



H.B. 318

127th General Assembly
(As Introduced)

Rep. Gibbs

BILL SUMMARY

- Requires a board of county commissioners or board of township trustees, prior to adopting a resolution that places a road on nonmaintained status, to hold at least two public hearings to allow for public comment on the proposed resolution and to request the county engineer to issue an advisory opinion regarding the consequences of placing the road on nonmaintained status.
- Specifies the circumstances in which a county, township, or a landowner is required to pay the costs of upgrading a road that is removed from nonmaintained status.
- Provides that for purposes of calculating the distribution to townships of the revenue generated by one component of the state motor vehicle fuel tax, the number of lane miles within the boundaries of a township does not include any lane miles of township roads that have been placed on nonmaintained status.

CONTENT AND OPERATION

Nonmaintained status of a county or township road

Current law

Current law gives identical authority to boards of county commissioners and boards of township trustees relative to the placement of certain roads on nonmaintained status. Generally, a board of county commissioners by resolution may place a graveled or unimproved county road under its jurisdiction or any portion of such a road on nonmaintained status; a board of township trustees may take the same action regarding a graveled or unimproved township road under its jurisdiction. Upon adoption of such a resolution, the board of county

commissioners or board of township trustees ("board") is not required to cause the road to be dragged at any time, or to cut, destroy, or remove any brush, weeds, briars, bushes, or thistles upon or along the road, or to remove snow from the road, or to maintain or repair the road in any manner. The board, in its discretion, may cause any of these actions to be performed on or to a road that it has placed on nonmaintained status. (R.C. 5541.05(A) and 5571.20(A).)

A board may adopt such a resolution only if the board finds that placing the road on nonmaintained status will not unduly adversely affect the flow of motor vehicle traffic on that road or on any other road located in the immediate vicinity of that road as determined by the overall use of the road during the preceding 21 years (R.C. 5541.05(B) and 5571.20(B)). A board may terminate the nonmaintained status of a county or township road, as appropriate, by adopting a resolution to that effect. If the owner of land adjoining a road that has been placed on nonmaintained status requests the board to terminate the nonmaintained status of the road, the board, in its resolution that terminates that nonmaintained status, may require the owner to pay the costs of upgrading the road to locally adopted county standards (R.C. 5541.05(C) and 5571.20(C)).

A graveled county or township road may not be placed on nonmaintained status if any person resides in a residence adjacent to the road, the road is the exclusive means for obtaining access to the residence, and the residence is the person's primary place of residence (R.C. 5541.05(D) and 5571.20(D)).

Changes made by the bill

Under the bill, a board still has the authority to place a graveled or unimproved county or township road under its jurisdiction or any portion of such a road on nonmaintained status, but the bill provides that prior to adopting a resolution that places a road on nonmaintained status, the board is required to hold at least two public hearings to allow for public comment on the proposed resolution. The board must publicize the time and place of each hearing by causing a notice to be published in a newspaper of general circulation in the county in which the road is located at least seven days prior to the date of each meeting. (R.C. 5541.05(A) and 5571.20(A).)

In addition, the bill provides that prior to adopting a resolution that places a road on nonmaintained status, the board is required to request the county engineer to issue an advisory opinion regarding the consequences of doing so. A board may adopt such a resolution only if the county engineer, in the county engineer's advisory opinion, finds that placing the road on nonmaintained status will not unduly adversely affect the flow of motor vehicle traffic on that road or on any adjacent road and will not impose undue hardship on any owner or occupier of

land adjoining the road that is subject to the declaration of nonmaintenance. (R.C. 5541.05(B) and 5571.20(B).)

Under the bill, a board still may terminate the nonmaintained status of a county road by adopting a resolution to that effect, but if this occurs, one of the following applies:

(1) Except as provided in following item (3), if the owner of land adjoining a road that has been on nonmaintained status for less than ten consecutive years requests the board to terminate the nonmaintained status of the road, the board is required to pay the costs of upgrading the road to the applicable locally adopted county or township standards.

(2) Except as provided in following item (3), if the owner of land adjoining a road that has been on nonmaintained status for ten or more consecutive years requests the board to terminate the nonmaintained status of the road, the board may choose to pay the costs of upgrading the road to the applicable locally adopted county or township standards or the board, in its resolution that terminates that nonmaintained status, may require the owner to pay the costs of upgrading the road to the applicable standards.

(3) If the owner of land adjoining a road that has been on nonmaintained status for any period of time requests the board to terminate the nonmaintained status of the road because the owner will erect two or more single-family or one or more multiple-family dwellings on the land or will otherwise develop the land through the construction of commercial or industrial facilities, the board may choose to pay the costs of upgrading the road to the applicable locally adopted county or township standards or the board, in its resolution that terminates that nonmaintained status, may require the owner to pay the costs of upgrading the road to the applicable standards.

If the owner of land adjoining a road that has been on nonmaintained status for any period of time requests the board to terminate the nonmaintained status of the road because the owner will erect on the land and then occupy one single-family dwelling, the bill requires the board to pay the costs of upgrading the road to the applicable standards. (R.C. 5541.05(C)(1) to (3) and 5571.20(C)(1) to (3).)

Lane miles of nonmaintained township roads not included in calculating the distribution of a portion of the motor vehicle fuel tax

The state motor vehicle fuel tax is levied on the use, distribution, and sale in this state of fuel used by motor vehicles. Imposed on dealers, the tax is comprised of two levies of 2¢ per gallon, one levy of 8¢ per gallon, one levy of 1¢ per gallon, and one levy of 15¢ per gallon, for a total of 28¢ per gallon. The state

retains a large percentage of the revenue and local governments--municipal corporations, counties, and townships--receive varying percentages of the revenue.

For the levy of 8¢ per gallon, 20% is distributed to townships. Each township receives the greater of either the equal share of the total amount allocated to all townships or a proportionate share based on that township's lane miles of township roads and the township's proportion of motor vehicle registrations.¹ The bill provides that for this calculation, the number of lane miles within the boundaries of a township does not include any lane miles of township roads that have been placed on nonmaintained status by a board of township trustees. (R.C. 5735.27(A)(5)(b).)

HISTORY

ACTION	DATE
Introduced	09-20-07

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¹ Source: Ohio Department of Taxation 2006 Annual Report.