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Detailed Fiscal Analysis

Overview

This bill revises the provisions that govern the placing of county and township roads on nonmaintained status. Under current law, a board of county commissioners or a board of township trustees, by resolution, may place a graveled or unimproved road under its respective jurisdiction on nonmaintained status. A board of county commissioners or a board of township trustees designating a road as such is not required to drag the road; cut, destroy, or remove any brush, weeds, briars, bushes, or thistles on or along the road; remove snow from the road; or maintain or repair the road in any manner.

A board of county commissioners or a board of township trustees may adopt such a resolution only if the board finds that placing the road on nonmaintained status will not unduly or adversely affect the flow of motor vehicle traffic on that road or any other road located in the immediate vicinity of that road as determined by the overall use of that road during the preceding 21 years. While it is unknown how many counties or townships have placed roads on nonmaintained status, data from the Ohio Department of Transportation (ODOT) indicate total statewide mileage of roads that are either not open to the public or impassable, nonmaintained, or vacated was 1,704.22 (50.62 miles were under county jurisdiction and 1,653.6 miles were under township jurisdiction) at the end of CY 2006.

Nonmaintained status resolution notification and hearings

This bill requires a board of county commissioners or a board of township trustees to have at least two public hearings to allow for public comment prior to adopting a resolution putting a graveled or unimproved road that is not passable year-round on nonmaintained status. Counties and townships must publicize the time and place of each hearing by publishing a notice of the hearing in a newspaper of general circulation and on their web sites, if a web site is maintained, at least ten days prior to the first hearing. Printing costs for the hearing notices would likely be minimal for any county or township.

Currently, a board must find that placing the road on nonmaintained status will not unduly adversely affect the flow of motor vehicle traffic on that road or any other road in the immediate vicinity based on the road's usage over the preceding 21 years. Instead, the bill would require a board of county commissioners or a board of township trustees to request that the county engineer issue an advisory opinion regarding the consequences of placing the road on nonmaintained status, including any impact such action would have on adjoining property owners. This opinion must find that nonmaintained status will not unduly adversely affect the flow of motor vehicle traffic on that road or any adjacent road. According to the Ohio County Engineers Association, the cost for such an opinion could vary widely. An opinion could be relatively inexpensive to produce or, if an engineering study is needed, the costs could be in the thousands of dollars.

County or township road maintenance costs

The bill specifies that a graveled or unimproved road may not be placed on nonmaintained status if the road is the exclusive means for obtaining access to land that adjoins that road or if a four-wheeled, two wheel drive motor vehicle can be driven on the road year-round. Current law prevents a graveled road from being 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.

The bill would significantly limit the roads on nonmaintained status to those referred to as "paper" or "X" roads, which are roads that are created on a plat, but never opened or not open to the public. As a result, counties and townships would incur additional costs likely to maintain roads (i.e., dragging the road, removing brush and snow, etc.) that revert to maintained status. The bill would also limit the types of roads that otherwise would have been placed on nonmaintained status. The increase in county and township costs would depend on the extent of maintenance or repairs needed to adequately maintain each applicable road.

Township Gasoline Excise Tax Fund receipts – township lane miles

The motor vehicle fuel tax is composed of five separate levies currently totaling 28 cents per gallon. The Gasoline Excise Tax Fund (Fund 060) receives a portion of the proceeds of the motor vehicle fuel tax. Fund 060 is then distributed to counties, municipalities, and townships for the construction and maintenance of roads and highways and other related purposes. A provision in the bill requires that the number of township lane miles certified by ODOT for purposes of receiving revenue from Fund 060 must not include those lane miles placed on nonmaintained status by the township.

Annually, each county and township is required to certify to ODOT the actual number of miles under its statutory jurisdiction that are used by and maintained for the public. ODOT maintains an inventory database of county and township roads, within which changes in the number of certified miles are recorded. Historically, roads that were not open to the public or were not passable carried a designation code of "Class X" in ODOT's inventory files. Roads with the Class X designation are not certified as public road mileage and thus are not counted in the calculations establishing the distribution of motor vehicle registration and gasoline excise tax revenue. ODOT assigns roads placed on nonmaintained status under Class X designation, although the Department does not distinguish nonmaintained roads from other Class X roads. Therefore, since nonmaintained township roads are not currently counted in the certified number of township lane miles for purposes of revenue distribution, there would be no direct fiscal effect on local governments resulting from this provision.

Indirect effect

Of the motor fuel tax levy of eight cents 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. Therefore, another factor to consider is that if the bill decreases the number of roads that are on nonmaintained status, the number of township lane miles certified as public road mileage would increase, which may affect the share

of revenue townships receive from their allocation from the Gasoline Excise Tax Fund (Fund 7060).

Synopsis of Fiscal Changes

- **Terminating nonmaintained status.** As under current law, the current version of the bill modifies the procedures for terminating nonmaintained status by permitting counties or townships to require that the owner of land adjoining the road pay for road upgrade costs. A related change also limits the roads that can be placed on nonmaintained status to those that are not used as the exclusive means for obtaining access to land that adjoins the road or those that are not passable year-round.
- **Public notice requirements.** The current version of the bill modifies the number of notices that are to be printed in newspapers of general circulation by requiring the notice to be published only once, at least ten days prior to the first meeting. The meeting notice would now be published online as well. This change will reduce costs that counties and townships incur for public notices.

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