



Joseph D. Heller

*Final Analysis*  
*Legislative Service Commission*

**Sub. H.B. 458**  
127th General Assembly  
(As Passed by the General Assembly)

- Reps.** Uecker, Evans, J. McGregor, Huffman, Harwood, Wagner, Bacon, Batchelder, Chandler, Combs, Daniels, Domenick, Dyer, Flowers, Gerberry, Gibbs, Goyal, J. Hagan, Hughes, Letson, Newcomb, Sayre, Schindel, Schlichter, Setzer, Zehringer
- Sens.** Amstutz, Schaffer, Roberts, Sawyer, Buehrer, Fedor, Harris, Kearney, Patton, Schuler, Seitz, Wagoner

**Effective date:** \*

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**ACT SUMMARY**

- Authorizes townships to use revenue from a general levy for current expenses for road and bridge construction and repair.
- Clarifies provisions authorizing townships to procure insurance coverage for township employees or to reimburse employees who procure their own coverage.
- Holds harmless a board of trustees against whom the Auditor of State has made a finding for recovery for misuse of funds relating to township trustee or township employee health care coverage.
- Incorporates into Ohio's tax laws Internal Revenue Code changes made since December 21, 2007, and permits a taxpayer whose taxable year ends after that date, but before the effective date of the incorporated changes, to elect to apply the Internal Revenue Code as it existed before that effective date.

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\* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

- Clarifies the qualifications for charitable institution exemptions from property taxation.
- Declares an emergency.

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## **CONTENT AND OPERATION**

### **Use of general fund revenue for road and bridge construction and repair**

(R.C. 5705.05 and 5705.06)

Various local governments ("taxing authorities") are authorized to impose property taxes to fund their general-purpose expenditures. Such "general levies for current expenses" may be imposed with voter approval, or without voter approval if the taxing authority has been allocated a share of the millage available within the ten-mill limitation on unvoted property taxes. Under prior law, general levy revenue of a county or township could be expended for current expenses but not for the construction, reconstruction, resurfacing, and repair of roads and bridges. (R.C. 5705.05.) Under continuing law, levies may be imposed specifically for road and bridge purposes, either with or without voter approval. (R.C. 5705.06(D), (E), and (F); 5705.19(G).) Townships have the ability to transfer funds from the general fund to any other township fund under R.C. 5705.14(E), but because of the above-mentioned limitation, such funds may not be expended for road and bridge construction and repair. (See 1981 Op. Att'y Gen. No. 35.)

The act authorizes townships to use revenue from a general levy for current expenses for road and bridge construction, reconstruction, resurfacing, and repair, but does not change existing authority to levy property taxes specifically for that purpose.

### **Township health benefits**

#### **Board-provided health care plans**

(R.C. 505.60)

Continuing law allows a board of township trustees to procure and pay insurance premiums covering health care expenses of township officers, employees, and families of both, including dental, vision, long-term care, disability, prescription drugs, and other health-related expenses. Coverage also may be provided by contracting with a health insuring corporation (e.g., "health maintenance organization"). Officers and employees are permitted to choose between coverage under such a contract or under the insurance, so long as the

person pays any cost difference if choosing the more costly of the two. If a township officer or employee is denied or declines coverage, the township may reimburse the officer or employee for out-of-pocket premiums, up to the average premium paid by the township for its officers and employees under the township's health care plan.

The act reorganizes and adds language to clarify that the terms and conditions that apply to township-paid health insurance coverage apply equally to township-paid coverage through a health insuring corporation contract, including: (1) that an officer or employee may decline coverage under either method without affecting the availability of coverage to other officers and employees, (2) that either method may provide the same kinds of coverage, (3) that coverage under either method is to be paid from the same township sources used to pay employee and officer compensation, (4) that immediate dependents may be covered under either method, and (5) that reimbursement of an officer or employee for premiums paid for alternative coverage (e.g., through a spouse) is only for the part of the premium paid for the same kinds of coverage offered by the township's plan, whether it be provided through insurance or a health insuring corporation contract.

**Reimbursement for self-paid health care premiums**

(R.C. 505.601)

If a board of township trustees does not procure an insurance policy or a group health care plan, prior law allowed the board to reimburse officers and employees for out-of-pocket premiums they incurred for health and accident insurance benefits. The reimbursement must have been authorized by resolution and provided for a uniform maximum monthly or yearly reimbursement amount for each officer or employee.

The act clarifies that the reimbursement is only for the part of a premium attributable to the insurance coverage that the board could have provided under law (specifically, under R.C. 505.60(A)), and that the reimbursement also may be for premiums paid to cover immediate dependents in addition to the officer or employee.

**Unlawful township health benefit expenditures**

(Section 3)

The act relieves a board of trustees, township officers, and employees from any obligation to repay funds the Auditor of State may find to have been misused as a result of the board of trustee's election to provide township trustee and township employee health care coverage (including reimbursements) in violation

of prior law. The act also requires repayment to township employees and officers of amounts they have paid as a result of or in anticipation of findings for recovery. The Attorney General and county prosecuting attorneys are prohibited from acting on any such finding for recovery.

The act deems the Auditor's finding for recovery resolved for purposes of R.C. 9.24. That section forbids a state agency or political subdivision from awarding a contract for goods, services, or construction exceeding \$25,000 (or \$50,000 annually in the case of ongoing contracts), paid for in whole or in part with state funds, to a person against whom the Auditor of State has issued a finding for recovery that remains unresolved.

### **Incorporation of changes to the Internal Revenue Code**

(R.C. 5701.11)

Because Ohio's tax law incorporates some provisions of federal law, ongoing Ohio law specifies the version of federal law that is incorporated, since federal law is susceptible to being amended frequently. Specifically, under prior law, a reference in the tax title (Title 57) of the Ohio Revised Code to the Internal Revenue Code (IRC) or other laws of the United States meant those laws as they existed on December 21, 2007, unless the Revised Code section contained a date certain that specified the day, month, and year. (December 21, 2007, is the effective date of H.B. 157 of the 127th General Assembly, which is the most recent act to incorporate federal tax law changes.)

Under the act, all changes to the IRC or other laws of the United States between December 21, 2007, and the act's effective date will be incorporated into all references to those laws in the Revised Code's tax title. As under prior law, this incorporation does not apply to references to the IRC or federal laws as of a date certain specifying the day, month, and year.

Prior law authorized a taxpayer whose taxable year ended after December 28, 2006, and before December 21, 2007, to irrevocably elect to apply to the taxpayer's state tax calculation the federal tax laws that applied to that taxable year. The election was available to taxpayers subject to the corporation franchise tax or personal income tax and to electric companies subject to municipal income tax.

The act revises this election so that it may be made for a taxpayer's taxable year ending after December 21, 2007, but before the act's effective date. The act retains the provision specifying that similar elections made under prior versions of R.C. 5701.11 remain effective for the taxable years to which the previous elections applied.

**Charitable institution real property exemptions**

(R.C. 5709.121(C))

Under continuing law, property of charitable institutions is exempted from property taxation if it is used in certain specified ways. H.B. 562 defined charitable institutions for purposes of the tax exemption to include organizations whose primary purpose is to assist in the development and revitalization of downtown urban areas. That act's definition might have been construed to exclude all other types of charitable organizations, which was not the intended result.

The act clarifies that other types of charitable institutions qualify for the exemption, and that an organization whose primary purpose is to assist in the development and revitalization of downtown urban areas is *conclusively presumed* to be a charitable organization if it satisfies the other criteria specified by H.B. 562 (i.e., it is nonprofit, exempt from federal income taxation, and the majority of the board of directors is appointed by a mayor, municipal corporation's legislative authority, a board of county commissioners, or a combination of them).

**Emergency clause**

(Section 4)

The act takes immediate effect under its emergency clause.

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**HISTORY**

ACTION	DATE
Introduced	01-30-08
Reported, H. Ways & Means	05-08-08
Passed House (96-2)	05-22-08
Reported, S. Ways & Means & Economic Development	12-10-08
Passed Senate (30-1)	12-10-08
House concurred in Senate amendments (96-2)	12-16-08

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