Ohio Legislative Service Commission

Bill Analysis

Wendy H. Gridley

Am. H.B. 158

129th General Assembly
(As Passed by the House)

Reps. Stebelton and Okey, Gardner, Grossman, Hackett, Huffman, Letson, Murray, Schuring, Yuko, J. Adams, Beck, Blair, Carney, Combs, Damschroder, Fedor, Gerberry, Hottinger, Johnson, Kozlowski, Luckie, McClain, Milkovich, Young, Batchelder

BILL SUMMARY

- Codifies federal restrictions into Ohio law by declaring that local government zoning laws do not confer authority on the "legislative authority" of a county, township, or municipal corporation to preclude amateur radio service communications.
- Defines "legislative authority" to include a zoning or planning commission or board of zoning appeals.
- Requires that local zoning regulations not restrict the height or location of amateur station antenna structures in such a way as to prevent effective amateur radio service communications.

CONTENT AND OPERATION

The bill declares that the County, Township, and Municipal Corporation Zoning Laws do not confer authority to preclude amateur radio service communications on any legislative authority of a county, township, or municipal corporation. The bill defines "legislative authority" to mean: (1) with respect to a county, any county rural zoning commission, board of county commissioners, or county board of zoning appeals, (2) with respect to a township, any township zoning commission, board of township trustees, or township board of zoning appeals, and (3) with respect to a municipal corporation, the legislative authority of any municipal corporation, a village's or city's planning commission, or a municipal board of zoning appeals.[1] "Amateur radio

[1] R.C. 5502.031(A)(3) and (B).

service" means the amateur service, the amateur-satellite service, and the radio amateur civil emergency service as provided for under specified federal regulations.[2] And "amateur station" means a station in amateur radio service consisting of the apparatus necessary for carrying on radio communications.[3]

With respect to zoning, any rules adopted by a legislative authority to regulate amateur radio service must comply with the following limitations:

(1) The legislative authority must not restrict the height or location of amateur station antenna structures in such a way as to prevent effective amateur radio service communications and must comply with the federal regulation regarding station antenna structures.[4] For purposes of those communications, 75 feet must be presumed a reasonable antenna structure height, which may be rebutted by the legislative authority, based on consideration of site specific factors.

(2) The rules must reasonably accommodate amateur station communications and must constitute the minimum practicable regulation necessary to accomplish the legislative authority's purpose.[5]

All legislative authorities, as defined by the bill (see above), are required to comply with the bill.[6]

Any legislative authority that denies an application for approval of an amateur station antenna structure must state the reasons for the denial, and must, on appeal, bear the burden of proving that the authority's actions are consistent with the bill.[7]

Amateur radio services, as defined in federal law

Federal law encourages amateur radio services, and requires a person who operates an amateur radio to obtain an amateur station license from the Federal Communications Commission. Federal regulations that regulate amateur radio services state that they are designed to promote the recognition and enhancement of the value of

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[2] R.C. 5502.031(A)(1); 47 C.F.R. part 97.

[3] R.C. 5502.031(A)(2).

[4] 47 C.F.R. §97.15.

[5] R.C. 5502.031(B).

[6] R.C. 303.214, 519.214, and 713.082.

[7] R.C. 5502.031(C).

the amateur service to the public, particularly with respect to providing emergency communications and to improve amateur service, along with other purposes.[8]

Under federal regulations, as noted above, amateur radio service is composed of the amateur service, the amateur-satellite service, and the radio amateur civil emergency service. "Amateur service" is defined as a radiocommunication service for the purpose of self-training, intercommunication, and technical investigations carried out by amateurs, i.e., duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest. "Amateur-satellite service" is a radiocommunication service using stations on earth satellites for the same purpose as those of the amateur service. And "radio amateur civil emergency service" (RACES) is a radio service using amateur stations for civil defense communications during periods of local, regional, or national civil emergencies.[9]

The federal regulation that regulates station antenna structures requires that owners of antenna structures more than 60.96 meters (200 feet) above ground level at the site or located near or at a public use airport notify the Federal Aviation Administration and register with the Federal Communications Commission. The federal regulation also states:

> [E]xcept as otherwise provided herein, a station antenna structure may be erected at heights and dimensions sufficient to accommodate amateur service communications. (State and local regulation of a station antenna structure must not preclude amateur service communications. Rather, it must reasonably accommodate such communications and must constitute the minimum practicable regulation to accomplish the state or local authority's legitimate purpose . . .).[10]

HISTORY

ACTION	DATE
Introduced	03-15-11
Reported, H. Local Gov't	05-17-11
Passed House (92-3)	06-07-11

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[8] 47 C.F.R. §97.1.

[9] 47 C.F.R. §97.3.

[10] 47 C.F.R. §97.15.