

2019 Revised Code Changes

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I. New Laws

House Bill 500 – Township Omnibus Bill – generally effective 3/22/19

a. Ohio Revised Code (“R.C.”) Title 3

i. New Community Authority

1. **R.C. 349.03**– eliminates the 1,000-acre minimum placed on a new community authority that will be wholly located in a township.

b. Title 5

i. Zoning

1. **R.C. 519.07 & 519.12** – eliminates mandatory requirement that limited home rule township submit proposed zoning resolutions or amendments to the county or regional planning commission for approval, disapproval, or suggestions.
2. **R.C. 519.15** – expressly permits a township to charge a fee for any person appealing to the board of zoning appeals – to defray the cost of advertising, mailing, and other expenses.
3. **R.C. 519.04 & 519.13** - permits a board of trustees to temporarily suspend a member of the zoning commission or board of zoning appeals.

ii. Election of Board Chairperson

1. **R.C. 505.01, 505.482, 513.07, 513.071, 3375.121, & 3709.03** requires a board of trustees to elect a chairperson at the first meeting of each calendar year to serve for a period of one year.

iii. Inventory of Township

1. **R.C. 505.04** a township’s inventory list must be filed with the township fiscal officer instead of the county engineer.

iv. Obligations Incurred Threshold

1. **R.C. 507.11** – increases the threshold that a township employee or official could incur, from \$2,500 up to \$10,000, as authorized by the board of trustees.

- v. **Appropriation for a Monument**
 - 1. **R.C. 517.30**– increases the amount a township may appropriate for the purpose of erecting a monument to commemorate members of the armed forces from \$5,000 to \$50,000.
- c. **Title 15**
 - i. **Insurance for Oil and Gas Wells Owned by Township**
 - 1. **R.C. 1509.07** – permits a township that owns an oil or gas well to receive a certificate of coverage from a joint self-insurance pool for coverage required by statute.
- d. **Title 35**
 - i. **Filing of Question or Issue for Ballot**
 - 1. **R.C. 3501.021**– permits a political subdivision, including a township, to file either electronically or in paper form, the certification to a board of elections for placement of a question or issue on the ballot beginning January 1, 2021. *See also State ex rel. Orange Twp. Bd. of Trustees v. Delaware Cty. Bd. of Elections*, 135 Ohio St.3d 162, 2013-Ohio-36.
- e. **Title 55**
 - i. **Approval of a Township Road Name Change**
 - 1. **R.C. 5541.04**– requires the county commissioners to act within 60 days on a request for a name change of a county or township road. If the county does not act within 60 days on a township road name change, the name shall be deemed changed.
 - ii. **Vacation of a Township Road**
 - 1. **R.C. 5553.04** - prohibits board of county commissioners from vacating a township road without the township’s permission.
- f. **Title 57**
 - i. **Levy for Permanent Improvements and General Infrastructure in Townships**
 - 1. **R.C. 5705.121 & 5705.19**– creates a new levy opportunity for townships and municipalities for one or any combination of: acquisition, construction, improvement, or maintenance of buildings, equipment, and supplies for police, firefighting, or emergency medical services; the construction, reconstruction, resurfacing, or repair of streets, roads, and bridges; or for general infrastructure projects.
 - ii. **Tax Increment Financing**
 - 1. **R.C. 5709.73 & 5709.75** – *excludes safety service levies from a township incentive district TIF*; permits townships that have TIFs

that were enacted prior to July 21, 1994 to use revenue from TIFs for the continued maintenance of those projects.

H.B. 166 - 2019 Budget Bill – generally effective 10/17/19

g. Rural Industrial Park Loan Program

- i. **R.C. 122.26** - Reinstates the Rural Industrial Park Loan program and appropriates \$25 million.

h. Local Government Audit Support Fund

- i. **R.C. 117.13** - Creates the Local Government Audit Support Fund and appropriates \$10 million to offset the cost of local government audits

i. New Community Authority

- i. **R.C. 349.01, 349.03, & 349.07** - Clarifies that a community facility can be located outside of a new community district and that an organization board can add territory; allows a county or municipal corporation to add territory to a district if the person who owns or controls the property within the territory agrees and the developer does not object; a real estate owner can agree to pay a community development charge via a declaration of covenants.

j. Township & Joint Fire Districts

- i. **R.C. 505.37 & 505.371** - Allows a township fire district or joint fire district to include a portion of a municipal corporation rather than requiring the entire municipal corporation.

k. Joint Township District Hospitals

- i. **R.C. 513.172** - Allows a joint township district hospital board to form or acquire control of a domestic nonprofit or limited liability corporation.

l. Park Districts

- i. **R.C. 755.16** - Adds park districts created under R.C. 1545 to the definition of “contracting subdivision,” thereby allowing a park district to work jointly with other contracting subdivisions.

m. Township Employee Compensatory Time

- i. **R.C. 4111.03** - Allows townships to authorize the use of comp time at a rate of 1½ times the number of overtime hours worked; allows townships to adopt an alternative policy governing the calculation and payment of overtime.

n. Tax Increment Financing

- i. **R.C. 5709.51, 5709.40, 5709.41, 5709.73, & 5709.78; Section 757.291** - Authorizes a local government, under certain circumstances, to extend the term of a tax increment financing exemption for up to 30 additional years.
- ii. **R.C. 5709.73** - Allows an urban township to authorize a TIF by majority vote rather than unanimous vote.

- o. Indigent Burial Reimbursement Program** - Reinstates the local government indigent burial reimbursement program; appropriates \$1 million; fund shall be used to reimburse local government entities for cost of providing burials or cremations to indigent deceased persons, up to \$1,000 for an adult or \$750 for a child.
- p. Local Government Fund** - Increase from 1.66% to 1.68% - an additional \$5 million/year.

H.B. 62 – Transportation Budget Bill – generally effective 7/3/19

q. Simultaneous Office Holding – R.C. 3.112

- i. Authorizes an officer or employee of a county, township, or municipal corporation to simultaneously serve as a member or officer of the board of trustees of a transportation improvement district.
- ii. Specifies that the financial or contractual relationship between a county, township, or municipal corporation and a transportation improvement district is permissible and does not constitute an unlawful interest in a public contract by an officer or employee of a county, township, or municipal corporation.

r. Port Authorities – R.C. 4505.101 & 4513.60-.69

- i. Authorizes the port authority to take specific actions regarding towing motor vehicles.
- ii. Removes the requirement that contracts between a port authority and a contractor be executed in triplicate.

s. Traffic Cameras – R.C. Title 19; 4511.091-.0910; & Chapter 5747

- i. Eliminates administrative hearing process; gives municipal and county courts exclusive jurisdiction.
- ii. Local authority bringing a civil action must make an advance deposit of all filing fees and court costs, except for violations in a school zone, which court retains regardless of prevailing party.
- iii. Reduces Local Government Fund payments to all local authorities that collect fines from operating traffic cameras; reimburses amount of fines attributed to fines collected on violations in school zones.
- iv. Fines collected from school zone violations must be used for “school safety purposes.”
- v. Ceases LGF payments to local authorities that fail to comply with reporting requirements, while they are noncompliant.

II. Other Legal Guidance

a. Case Law

- i. **Sovereign Immunity** - *Pelletier v. City of Campbell*, 153 Ohio St.3d 611, 2018-Ohio-2121. The Ohio Supreme Court held that, despite the stop sign arguably obstructed by foliage, City’s sovereign immunity was not

eliminated by the failure to remove an obstruction (the foliage) from the stop sign under R.C. 2744.02(B)(3). Townships draw their sovereign immunity authority from the same statutes as cities.

- ii. **Assistants to Fiscal Officer** - *State ex rel. Beavercreek Twp. Fiscal Officer v. Graff*, 154 Ohio St.3d 166, 2018-Ohio-3749. The Ohio Supreme Court held that, while R.C. 507.021(A) requires fiscal officers to obtain the board of trustees' approval for an assistant's salary, the board can either grant or withhold its approval; it "does not have the authority... to set the salaries for the fiscal officer's assistants."
- i. **Event Barns** - *Litchfield Township Board of Trustees v. Forever Blueberry Barn, LLC*, 2019-Ohio-322, C.A. No. 18CA0023-M (9th Dist. Medina) - this case out of Medina County and the Ninth District Court of Appeals deals with the relationship between a wedding barn/event space and the cultivation and sale of wine on the property, specifically, whether the barn, which is used for weddings as well as winemaking, is "used primarily for" the vinting and selling of wine. This Ninth District issued a 2-1 opinion on February 4, 2019, and held the trial court's determination that the barn is primarily used for vinting and selling of wine is not against the weight of evidence. One judge issued a dissent, declaring that Forever Blueberry had not demonstrated that the barn is used primarily for vinting and selling of wine, as "[t]here is little evidence in the record that Blueberry Barn has actually undertaken the endeavor of vinting and selling its own wine. Instead, Blueberry Barn serves mainly as a rental facility for social gatherings, with any viticulture-related activities being peripheral to its primary existence as an event venue." The Township has appealed to the Supreme Court of Ohio.
- ii. **Zoning & Surface Mining** - *Columbus Bituminous Concrete Corp. v. Harrison Twp. Bd. of Zoning Appeals*, Ohio Supreme Court Case No. 2018-1008 - will interpret the interaction of R.C. Sections 519.02, 519.14, and 519.141, and what criteria BZAs may consider in reviewing an application for a surface mining conditional use permit. The Court heard oral arguments this summer; this case is still pending.
- iii. **Speed Camera Enforcement** – *City of Toledo v. Ohio*, Lucas Co. C. P. Case No. CI0201802922 (2018) – Court granted preliminary injunction on 6/28/19, barring enforcement of most, if not all, new statutory provisions. Currently on appeal; case remains pending.

b. Attorney General Opinions

i. PILOT Funds - 2019 Ohio Op. Att’y Gen. No. 2019-024

1. Under certain circumstances, a township has the ability to contribute funds received from a payment in lieu of taxes (PILOT) to a community improvement corporations.

ii. Regional Water District and Township Roads - 2019 Ohio Op. Att’y Gen. No. 2019-029

1. A township has no authority or control over the construction efforts of a regional water district on a township road or within a township right-of-way. A regional water district is responsible for returning public or private property impacted by its construction activities to a substantially similar state as it was prior to construction.
2. A township may be held liable for injuries or damage caused by negligent failure of a township employee or officer to keep the public road in repair. A township may close a township road temporarily, when the board deems the road to be impassable or dangerous to the public.

iii. Purchase v. Construction of a Columbarium - 2019 Ohio Op. Att’y Gen. No. 2019-030

1. A board of township trustees may, by majority vote, purchase a columbarium for a township cemetery.
2. A board of township trustees may contract for the construction of a columbarium for a cemetery, but with a unanimous vote.