Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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Township government in Ohio and other states

This brief provides an overview of township government in Ohio and other states. There are currently 1,308 townships in Ohio, each governed by three trustees and one fiscal officer. Ohio's townships are required to maintain roads and cemeteries, provide indigent burials, and hear partition fence disputes. In total, 20 states utilize townships as a form of local government.

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Overview

Townships were the original form of local government in Ohio. Territory that is not within a city or village ("incorporated territory") is township territory ("unincorporated territory"). In some areas, because of annexation, residents live within both a municipal corporation and a

township; they can vote on officers of each and may be taxed by each political subdivision.[1] According to the Ohio Township Association, over 35% of Ohio residents live in a township.[2]

Governance

Ohio townships each have four elected officials—three trustees and a fiscal officer—who serve four year terms.[3] The board of township trustees is the legislative body of the township; it adopts resolutions, levies taxes, enters contracts, and oversees the township's budget. The fiscal officer maintains records of the board's proceedings, accounts, and transactions and prepares the township's annual financial report.[4] Some townships also appoint a township administrator to manage day-to-day operations by implementing township policies, supervising department heads, and managing the township's budget.[5]

Townships are subject to public records and open meetings requirements, meaning they generally must make township records available to the public and generally must make decisions at public meetings.[6] Townships must maintain a cybersecurity program and provide related training to their employees.[7] Finally, townships are subject to various fiscal requirements; they are audited at least every two years and must maintain financial accounting and reporting systems to comply with the Auditor of State's requirements.[8]

Mandated functions

As creatures of statute, townships have only the authority explicitly provided to them by law or impliedly derived therefrom.[9] Townships have some mandated functions, including maintaining township roads, operating cemeteries, and providing indigent burials. Additionally, township trustees are required to hear partition fence disputes.[10] Townships also have permissive authority to provide police/fire/EMS services,[11] to adopt and enforce zoning

[1] R.C. 709.023(A) and 709.024(H). This is typically a result of expedited type 2 or expedited type 3 annexation, though it can result after any annexation if the municipal corporation does not take the steps necessary to conform the boundaries under R.C. 503.07. For more information about annexation, see LSC's Annexation Members Brief (PDF).

[2] Ohio Township Association, Facts About Townships Poster.

[3] R.C. 505.01 and 507.01.

[4] R.C. 507.04 and 117.38.

[5] R.C. 505.031.

[6] R.C. 149.43 and 121.22.

[7] R.C. 9.64.

[8] R.C. Chapter 117.

[9] *Trustees of New London Township v. Miner*, 26 Ohio St. 452 (1875).

[10] R.C. 971.09.

[11] R.C. Chapter 509 and R.C. 505.37 *et seq*.

regulations,[12] to provide waste disposal services,[13] to establish and operate parks,[14] and numerous other activities.

Roads

Under Ohio law, public highways are divided into three classes: state roads, county roads, and township roads. Township roads are all public highways that are not a state road (for example, a state route, interstate route, or U.S. route) or a county road (i.e., a county highway). A board of township trustees must maintain all township roads that are within its township. A board of county commissioners for the county surrounding the township may assist the board of township trustees with this responsibility; and the county engineer acts as the local engineer for the township.[15] The board of township trustees' responsibilities for township roads extends to construction, reconstruction, maintenance, resurfacing, improvement, and widening of those roads.[16]

Related to township road maintenance, the board of township trustees must ensure that those roads are kept plowed in the winter, must drag any graveled or unimproved roads semi-annually, and may provide for landscape and beautification projects along the roads.[17] Additionally, the board must destroy all brush, briers, burrs, vines, noxious weeds, and similar plants growing along the township roads during the summer months, particularly when removal is necessary to prevent or eliminate a safety hazard.[18]

Cemeteries and indigent burials

While the general authority to operate cemeteries is permissive, Ohio law makes townships responsible for the operation and maintenance of defunct cemeteries and any cemetery that is conveyed to the township located within unincorporated territory (subject to some exceptions).[19] For more information about township cemeteries, please see LSC's Ohio Cemetery Law Members Brief (PDF).

State law requires that "provision be made" in a township cemetery for indigent burials.[20] Generally, if the deceased remains of a legal resident of a township are not claimed for private interment or cremation or delivered for the purpose of medical or surgical study or dissection, the township is responsible for the expenses of the burial or cremation of the remains. However, if the person was an inmate of a county or state correctional institution or a patient or resident of a county benevolent institution, or if the person was an inmate of a state correctional

[12] R.C. Chapter 519.

[13] R.C. 505.27 *et seq*.

[14] R.C. 505.26 *et seq.* and R.C. Chapter 511.

[15] R.C. 5535.01 and 5571.05.

[16] R.C. Chapters 5535, 5571 and 5573.

[17] R.C. 5571.08, 5571.10 and 5571.12.

[18] R.C. 5579.04 to 5579.08.

[19] R.C. 517.27 and 517.10.

[20] R.C. 517.06, 759.13, and 759.29.

institution, the person is buried or cremated at the expense of the county or state, respectively.[21] Finally, a township is not relieved of its duty to bury or cremate a person at its expense when the body is claimed by an indigent person.[22]

Revenue

Townships derive revenue from property taxes, the state's Local Government Fund (LGF), various taxes and fees, and potentially grants. Townships levy property taxes for a variety of purposes, including operating expenses, fire services, emergency medical services, parks/recreational, road maintenance, and cemeteries.[23] State LGF money is distributed to various local governments including townships. The amount each township receives varies; county budget commissions determine the distribution of money from the LGF to political subdivisions based on rules set by each, or a statutory formula.[24] Finally, townships can receive revenue from various fees and taxes. Primary examples are Ohio's gasoline tax,[25] the motor vehicle license fee,[26] the cigarette license fee,[27] and the liquor permit fee.[28] Some fees are in exchange for services provided by the township. For instance, a township that provides police services can charge a "false alarm" fee,[29] and a township that provides emergency medical services can impose "reasonable charges" for the uses of those services.[30]

Limited home rule townships

Townships with populations of 2,500 or more may adopt the limited home rule form of government, which provides a township with authority more similar to a municipal corporation's home rule police power.[31] Adopting the limited home rule form of government does not allow a township to modify the form or structure of township government. Rather, a limited home rule township has broader authority to regulate the health, safety, and welfare of its citizens, and may enforce its regulations via civil fines not exceeding $1,000. Limited home rule townships must provide police services and must appoint a law director.[32]

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[21] R.C. 9.15 and 5120.45.

[22] R.C. 9.15.

[23] R.C. 5705.05 and 5705.19.

[24] R.C. 5747.50 *et seq*.

[25] R.C. 5735.05.

[26] R.C. 4501.03 and 4501.04.

[27] R.C. 5743.15.

[28] R.C. 4301.30.

[29] R.C. 505.511.

[30] R.C. 505.84.

[31] For more information about municipal home rule authority, see LSC's Municipal Home Rule Members Brief (PDF).

[32] R.C. Chapter 504. The township can contract with the county prosecutor to have the prosecutor serve as the township law director, if agreed to by the board of county commissioners. R.C. 504.15.

Currently, 34 of Ohio's 1,308 townships have adopted the limited home rule form of government. For more information about limited home rule townships, please see LSC's Limited Home Rule Townships Members Brief (PDF).

Other states

The following states also utilize townships (or towns) as a form of local government: Connecticut, Illinois, Indiana, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, Rhode Island, South Dakota, Vermont, and Wisconsin. This Brief examines township government in Ohio's surrounding states (Indiana, Michigan, and Pennsylvania) and the most populous state with townships (New York).

Indiana

- **Local governments:** 92 counties, 1,008 townships, and about 570 municipal governments.
- **Home rule?** Indiana's townships have broad authority to regulate but cannot conflict with state law. In addition, state law can prohibit or limit township authority in areas.
- **Elected officials:** Three elected members of a "township board," which appears to be the legislative body; one elected "trustee" who appears to be the chief executive officer.
- **Mandatory functions:** Assistance to the poor,[33] cemeteries,[34] fire protection,[35] noxious weed control,[36] and settle fence disputes and construct partition fences.[37]
- See the **Indiana Townships Association** website for additional information.

Michigan

- **Local governments:** 83 counties, 1,240 townships, and about 530 municipal governments.
- **Two types of townships:** General law and charter. Charter townships have more flexibility in how they are organized and some protections against annexation.
- **Elected officials:** A board of trustees, which includes a supervisor, clerk, treasurer and two or four trustees. A charter township can vary.[38]
- **Mandatory functions:** Tax collection, property assessment, and election administration.[39]

[33] Indiana Code, Title 12, Article 20.

[34] Indiana Code Title 23, Article 14, Chapter 68.

[35] Indiana Code 36-8-13-2 and Indiana Code 36-8-13-3, if petitioned by the residents.

[36] Indiana Code 15-16-8-4.

[37] Indiana Code 32-26-9-2 and 32-26-9-4.

[38] MCLS § 41.70.

[39] According to the Michigan Townships Association's website.

- See the **Michigan Townships Association** website for additional information.

Pennsylvania

- **Local governments:** 67 counties, 1,546 townships, and over 1,000 municipal governments.
- **Two types of townships:** First-class townships and second-class townships, based on population density.
- **Structure:** First class has five commissioners, a tax collector, and either three auditors or one controller.[40] Second class has three to five commissioners, a tax collector, and three auditors.[41]
- **Mandated services:** Fire and emergency medical services,[42] solid waste management services,[43] and road maintenance.[44]
- See the **Pennsylvania State Association of Township Supervisors** website for additional information.

New York

- **Local governments:** 62 counties, 933 towns, and almost 600 municipalities.
- **Classification:** First class towns and second class towns, primarily based on population.
- **Structure:** First class townships have a supervisor, four town council members, a town clerk, two town justices, a town superintendent of highways, one assessor, a receiver of taxes and assessments. Second class townships typically have a supervisor, two justices of the peace, two town council members, a town clerk, a town superintendent of highways, three assessors, and a collector. Towns can vary from the default.[45]
- **Mandated services:** Highway maintenance[46] and cemetery maintenance and operations.[47]
- See the **New York Association of Towns** website for additional information.

[40] Pa. C.S., Title 73, Ch. 17, § 1703.

[41] 53 P.S. § 65205.

[42] Pa. C.S. Title 73, Chapter 43, § 4359 and 53 Pa. C.S. § 66553.

[43] Pa. C.S, Title 8, Chapter 20.

[44] Pa. C.S., Title 73, Chapter 55, and 53 P.S. § 67301 *et seq*.

[45] NY CLS Town, § 20.

[46] NY CLS High, Article VIII.

[47] NY CLS Town, § 290.

Ohio's other surrounding states, Kentucky and West Virginia, do not have townships. They have counties and municipalities only. Kentucky has 120 counties and over 400 municipal governments while West Virginia has 55 counties and about 230 municipal governments. As for the largest states, California, Texas, and Florida do not have townships. California has 58 counties and over 480 municipalities. Texas has 254 counties and 1,225 municipalities. And Florida has 67 counties and 411 municipalities.