



Ohio Legislative Service Commission

Bill Analysis

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H.B. 370

129th General Assembly
(As Introduced)

Reps. Combs, Conditt, Derickson, Duffey

BILL SUMMARY

- Makes permanent certain temporary provisions related to the financing, dissolution, trustee selection, planning, and organization of new community authorities (NCAs).
- Permits an NCA district not wholly contained in a municipality to be less than 1,000 acres if more than half of it is located within a joint economic development district (JEDD).
- Authorizes any municipality where an NCA district would be created to effectively veto its creation, and authorizes a township to exercise such veto power if the majority of the district would be created in a JEDD formed by the township.
- Provides that, upon dissolution of an NCA, the NCA's property may vest in a township upon agreement with the township.

CONTENT AND OPERATION

New community authorities

The bill modifies the law governing the financing, dissolution, trustee selection, planning, and organization of "new community authorities" (NCAs). Continuing law authorizes developers to establish new community districts by petition signed by a representative from each proximate city (see "**Establishing an NCA**," below) to the board of county commissioners or, in some instances, to the legislative authority of a municipal corporation.¹ The board that considers and approves a petition is called the organizational board of commissioners. A board may approve the petition if it finds

¹ R.C. Chapter 349.

that creation of a district will be conducive to the public health, safety, convenience, and welfare and is intended to result in development of facilities for industrial, commercial, residential, cultural, educational, and recreational activities. If a petition is approved, an NCA is established to develop land in the district, provide services in the district, and to raise revenue by levying community charges in the district. An NCA is governed by a board of trustees composed of a local government representative and representatives of the developer and (in an equal number) of residents.

The development of property in an NCA currently must be "characterized by well-balanced and diversified land use patterns unless the NCA is created between July 7, 2010, and January 1, 2012.

Removal of sunset dates

The bill removes several sunset dates for the amendments made to the New Community Authority Law by Sub. H.B. 313 of the 128th General Assembly and makes those changes applicable to all NCAs. Under the bill, the following apply to all NCAs as a result of the removal of the sunset date, not just to those created between July 7, 2010, and January 1, 2012, as under existing law:

(1) An NCA or a property development may be planned in relation to an existing community, not necessarily in relation to an existing NCA, so that the community includes facilities for conducting "community" activities but not necessarily for industrial, commercial, residential, cultural, educational, and recreational activities.²

(2) An NCA may finance, construct, own, and operate various types of community facilities, including town buildings or other facilities, health care and hospital facilities, and off-street parking facilities.³

(3) A new community development program undertaken under the bill need not itself exhibit a "well-balanced and diversified" land use pattern so long as such a pattern remains present in the wider new community once the development occurs.⁴

(4) A community development charge may be imposed as an income tax on the district's residents or imposed on the basis of profits, gross receipts, or other revenues of any business operating in the district.⁵ Currently, NCAs not created between July 7,

² R.C. 349.01(A).

³ R.C. 349.01(I) and 349.06(B).

⁴ R.C. 349.01(B).

⁵ R.C. 349.01(L)(2).

2010, and January 1, 2012, may levy charges on the basis of the value of property conveyed or the income of residents and businesses, or as a flat conveyance fee.

(5) Any organizational board of commissioners may provide, by resolution, for an alternative means of dissolution of a district, in lieu of dissolution by a majority of the voters of the district.⁶

(6) An NCA is authorized to provide activities and services for visitors to and employees and employers in the district in addition to residents of the community.⁷ Currently, such activities and services must be provided primarily for district residents unless the NCA was created between July 7, 2010, and January 1, 2012.

(7) An NCA may enter into agreements with political subdivisions providing for revenue sharing, for services, products, and materials, and for the administration, calculation, or collection of community development charges in addition to contracting with local governments.⁸

(8) Citizen members of NCAs may be selected by means other than an election if the organizational board of commissioners, by resolution, provides for such alternative means. Additionally, the bill provides that a means of selection for citizen members may be adopted by petition. Currently, members of the board must be elected (once the initial appointees' terms end) from among electors residing in the NCA district by a vote of residents of the district, unless the NCA was created between July 7, 2010, and January 1, 2012. The board members must represent the interests of present and future residents (again, unless the NCA was created in that period, in which case the members represent the interests of present and future residents and employers). Under the bill, board members of any NCA must represent the interests of present and future residents and employers.⁹

Establishing an NCA

Under the bill, the general procedure for establishing an NCA remains the same as under existing law: a developer by petition to a board of county commissioners may establish a new community district that must be approved by a proximate city. The bill makes changes regarding acreage requirements for districts and the definition of a proximate city.

⁶ R.C. 349.14.

⁷ R.C. 349.06(D).

⁸ R.C. 349.06(S).

⁹ R.C. 349.04.

If more than half of a proposed new community district is or was contained within a joint economic development district, the bill exempts the proposed new community district from the requirement that the total acreage included in the district be 1,000 acres or more. This exemption is in addition to the continuing exemption for districts that are wholly contained within municipalities.¹⁰

The bill expands the definition of "proximate city" to include a municipal corporation in which any part of the new community district is located or, if more than half of the new community district is or was located within a joint economic development district, the township containing the greatest portion of the new community district.¹¹ The significance of "proximate city" status is that the legislative authority of a proximate city may, in effect, veto the creation of an NCA by failing to approve the petition proposing creation of the NCA.

Dissolution of an NCA

The bill provides that, upon dissolution of an NCA, any property of the NCA that is not located within a municipal corporation may vest in the township where the property is located, if the township agrees. This is in addition to continuing law's provision that property from an NCA dissolution may vest in a county if the property is not in a municipality. A township may agree to this vesting through acceptance of the property by resolution of the board of township trustees. If property is vested in a township after dissolution, any funds of the NCA will be transferred to the township as provided in the resolution or petition that provides for the dissolution, in the proportion to the assessed valuation of taxable real property of the NCA within the township.¹²

Application of amendments to the NCA law

The bill's changes apply to any proceedings pending or in progress on, or any proceedings commenced after, the bill's effective date. They also apply to proceedings that are completed on the effective date, notwithstanding applicable law previously in effect or contrary provisions. The bill states that it provides additional and supplemental provisions for subject matter that may also be the subject of other laws,

¹⁰ R.C. 349.03.

¹¹ R.C. 349.01(M).

¹² R.C. 349.14.

and that the bill's amendments are not in derogation of any authority provided by, derived from, or implied by the Ohio Constitution or any other law.¹³

HISTORY

ACTION	DATE
Introduced	11-03-11

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¹³ Section 3.

