

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **H.B. 318** DATE: **January 22, 2008**
STATUS: **As Introduced** SPONSOR: **Rep. Gibbs**
LOCAL IMPACT STATEMENT REQUIRED: **Yes**
CONTENTS: **Makes changes to provisions that govern the placing of county and township roads on nonmaintained status**

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase for road maintenance and repair and advisory opinions	Potential increase for road maintenance and repair and advisory opinions	Potential increase for road maintenance and repair and advisory opinions
Townships			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase for road maintenance and repair	Potential increase for road maintenance and repair	Potential increase for road maintenance and repair

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Public notification and hearings on status of roads.** Prior to adopting a resolution putting a graveled or unimproved road on nonmaintained status, a board of county commissioners or a board of township trustees must have at least two public hearings to allow for public comment and publish notice of those hearings in a county newspaper of general circulation. Publishing costs for the notices would likely be minimal for any county or township.
- **County engineer advisory opinions.** The bill also requires a county engineer to issue an advisory opinion coming to certain conclusions regarding the consequences of placing a road on nonmaintained status before such a resolution is adopted. 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 cost could be in the thousands of dollars.



- **Potential road upgrade costs.** The bill requires boards of county commissioners or township trustees to pay road upgrade costs in certain situations when owners of land adjacent to a road on nonmaintained status request the termination of that status. Currently, such boards may require the landowner to pay these costs. As a result, counties and townships could experience significant increases in road maintenance costs to bring the roads up to applicable standards.
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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 on nonmaintained status. Counties and townships must publicize the time and place of each hearing by publishing notice of the hearing in a newspaper of general circulation at least seven days prior to each hearing. Hearings on resolutions to put roads on nonmaintained status would likely be incorporated into other business and 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. 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 and will not impose undue hardship on any owner or occupier of land adjoining the road before such a resolution is adopted. 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 upgrade costs

Under current law, if an owner of land adjoining a road placed on nonmaintained status requests a board of county commissioners or a board of township trustees to terminate that status, the board may require the owner to pay the costs of upgrading the road to applicable standards. The bill would require counties and townships to pay such costs if the road has been on nonmaintained status for less than ten consecutive years. However, if a road has been on nonmaintained status for ten or more consecutive years, the county or township may require the owner to pay road upgrade costs. For owners that will erect two or more single-family or one or more multiple-family dwellings on the land or will construct commercial or industrial facilities or otherwise develop the land, the board can require the owner to pay road upgrade costs. If the owner will build and then occupy a single-family dwelling, the county or township must pay upgrade costs.

The sections of current law allowing for roads to be placed on nonmaintained status have only been in effect since June of 2004, meaning that counties and townships would have to pay road upgrade costs when a landowner requests termination of that status for at least the next six to seven years (unless the owner will build two or more single-family or one or more multiple-family dwellings, construct commercial or industrial facilities, or otherwise develop the land). A September 2007 *Columbus Dispatch* article noted costs of approximately \$30,000 to restore a nonmaintained status road adjacent to one owner's property to working condition. Thus, if the current practice of counties and townships is to bill the landowner for road repairs, then those entities could experience significant maintenance costs to repair roads placed on nonmaintained status if a termination request is made. The cost would depend on the extent of repairs or work needed to bring the roads to locally adopted county or township standards.

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 fiscal effect on local governments resulting from this provision.

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