



Aida S. Montano

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 180**

125th General Assembly  
(As Introduced)

**Reps. Wolpert, Seitz, White, Webster, Allen, Koziura, Price**

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### **BILL SUMMARY**

- Authorizes a board of township trustees to adopt a resolution by a unanimous vote prohibiting any person from knowingly discharging a firearm within a district created in the unincorporated area of the township and having an average residential density of at least one residential unit per acre.
- Requires the township clerk to send notice of the proposed resolution and the district to which it will apply by regular mail to every property owner within the proposed district and requires additional notice by publication.
- Prohibits an adopted resolution from applying to any of specified types of persons, circumstances, and acts.
- Makes a violation of any resolution adopted as described in the prior dot points a misdemeanor of the fourth degree.
- Specifies the requirements and procedures for a petition to be presented to the township board of trustees requesting the board to submit to the electors of the area affected by the resolution at a special election the question of whether a resolution adopted as described in the prior dot points takes effect.
- Specifically prohibits a resolution for which a referendum has been requested from taking effect unless a majority of the votes cast on the issue is in favor of the resolution.

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## CONTENT AND OPERATION

### Township resolution to prohibit discharge of firearms

The bill authorizes a board of township trustees to adopt a resolution by a unanimous vote prohibiting any person from knowingly discharging a "firearm" within a district created in the unincorporated area of the township and having an average residential density of at least one "residential unit" per acre. (See "Definitions," below.) A legal description and map of the district must be included as part of the resolution. (R.C. 505.96(B)(1).)

#### Notice

The bill requires that before adopting a resolution as described above, the township clerk must notify every property owner within the proposed district by regular mail of the proposed resolution and the district to which it will apply. In addition, a notice of the proposed resolution and a description of the district to which it will apply must be published in a newspaper of general circulation within the township at least two weeks before the board votes on the resolution. (R.C. 505.96(B)(1).)

#### Nonapplicability

The bill prohibits a resolution adopted by a board of township trustees under the bill from applying to any of the following (R.C. 505.96(C)):

- (1) Law enforcement officers authorized to carry or have loaded or accessible firearms and acting within the scope of their duties;
- (2) Members of the United States military or organized Ohio militia acting within the scope of their military duties;
- (3) Participation at any shooting range that is otherwise legally operating within the township;
- (4) Acts of self-defense or defense of a third person.

#### Penalty

The bill provides that whoever violates any resolution adopted under the bill is guilty of a misdemeanor of the fourth degree. The clerk of the court in which a person is convicted of the violation must disburse any fine levied and collected for the violation to the township general revenue fund. (R.C. 505.96(D).)

### **Referendum petition**

Under the bill, a resolution adopted by a board of township trustees becomes effective 30 days after the date of its adoption unless, within that 30-day period, there is presented to the board of township trustees a petition described in this paragraph. The petition must be signed by a number of registered electors residing in the unincorporated area of the township included in the district equal to not less than 8% of the total vote cast for all candidates for governor in that area at the most recent general election at which a governor was elected. The petition must request the board to submit the question of whether the resolution will take effect to the electors of that area at a special election to be held on the day of the next primary or general election that occurs not less than 75 days after the petition's certification as described below. Each part of the petition must contain the number and the full and correct title, if any, of the resolution and a brief summary of its contents. In addition to meeting these requirements, each petition is governed by the rules specified in R.C. 3501.38 (see **COMMENT**). (R.C. 505.96(B)(2).)

### **Certification of petition**

The bill requires the board of township trustees to certify the petition to the board of elections, which must determine the sufficiency and validity of the petition's signatures. If the board of elections determines there are sufficient signatures on the petition, it must place the question of whether the resolution will take effect on the ballot at the next primary or general election that occurs not less than 75 days after the petition is certified by the board of township trustees.

The bill specifically prohibits any resolution for which a referendum has been requested from taking effect unless a majority of the votes cast on the issue is in favor of the resolution. Upon certification by the board of elections that the resolution has been approved by the voters, it takes immediate effect. (R.C. 505.96(B)(2).)

### **Definitions**

The bill defines the following terms (R.C. 505.96(A)):

"Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable. When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence,

including, but not limited to, the representations and actions of the individual exercising control over the firearm. (R.C. 2923.11(B)--not in the bill.)

"Residential unit" means a building that is used as a single or multi-family dwelling.

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## COMMENT

Under R.C. 3501.38, all declarations of candidacy, nominating petitions, or other petitions presented to or filed with the Secretary of State or a *board of elections* or with any other public office for the purpose of becoming a candidate for any nomination or office or for the *holding of an election on any issue* must, in addition to meeting the other specific requirements prescribed in the sections of the Revised Code relating to them, be governed by the following rules:

(A) Only electors qualified to vote on the candidacy or issue which is the subject of the petition shall sign a petition. Each signer shall be a registered elector pursuant to section 3503.11 of the Revised Code. The facts of qualification shall be determined as of the date when the petition is filed.

(B) Signatures shall be affixed in ink. Each signer may also print the signer's name, so as to clearly identify the signer's signature.

(C) Each signer shall place on the petition after the signer's name the date of signing and the location of the signer's voting residence, including the street and number if in a municipal corporation or the rural route number, post office address, or township if outside a municipal corporation. The voting address given on the petition shall be the address appearing in the registration records at the board of elections.

(D) No person shall write any name other than the person's own on any petition. No person may authorize another to sign for the person. Where a petition contains the signature of an elector two or more times, only the first signature shall be counted.

(E) On each petition paper, the circulator shall indicate the number of signatures contained on it, and shall sign a statement made under penalty of election

falsification that the circulator witnessed the affixing of every signature, that all signers were to the best of the circulator's knowledge and belief qualified to sign, and that every signature is to the best of the circulator's knowledge and belief the signature of the person whose signature it purports to be.

(F) If a circulator knowingly permits an unqualified person to sign a petition paper or permits a person to write a name other than the person's own on a petition paper, that petition paper is invalid; otherwise, the signature of a person not qualified to sign shall be rejected but shall not invalidate the other valid signatures on the paper.

(G) The circulator of a petition may, before filing it in a public office, strike from it any signature the circulator does not wish to present as a part of the petition.

(H) Any signer of a petition may remove the signer's signature from that petition at any time before the petition is filed in a public office by striking the signer's name from the petition; no signature may be removed after the petition is filed in any public office.

(I)(1) No alterations, corrections, or additions may be made to a petition after it is filed in a public office.

(2) No petition may be withdrawn after it is filed in a public office. Nothing in this division prohibits a person from withdrawing as a candidate as otherwise provided by law.

(J) All declarations of candidacy, nominating petitions, or other petitions under this section shall be accompanied by the following statement in boldface capital letters: **WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.**

(K) All separate petition papers shall be filed at the same time, as one instrument.



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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-08-03	p. 469

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