



H.B. 404
126th General Assembly
(As Introduced)

Reps. Wolpert, J. McGregor, Brinkman, Law, Peterson, R. McGregor, Allen, Flowers, Webster, Gibbs, Collier

BILL SUMMARY

- Authorizes cities to create "urban homestead zones" for the purpose of encouraging the repopulation of certain areas within the cities.
- Creates a state urban homestead scholarship program that is available to property owners in certain zones and that is funded through tax increment financing in those zones.

TABLE OF CONTENTS

Urban homestead zones	2
Overview	2
Approval of proposed governing body and petition for zone creation.....	3
Each property owner designated as a "member" of the zone.....	4
Governing of zone by nonprofit corporation.....	5
Proxies and designees	6
Board members' immunities	6
Board authorized to provide for a security force.....	6
Annual report	8
Competitive bidding procedures required.....	8
Records open to public inspection	8
Transfer of ownership interests by property owners.....	8
Dissolution of zone	9
Urban homestead scholarship program.....	9
Program overview	9
Scholarship application process	11
Right to a scholarship runs with the land	12
Scholarship funding sources	12
Achievement tests	12
Rulemaking	13

Scholarship program's impact on chartered nonpublic schools.....	13
Tax increment financing	13
General overview of tax increment financing	13
Payments in lieu of taxes.....	14
Submission of ordinances to Director of Development and Director's status report	15
Titling of statutes enacted as Chapter 730.....	15

CONTENT AND OPERATION

Urban homestead zones

Overview

(R.C. 730.01, 730.02, and 730.03(B))

The bill authorizes the legislative authority of a city to adopt a resolution designating an area within the city to be an "urban homestead zone" for the purpose of encouraging repopulation of that area. An area cannot be designated as an urban homestead zone unless it satisfies all of the following conditions:

- (1) It is a contiguous area that is at least 10 but not more than 150 acres in size and that cannot be characterized as being merely a strip or corridor or as resembling in shape a shoestring or a balloon on a string;
- (2) It is a blighted area;¹
- (3) It does not divide any voting precincts;
- (4) Not more than 15% of the area is zoned for other than residential use.

A city cannot adopt a resolution creating an urban homestead zone until it is petitioned to do so by at least 50% of the property owners within the proposed

¹ *The bill defines a "blighted area" as an area where all of the following apply:*

- (1) *The area has lost at least 50% of its population in the last 50 years as reflected in the federal decennial census or any other valid census;*
- (2) *The area has had a 30% increase in violent crime rate in the last 50 years;*
- (3) *The area has had a 50% increase in the poverty rate in the last 50 years.*

(R.C. 730.01(B).)



zone, including at least 25% of the property owners in the proposed zone who are also electors in the proposed zone. Each petition must have at least eight petitioners. More than one zone may be created within a single city as long as not more than 150 acres of the city is within a zone at any given time. A single parcel cannot be included in multiple zones at the same time.

Urban homestead zones are not political subdivisions of the state. However, the zones are subject to the requirement under continuing law that meetings of public bodies be open to the public and the continuing prohibition against awarding public contracts to those found in contempt for failure to correct an unfair labor practice (R.C. 121.22 and 121.23--not in the bill).

Approval of proposed governing body and petition for zone creation

(R.C. 730.03(A) and (B))

Nonprofit corporations organized under the Ohio general nonprofit corporation law govern urban homestead zones. Such a nonprofit corporation's articles of incorporation must be submitted to the executive and legislative authority of the city in which the nonprofit corporation is to govern a zone, and the legislative authority must approve the articles by resolution. A copy of the resolution and the articles must be filed with the Secretary of State and the Department of Development.

In addition to meeting the general requirements for articles of incorporation under the general nonprofit corporation law, the articles of a nonprofit corporation proposing to govern a zone must specify all of the following:

- (1) The name of the zone, which must include the phrase "of the city of (the name of the city where the zone is located)."
- (2) A description of the territory within the zone that is specific enough to enable property owners to determine if their real property is located in the zone.
- (3) A description of the procedure by which the articles may be amended.²
- (4) The method by which notice of meetings and membership of the zone is to be given and the method by which members of the zone vote (see **Each**

² *The amendment procedure must require that the city's legislative authority approve the amendment and must require that the approved amendment be filed with the Secretary of State and the Department of Development. The legislative authority's approval of an amendment must be memorialized in a resolution adopted by the authority, which also must be filed with the Secretary of State and the Department of Development.*

property owner designated as a 'member' of the zone " and **'Governing of zone by nonprofit corporation,'** below).

(5) The purposes for which the zone is created, which, for zones located in a "big eight school district" (Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown), must include an opportunity for qualifying property owners in the zone to participate in the zone's urban homestead scholarship program (see "**Urban homestead scholarship program,**" below).

The legislative authority of each city creating a zone must forward a copy of the petition filed by property owners and the articles of incorporation of the nonprofit corporation proposing to govern the zone to the Director of Development. The Director is required to review these materials to determine whether the proposed zone is in a blighted area and meets the geographic size and shape requirements for designation as a zone. The Director is required to make those determinations within 60 days after receiving the petition and articles. The Director is then required to return the petition, the articles of incorporation, and the Director's written findings to the legislative authority. As part of those findings, the Director must specifically identify any requirements that are not met.

If the Director determines that the criteria are not met, the legislative authority must inform the petitioners of the finding. If the Director determines that the criteria are met, the legislative authority must determine whether the proposed zone divides any voting districts and whether more than 15% of the area is zoned for nonresidential use. The legislative authority must also determine whether the proposed zone would include more than 150 acres of the city. If the legislative authority determines that no voting precincts are divided, that not more than 15% of the proposed zone is zoned for nonresidential use, and that not more than 150 acres of the city will be included in the zone, the legislative authority must then either approve or disapprove the petition for the zone's creation and the accompanying articles of incorporation.

Each property owner designated as a "member" of the zone

(R.C. 730.07(A))

Every person who owns real property within an urban homestead zone is a "member" of the zone. At least 60 days prior to sending out notices of meetings of the entire membership of the board or taking any other action, the nonprofit corporation responsible for governing the zone must determine the identity and address of every property owner in the zone from the most current records available at the county auditor's office. Persons showing on those records as having common or joint ownership interests in a parcel of real property collectively constitute the owner of the property.

Governing of zone by nonprofit corporation

(R.C. 730.04 and 730.07(B), (C), and (D))

Urban homestead zones are governed by a board of directors, which is comprised of the board of trustees of the nonprofit corporation that governs the zone. A zone's board of directors must consist of at least five members. The legislative authority of the city creating the zone appoints one member of the board. The other members are elected.

Elected members of the board are elected at a meeting that includes all members (i.e., all property owners) of the zone. The initial election occurs once a zone is created. Subsequent elections must be held at a meeting of members occurring in November.

The bill directs the board to elect its chairperson, vice-chairperson, secretary, and treasurer, all of whom serve at the board's pleasure. A member may be elected to more than one office; however, the member elected as treasurer may not be elected to any other office.

At its first meeting, the board must prepare an initial plan for the zone, which may include any or all of the following:

(1) Adoption of special assessments in the zone for hiring security guards (see "**Board authorized to provide for a security force,**" below);

(2) Election of an ombudsperson to act as a liaison between the city's zoning inspector and the residents and property owners in the zone on issues related to zoning, building, and other related regulations in the zone;

(3) Organization of festivals, concerts, or other community-related events to promote the zone and to provide activities that benefit the zone's residents;

(4) Promotion and support of any urban homestead scholarship program in which the zone may be a participant, including the provision of assistance to individuals applying for scholarships (see "**Urban homestead scholarship program,**" below).

Notice of the time, date, place, and agenda for any meeting of the board must be provided in writing to each member of the board of directors by certified mail, personal service, or electronic device before the meeting. When feasible, notice must be transmitted at least one week prior to the meeting. The board is to act by majority vote of those present at any meeting.

Proxies and designees

A director or member of the zone may file a written statement with the board's secretary appointing a proxy to carry out the director's or member's rights and responsibilities at a meeting of the entire membership. The statement must be filed with the secretary at least three days prior to the meeting.

In addition, a member of the zone may appoint a designee to carry out the member's rights and responsibilities by filing a written designation form with the secretary. The form must include the name and address of the member, the name and address of the designee, and the expiration date, if any, of the designation. The designation form may authorize the designee to vote at zone meetings.

A proxy or designee is not required to be an elector or resident of the zone or of the city in which the zone is located. Appointment of any proxy or designee may be changed by filing a new form with the secretary. The proxy or designee identified on the most recently filed form is the official appointee. Transmittal of any notice to a proxy or designee at the proxy or designee's address as shown on the form filed with the secretary constitutes notice to the director or member on behalf of whom the proxy or designee is acting.

Board members' immunities

(R.C. 703.04(A))

Membership on an urban homestead zone's board of directors is not considered the holding of a public office. A director (or a director's designee) is entitled to all of the immunities provided by law to the trustees of a nonprofit corporation. A director (or designee) is also entitled to the same immunities from civil actions as employees of political subdivisions unless the director (or designee) is an employee or official of the city and is acting within the scope of the official's or employee's employment or official responsibilities, in which case the immunities provided by law to trustees of nonprofit corporations do not apply.

Board authorized to provide for a security force

(R.C. 730.08)

An urban homestead zone's board of directors may adopt written plans for a security guard force for the zone. Each plan must set forth the specific requirements for and functions of the force and must specify the method of assessment to be used to pay for the force. Each plan must also indicate the period of time the assessments are to be levied and the period of time the force is to remain in place.

Upon adoption of a security guard plan, the board must submit it to the city's legislative authority for review. The legislative authority may provide the board with its comments and recommendations at any time within 60 days after receiving the plan. The board may amend the plan in response to the comments and recommendations received from the legislative authority. The board may then submit the plan to the members of the zone "in the form of a petition." If signed by a majority of the members, the petition-plan may then be submitted to the city's legislative authority.

Within 60 days after receiving a submitted petition-plan for a security guard force, the legislative authority must either approve or reject the petition-plan. If the petition-plan is approved, the plan becomes effective at the earliest day on which a nonemergency resolution or ordinance of the legislative authority can become effective.

Once a security guard plan is in effect, the legislative authority must levy a special assessment to pay the costs of the plan upon all members of the zone in accordance with continuing laws governing the levy and collection of special assessments. The assessment may be levied by a percentage of the tax value of the property assessed, in proportion to the benefits that may result from the force, or both (R.C. 727.01(A) and (B)--not in the bill). The assessment must be uniformly applied. Property owners who are assessed under a security guard plan possess all of the same rights and privileges that continuing law extends to property owners subject to special assessments.

The bill specifies that the costs of a security guard plan paid through a special assessment may include, but are not limited to, the following:

- (1) The cost of creating and operating the zone, including creating and operating the nonprofit corporation that governs the zone; hiring employees and professional services; contracting for insurance; and purchasing or leasing office space or office equipment;
- (2) The cost of planning and implementing the security guard plan, including payment of legal, insurance, and planning fees and expenses;
- (3) Any court costs incurred by the zone in implementing the security guard plan;
- (4) Any damages resulting from implementing the security guard plan.

Any services provided to a zone, including security services, are in addition to, and not in lieu of, any public services otherwise provided by the city in which the zone exists. Accordingly, a city may not substitute or rely upon the services

provided to a zone under a security guard plan to reduce or refuse to increase any public services provided or that are to be provided by the city to the zone.

Annual report

(R.C. 730.06)

The bill requires that every urban homestead zone's treasurer prepare an annual report on the zone's activities and financial condition during the previous year. The report must be submitted to each member of the zone and to the executive and chief fiscal officer of the city in which the zone is located on or before March 1.

Competitive bidding procedures required

(R.C. 730.05(B))

The bill requires that an urban homestead zone's board of directors adopt written rules prescribing competitive bidding procedures for the contracts it awards. The rules must provide for advertising for bids and must specify the bidding procedures to be followed. The rules may specify conditions under which competitive bidding is not required. The rules also may specify other conditions, such as dollar limits for each contract and who shall be parties to particular contracts. The procedures adopted by a board may differ from those followed by the city in which the zone is located.

Records open to public inspection

(R.C. 730.05(A))

All records of an urban homestead zone are open to public inspection under Ohio's Public Records Act (R.C. 149.43--not in the bill). The bill specifies, however, that contracting with a zone does not, in and of itself, subject a contracting organization's records to public disclosure.

Transfer of ownership interests by property owners

(R.C. 730.09)

The bill specifies that any owner of a fee interest in real property located within a proposed or existing urban homestead zone who enters into a contract to transfer the interest must do both of the following with respect to the transferee:

(1) Within five days after entering into the contract, provide to the transferee any notice the owner received for special assessments within 90 days

before entering into the contract and, when applicable, notify the transferee that the transferee may be eligible to participate in the urban homestead scholarship program (see "*Urban homestead scholarship program*," below);

(2) Provide to the transferee, within five days after its receipt, any notice of special assessment that the owner receives after entering into the contract. A property owner is required to continue to notify the transferee of special assessments until the contract is completely performed or terminates.

Dissolution of zone

(R.C. 730.10)

An urban homestead zone dissolves and thus ceases to exist 21 years after it is created.

A zone may be dissolved prior to that date if the members of the zone owning at least 20% of the real property located in the zone file a petition for dissolution with the executive and legislative authority of the city in which the zone is located. The members of the zone must meet to consider dissolving the zone not later than 45 days after the petition is filed. The zone may be dissolved upon the affirmative vote of members owning more than 50% of the taxable value of the real property located in the zone. The result of the meeting, whether it is to dissolve the zone or to maintain it, must be certified to the legislative authority. If the result is to dissolve, the legislative authority must adopt a resolution dissolving the zone and must send a certified copy of the resolution to the Secretary of State, the Department of Development, and the Department of Education. Upon a zone's dissolution, any assets or rights of the zone remaining after all obligations of the zone have been settled, must be deposited in a special account created by the city in which the zone is located.

The rights and obligations of a person under a contract with the zone and the rights and obligations of a person subject to a special assessment levied by the zone's board are only affected by a zone's dissolution to the extent the person consents to a change in those rights and obligations or a change is ordered by a court of competent jurisdiction.

Urban homestead scholarship program

Program overview

(R.C. 3310.70, 3310.71, 3310.74, 3310.75, and 3310.76)

The bill creates an "urban homestead scholarship program" that is available to property owners in every urban homestead zone created in a "big eight school

district" (Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown). A child of a parent who owns and occupies a home in a zone located in one of these big eight school districts is eligible for a scholarship if the following conditions are satisfied:

(1) The child is entitled to attend school in a big eight school district and is enrolled in a chartered nonpublic school;

(2) The owner and occupant of the parent's home or a predecessor owner and occupant has spent at least \$120,000 in improvements on the residence since the urban homestead zone was created.

The amount of the scholarship for any given child is the lesser of the tuition charged by the chartered nonpublic school in which the child is enrolled or the maximum amount prescribed for an educational choice scholarship for the current school year.³ The Department of Education pays a scholarship in periodic partial payments during the school year at times prescribed by the Department. A scholarship awarded and paid under the program may only be used to pay tuition owed to a chartered nonpublic school. The Department of Education is required to proportionately reduce or terminate scholarship payments for any child who withdraws from the child's chartered nonpublic school before the end of the school year.

The bill anticipates that the General Assembly will prescribe the maximum number of children that may be awarded scholarships under the program during any given school year. If the number of students who apply for a scholarship exceeds the maximum number prescribed by the General Assembly, the Department of Education must first award scholarships to children who received

³ *Am. Sub. H.B. 66 of the 126th General Assembly created the Educational Choice Scholarship Pilot Program to provide scholarships for primary and secondary students attending school in or assigned to "academic emergency" buildings for the sole purpose of paying tuition at chartered nonpublic schools. The first scholarships under the program are to be awarded for the 2006-2007 school year. The amount of each annual Educational Choice scholarship is the lesser of (1) the tuition charged by the chartered nonpublic school in which the student is enrolled or (2) a "maximum" amount that varies from fiscal year to fiscal year. The maximum amount for fiscal year 2007 is:*

(1) \$4,250 for grades K through 8; and

(2) \$5,000 for grades 9 through 12.

The maximum amount is inflated in future years. (R.C. 3310.01 to 3310.17, and 3317.03 (not in the bill).)

scholarships in the prior school year. Remaining scholarships must then be distributed to other children by lot.

Scholarship application process

(R.C. 3310.72(B) and (C) and 3310.73)

To apply for an urban homestead scholarship, a homeowner must apply to the Director of Development for the "right" to a scholarship. The application must include the following items:

(1) A certified copy of the title or deed to the property on which the homeowner's residence is located;

(2) Documents or forms prescribed by the Director that indicate all of the following:

(a) That the residence is located both in an urban homestead zone and in a big eight school district;

(b) That the homeowner applying for the scholarship is the owner and occupant of the residence;

(c) That the homeowner applying for the scholarship, or one or more predecessor owners and occupants, or a combination of them, has spent at least \$120,000 in improvements on the residence since the urban homestead zone was created;

(3) A certified copy of all building permits related to the improvements;

(4) A certified copy of the occupancy permit for the residence.

If the Director is satisfied that all of the required documents have been submitted and are authentic, the Director must grant the applicant the right to an urban homestead scholarship.

After being granted the right to an urban homestead scholarship, a homeowner may apply to the Director of Development for the actual scholarship. On or before a deadline established by the Director, the homeowner must submit to the Director all of the following:

(1) The name of the homeowner;

(2) The address and legal description of the homeowner's residence;



(3) The name of each child for whom a scholarship is sought;

(4) The name and address of the chartered nonpublic school in which each child has been accepted for enrollment and the amount of tuition charged by the school for the school year;

(5) Any other information required by the Director.

If, after examining this information, the Director determines that the applicant and the applicant's child or children are qualified for a scholarship and that the applicant otherwise retains the right to a scholarship, the Director must certify to the Department of Education the information submitted to the Director. Upon receipt of that information, the Department of Education must pay the scholarship.

Right to a scholarship runs with the land

(R.C. 3310.72(A))

The right to an urban homestead scholarship runs with the land on which the residence is located for a period of 20 years, beginning on the first day of the school year that first succeeds the date the urban homestead zone in which the residence is located is created. The right is transferable to successor owners of the residence.

Scholarship funding sources

(R.C. 3310.77)

Urban homestead scholarships are funded by appropriations and by payments collected under a tax increment financing scheme that must be in place in each zone located in a big eight school district (see "**Tax increment financing**," below). Moneys earmarked for scholarships are credited to the State Urban Homestead Scholarship Fund, which the bill creates in the state treasury. Moneys in the fund may be used only to pay the costs of scholarships. The bill requires that the Director of Development and Department of Education jointly adopt procedures for payment of scholarships from the fund.

Achievement tests

(R.C. 3310.78)

Under continuing law, chartered nonpublic schools may, but are not required to, participate in statewide achievement tests designed to measure various skills students are expected to have acquired by the end of grades three through

eight (R.C. 3301.0711(K)--not in the bill). However, continuing law does require that these schools administer Ohio graduation tests designed to measure various skills students are expected to have acquired by the end of the tenth grade (R.C. 3313.612(A)--not in the bill).

The bill requires that every chartered nonpublic school that enrolls students awarded and paid urban homestead scholarships administer to those students all statewide student achievement tests. Each chartered nonpublic school is required to report the results of tests administered to scholarship students. The bill specifies that it should not be construed as requiring a chartered nonpublic school to administer any achievement test, other than an Ohio graduation test, to a nonscholarship student.

Rulemaking

(R.C. 3310.79(A))

The bill requires that the Director of Development and the Board of Education jointly adopt rules prescribing procedures for administering the Urban Homestead Scholarship Program.

Scholarship program's impact on chartered nonpublic schools

(R.C. 3310.79(B))

The bill specifies that chartered nonpublic schools are not required to comply with any education laws or rules or other requirements that are not specified in the bill and that otherwise would not apply to a chartered nonpublic school.

Tax increment financing

General overview of tax increment financing

Tax increment financing involves the granting of a real property tax exemption with respect to the increment increase in assessed valuation of certain designated parcels resulting from improvements to those parcels. Owners of the property make payments in lieu of taxes equal to the amount of taxes that would otherwise have been paid with respect to the exempted improvements. As a result, tax increment financing creates a flow of revenue back to the political subdivision that granted the tax exemption in the amount of taxes that otherwise would have been paid on the property improvements. Municipal corporations, counties, and townships are authorized under continuing law to engage in various forms of tax increment financing.

Improvements in certain urban homestead zones exempt from taxation

(R.C. 5709.45(A) and (B))

The bill requires that the legislative authority of a city that has created an urban homestead zone within a big eight school district engage in tax increment financing to fund urban homestead scholarships awarded to students residing in the zone (see "**Urban homestead scholarship program**," above). Specifically, the legislative authority of such a zone is required to adopt an ordinance declaring improvements to parcels in the zone to be for a public purpose and exempt from taxation. If there is more than one zone within the city, the city may adopt multiple ordinances covering each zone.

The ordinance must specifically identify each parcel within the zone that is covered by the ordinance. The ordinance cannot apply to any parcel that is already exempt from taxation under a preexisting municipal tax increment financing scheme. Likewise, once a parcel is exempted from taxation pursuant to the bill, it cannot become subject to any other municipal tax increment financing scheme.

The ordinance must state the percentage of the improvements to be exempted, which may not exceed 75%. The ordinance must also specify the period of time that the exemption is to remain in effect. The exemption period may not exceed the life of the zone.

The exemption commences with the tax year in which an improvement first appears on the tax list and duplicate of real and public utility property and that begins after the ordinance's effective date. The exemption ends when the urban homestead zone ceases to exist. If an exemption status changes during a tax year, the procedure for apportioning the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

Payments in lieu of taxes

(R.C. 730.03(B) and 5709.45(A)(2), (D), and (E))

The bill requires that owners of exempt property in the zone make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payment of real property taxes. Each payment is charged and collected in the same manner, and is in the same amount as, the real property taxes that would have been charged and payable against the exempt property; however, any reduction in levies occurring after the city passes its ordinance exempting improvements from taxation will not affect the amount of the payment in lieu of taxes. The payments are used to fund urban homestead scholarships for students

residing in the zone. Accordingly, all payments in lieu of taxes collected by the county treasurers are forwarded to the Treasurer of State for deposit into the State Urban Homestead Scholarship Fund created in the bill. The county treasurers are required to maintain a record of the payments in lieu of taxes derived from property located in the zone.

Under the bill, a property owner cannot be required to make payments in lieu of taxes after the date on which the urban homestead zone ceases to exist.

Submission of ordinances to Director of Development and Director's status report

(R.C. 5709.45(C))

Within 15 days after adopting an ordinance exempting improvements in the zone from taxation, the legislative authority adopting the ordinance must submit a copy of its ordinance to the Director of Development and the Department of Education. Each year, on or before March 31, the Director of Development is required to submit a status report to the city and to the Superintendent of Public Instruction indicating the amount of funds raised for urban homestead scholarships in the zone, including a summary of the receipts for payments in lieu of taxes and the amount of money expended from the Urban Homestead Scholarship Fund for the zone.

Titling of statutes enacted as Chapter 730.

(Section 2)

The bill specifies that statutes enacted in the bill as Chapter 730. of the Revised Code are to be collectively known as "Urban Homestead Zones."

HISTORY

ACTION	DATE
Introduced	11-01-05

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