year cannot exceed 5% of the revenue credited in the preceding fiscal year to the fund in which the account is established. (Sec. 5705.13(A).)

### **Township permanent cemetery endowment fund**

A township may provide for a township cemetery and levy a property tax for it. The township must sell burial lots at a "reasonable price," and the proceeds of these sales must be used in improving and embellishing the cemetery grounds or for the purchase of additional cemetery land. In addition, the board of township trustees currently may receive property in trust, by gift, bequest, devise, or otherwise, as a permanent fund to be held and invested in interest-bearing securities by the board, the income from which is to be used in the care, improvement, and beautifying of a designated burial lot after the payment of the costs and expenses connected with the trust. Gifts, devises, or bequests to a permanent fund and the income from them are exempt for state taxation. The township clerk must keep specified records with respect to investments of a permanent fund and maintain custody of and account for the trust property. The township's clerk and trustees are entitled to receive compensation for their permanent fund-raising services. (Secs. 517.01, 517.03, 517.07, and 517.08--not in the bill; sec.517.15--amended by the bill; and secs. 517.16, 517.17, and 517.18--repealed by the bill.)

The bill expands the potential financial sources of a township's "permanent cemetery endowment fund," simultaneously expanding a township's power to maintain its cemeteries, by permitting a township to (1) add charges to the price regularly charged for burial lots for the purpose of maintaining, improving, or beautifying its cemeteries, (2) make agreements with a purchaser of a burial lot for part of the purchase price to be applied to the maintenance, improvement, or beautification of the lot, and (3) make contributions of money from the township general fund to this endowment fund. These financial sources become part of the

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*health service districts, drainage improvement districts, union cemetery districts, county school financing districts, and city, local, exempted village, cooperative education, and joint vocational school districts (sec. 5705.01(A)--not in the bill).*



endowment fund, along with any gifts, devises, or bequests for the maintenance, improvement, or beautification of the cemetery generally or of a designated burial lot. (Sec. 515.18(A).) The endowment fund must have specified separate accounts: one account for the charges described in item (1) above, the contributions described in item (3) above, and any gifts, devises, or bequests for the cemetery generally; and *at least* one account for moneys arising from each individual agreement described in item (2) above, and each gift, devise, or bequest for a designated burial lot. (Sec. 517.15(B).)

The bill requires that the principal of endowment fund moneys either be held "permanently" or "in trust" in the applicable account created for it, and that only the income from the investment of that principal may be expended for the designated or statutorily specified purpose of, and the expenses of managing, the account (sec. 517.15(B)). The township clerk must keep specified records with respect to the endowment fund and each of its accounts, and must maintain custody of and account for all endowment fund moneys and the interest-bearing securities in which those moneys are required to be invested. The bill repeals existing law's entitlement of the township's clerk and trustees to compensation for their endowment fund-related services. (Sec. 317.15(B) and (C) and repeal of sec. 317.18.)

### **Disposition of township real property**

Currently, a board of township trustees may sell or otherwise transfer real property that is not needed for public use in certain manners, including (1) a sale by public auction after specified notice and (2) a sale or other transfer to a political subdivision or, for certain purposes, a nonprofit senior citizens' organization upon terms agreed to by the parties (sec. 505.10(A)(1) and (5); sec. 505.102--not in the bill). The bill allows a township to also sell or otherwise transfer real property to *any person* upon whatever terms are agreed to between the parties, but only pursuant to a resolution of, and if there is a unanimous vote of, the board of township trustees (sec. 505.10(A)(6)).

### **Removal of objects on highways in townships**

A portion of the bill deals with the removal of vegetation and objects from highways. Current law provides some authority relative to removing vegetation and objects, as follows:

- A township has authority to remove vegetation, garbage, refuse, and other debris from land in the township if the board of township trustees determines that the owner's maintenance of those things constitutes a nuisance. The township must first notify the owner and order the owner to remove the nuisance. If it is not removed within

seven days of the notification, the township can remove the nuisance itself and charge the expenses to the owner. (Sec. 505.87.) Further, a board of township trustees has authority to trim or remove any vegetation growing in or encroaching *onto the right-of-way* of *township* roads (the county engineer has the same authority for county roads) at public expense and "is not required to compensate the abutting landowner for trimming or removing such . . . vegetation . . ." (sec. 5543.14).

- As to objects within the bounds of highways, a board of county commissioners can require the removal of objects or structures *that occupy any part of a highway* other than a state highway, that do not relate to a legally granted franchise, and that the board determines obstruct the highway or may interfere with its proposed improvement or use by the traveling public. Examples include utility lines, poles, and pipes; persons or businesses responsible for these objects or structures can request and receive approval to relocate them within the bounds of the highway. (Sec. 5547.03.)
- If a fence *bounds a public highway and is located at least in part on land that is part of the highway*, and if the fence in anyway interferes with the grading, draining, or dragging of the highway, causes the drifting of snow on the highway, or in any other way obstructs or endangers travel on the highway, a board of township trustees can declare the fence to be a public nuisance and order the owner or occupant of the land to remove it within 30 days.<sup>2</sup> If that person refuses or neglects to comply, the board must remove the fence and charge the expense to the owner to be collected in the same manner as other taxes. (Sec. 5571.14.)

The bill generally permits a board of township trustees *or a township highway superintendent* (a person appointed by the board to maintain and repair township roads (sec. 5571.02--not in the bill)) to remove any object bounding a public highway and *located wholly or partly on the land belonging to the highway*, not just fences, using the above described procedure. The removal authority applies to land owned in fee simple or by easement. It does not apply, however, to an object that is lawfully entitled to be maintained on land belonging to a highway pursuant to a franchise or other grant of public authority. The bill defines an

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<sup>2</sup> Although the term "public highway" is not defined for purposes of section 5571.14, it seems to have the same meaning as in section 5535.01 of the Revised Code, which classifies public highways into state, county, and township roads. Whether section 5571.14 applies to of all these roads or to just township roads is not entirely clear.

"object" to include a fence, post, pole, athletic or recreational apparatus, rock, or berm, any vegetation, or any other object the board or superintendent identifies as interfering with or obstructing a highway. (Sec. 5571.14.)

**Obligations of the township**

Current law permits a board of township trustees to pass a resolution authorizing township officers and employees to incur obligations of no more than \$750. Before money can be paid out for these obligations, however, they must be subsequently approved by a formal resolution of the board. The bill raises the dollar limitation, permitting authorized officers and employees to incur obligations of no more than \$2,500. Additionally, the bill permits a board of township trustees to authorize, by resolution, a township administrator to authorize officers and employees to incur these larger obligations. (Sec. 507.11.)

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	02-19-02	p. 1414

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