



Ohio Legislative Service Commission

Bill Analysis

Wendy H. Gridley

S.B. 41

130th General Assembly
(As Introduced)

Sen. Gardner

BILL SUMMARY

- Authorizes municipal corporations to create districts for the purpose of annually designating the area in which a special assessment may be levied for installing, improving, and maintaining sidewalks and paths.
- Requires municipal corporations creating districts under the bill to designate by ordinance the district in which sidewalk and path installation, maintenance, and improvement will be effected, setting forth an estimate of the cost, and providing for the levy of a special assessment in accordance with existing law for installing, maintaining, and improving sidewalks and paths on all parcels of real property in the district.
- Authorizes the issuance of bonds and notes in anticipation of the collection of the special assessments.

CONTENT AND OPERATION

Special assessment authority

Continuing law authorizes municipal corporations to assess benefitted property for a number of purposes, including the construction of sidewalks. (See **COMMENT.**) The bill authorizes municipal corporations to create districts for the purpose of annually designating the area in which a special assessment may be levied for installing, improving, and maintaining sidewalks and paths. Continuing law provides similar authority to create districts for special assessments pertaining to shade trees and ditches within the municipal corporation.¹

¹ R.C. 727.011 and 727.012, not in the bill.

Special assessments for public improvements are levied upon the abutting, adjacent, and contiguous, or other specially benefitted, lots or lands in the municipal corporation. Special assessments generally are levied by any of the following methods: by a percentage of the tax value of the property assessed, in proportion to the benefits that may result from the improvement, or by the front foot of the property bounding and abutting upon the improvement.² The bill does not change these methods of levying a special assessment.

Designation of special assessment districts

The bill authorizes municipal corporations to assess benefitted property for any part of the cost and expense of installing, improving, and maintaining sidewalks and paths within the municipality.³ The bill provides that for the purpose of installing, maintaining, and improving safe, well-kept, and efficient sidewalks and other paths, the legislative authority may establish (presumably by ordinance or resolution) one or more districts in the municipal corporation by designating the boundaries of those districts, and each year thereafter may designate, by ordinance, the district in which the sidewalk and path installation, maintenance, and improvement is to be effected, setting forth an estimate of the cost and providing for the levy of a special assessment upon all parcels of real property in the district, in the amount and in the manner provided in existing law as explained above. The ordinance is to be adopted as are other ordinances,⁴ and a succinct summary of the ordinance must be published as provided in current law.⁵ Current law generally provides for publication in a newspaper of general circulation in the municipality. The publication must contain notice that the complete text of the ordinance can be obtained or viewed at the office of the clerk of the legislative authority or at any other location specified by the legislative authority.

The bill includes the sidewalk and path assessment authority in the section of current law that provides for a notice procedure alternative to the one that otherwise requires personal service or certified mail notice of an estimated assessment.⁶ The alternative procedure allows such a notice to be given by publication once a week for two consecutive weeks in a newspaper of general circulation in the municipal

² R.C. 727.01.

³ R.C. 727.01.

⁴ R.C. 731.17, not in the bill.

⁵ See R.C. 731.21, not in the bill.

⁶ R.C. 727.14 (alternative notice by publication allowed for estimated assessments of \$250 or less). See also R.C. 727.13, not in the bill) (notice by personal service or certified mail required for estimated assessments of more than \$250).



corporation or as provided in the general notice provision set forth in a statute that generally provides for an abbreviated second notice or for publication and Internet postings in lieu of additional newspaper publications under specified conditions. This alternative procedure may be used under continuing law and under the bill only when the estimated cost of the assessment will be \$250 or less.

The bill provides that bonds and anticipatory notes may be issued in anticipation of the collection of the special assessments under continuing provisions of the Uniform Public Securities Law. The taxing authority may choose to issue nongeneral obligation securities if assessments are to be paid in one annual installment, under the bill, or general obligation bonds under current law.⁷

COMMENT

The provision of state law purporting to confer the assessment authority, R.C. 727.01, predates the adoption of the Home Rule Amendment to the Ohio Constitution. The power to levy assessments, like the power to tax, is derived from the Ohio Constitution under article XVIII, sec. 3, as an aspect of the power of local self-government.⁸ The General Assembly, however, is authorized, by the Ohio Constitution, to limit municipal authority to tax and to incur debt. See Ohio Constitution, art. XIII, sec. 6, and art. XVIII, sec. 13.

HISTORY

ACTION	DATE
Introduced	02-14-13

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⁷ R.C. 727.014, 133.13, and 133.17. (R.C. 133.17 is not in the bill.)

⁸ See *Cincinnati Bell Tel. Co. v. City of Cincinnati*, 81 Ohio St.3d 599 (1998).

