

(127th General Assembly)
(Substitute House Bill Number 244)

AN ACT

To amend sections 515.04, 515.05, 515.08, 515.11, 515.12, and 515.15 and to enact section 515.16 of the Revised Code to authorize townships to relocate overhead cables, wires, and appurtenant equipment underground upon petition; to pay for a relocation by assessing abutting and otherwise specially benefited properties; to collect interest on unpaid assessments for an underground relocation project or an artificial lighting district project; and to exempt townships from liability for outages or other damage caused by a relocation project, and to exempt the owners of the cables, wires, and appurtenant equipment from liability, unless the outage or other damage was caused by the owner's negligence.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 515.04, 515.05, 515.08, 515.11, 515.12, and 515.15 be amended and section 515.16 of the Revised Code be enacted to read as follows:

Sec. 515.04. The township fiscal officer shall fix a day, not more than thirty days from the date of notice to the board of township trustees, for the hearing of the petition ~~provided for~~ authorized by section 515.02 or 515.16 of the Revised Code. The township fiscal officer or the fiscal officer's designee shall prepare and deliver to any of the petitioners a notice in writing directed to the lot and land owners and to the corporations, either public or private, affected by the improvement. The notice shall set forth the substance, pendency, and prayer of the petition and the time and place of the hearing on it.

A copy of the notice shall be served upon each lot or land owner or left at the lot or land owner's usual place of residence, and upon an officer or agent of each corporation having its place of business in the district or area, at least fifteen days before the date set for the hearing. On or before the day

of the hearing, the person serving the notice shall make return on it, under oath, of the time and manner of service and shall file the return with the township fiscal officer.

The township fiscal officer or the fiscal officer's designee shall give the notice to each nonresident lot or land owner, by publication once, in a newspaper published in and of general circulation in the county in which the district or area is situated, at least two weeks before the day set for hearing. The notice shall be verified by affidavit of the printer or other person knowing the fact and shall be filed with the township fiscal officer or the fiscal officer's designee on or before the day of hearing. No further notice of the petition or the proceedings under it shall thereafter be required.

Sec. 515.05. At the time and place specified in the notice for hearing on a petition ~~for the lighting of streets and public ways, as provided~~ authorized by section 515.04 or 515.16 of the Revised Code, the board of township trustees shall meet and hear any and all proof offered by any of the parties affected by ~~such~~ the improvement, and by other persons competent to testify. ~~Such~~ The board shall go over and along such streets and public ways, and, by actual view thereof, and of the premises along and adjacent thereto and to be lighted or benefited thereby, it shall determine the necessity of the improvement. The board may find that the improvement will result in general as well as special benefits. The board may adjourn from time to time and to such place as necessity requires.

Sec. 515.08. On accepting a bid for artificial lighting and bond as provided by section 515.07 of the Revised Code, the board of township trustees shall enter into a contract with the successful bidder for the furnishing of such lights according to specifications. The contract shall not be for a longer term than ten years. The cost and expenses of furnishing and maintaining such lights, and of the proceedings in relation thereto, shall be paid from a fund raised by special assessments against the lots and lands in the district which are benefited by such lighting, provided, if the board finds that the lighting will result in general as well as special benefits there may be paid from the general fund of the township treasury such portion of the cost and expenses, except for any accrued interest on unpaid assessments, as is found to represent the value of the general benefit.

~~Such~~ Special assessments shall not be in excess of the special benefits resulting from such lighting, they shall be paid and collected in equal semiannual installments, equal in number to twice the number of years for which the contract is made, and they shall be paid and collected in the same manner and at the same times that taxes are paid and collected. Any such assessment in the amount of five dollars or less, or with an unpaid balance

of five dollars or less, shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable. Such assessments may be made and levied by any one of the following methods:

- (A) By a percentage of the tax value of the property assessed;
- (B) In proportion to the benefits which may result from the lighting;
- (C) By the foot frontage of the property bounding and abutting upon the streets, or public ways so lighted;
- (D) In an equal amount against each benefited lot, this amount to be determined by dividing the total cost per semiannual installment by the number of benefited lots in the district.

The board of township trustees, by resolution, may provide for the payment of interest on unpaid assessments, which shall be treated as part of the costs and expenses of furnishing and maintaining the lights. The resolution shall specify the rate of interest, which shall be based on the current prime rate.

After the levy of such special assessment the board may, at any time during any year in which installments thereof become due, pay out of the general fund of the township the full amount of the contract price for that year, provided such amount does not exceed the aggregate amount of the installments due for that year.

Sec. 515.11. The board of township trustees shall certify to the county auditor the boundaries of the district in which lights are to be erected, and, when requested to do so by the board, the auditor shall apportion the valuation for taxation of any lot or parcel of land lying partly within and partly without the district.

The board shall, by resolution, assess against the benefited lots and parcels of land in the district, in accordance with section 515.08 of the Revised Code, such portion of the costs of furnishing and maintaining the lights, for the period of the contract and the proceedings in relation thereto, as does not exceed the special benefits resulting from the lighting, and shall certify such costs to the auditor. The auditor shall annually place upon the tax duplicate, for collection in semiannual installments as provided in that section, the two installments of the assessment for that year, which installments, together with any accrued interest on unpaid assessments, shall be paid and collected as provided in that section.

If the number of lights to be furnished and maintained in a district under any such contract is increased, pursuant to section 515.09 of the Revised Code, the board shall make such additional assessments as are necessary to pay the cost of furnishing and maintaining the additional number of lights. If

the cost of providing the lights increases, the board may make such additional assessments as are necessary to pay the additional cost of the lights. The additional assessments shall be made, certified, and collected in the same manner as an original assessment, but shall be only for the unexpired portion of the term of the contract.

The additional assessments and any unpaid interest thereon, when collected, shall go into the township treasury and shall be used by the board only for the purpose for which they were levied and collected.

Sec. 515.12. (A) All officers shall receive for services performed under sections 515.01 to ~~515.11~~ 515.16 of the Revised Code the same fees allowed for other similar services.

The township fiscal officer shall receive for the fiscal officer's services the sum of fifty cents from each lot or land owner for whom a notice is prepared and the sum of fifty cents for each annual assessment certified to the county auditor.

All payments for the services of township officials shall be included in the cost of the lighting district or relocation and assessed against the property. The compensation shall be in addition to all other compensation provided by law.

(B) The board of township trustees may, by resolution, employ additional personnel in place of the township fiscal officer to prepare and certify notices for each lot or land owner and shall pay a reasonable sum not to exceed fifty cents for each lot or land owner for whom a notice is prepared and a reasonable sum not to exceed fifty cents for each annual assessment certified to the county auditor. The actual cost of the additional personnel, together with other reasonable expenses incurred by the board, shall be assessed proportionately against each lot or land owner and shall be included in the cost of the lighting district or relocation.

Sec. 515.15. A board of township trustees may contract only with ~~any~~ the corporation, company, partnership, association, municipal corporation, or person that owns overhead cables, wires, and appurtenant equipment on a street or right-of-way located within the township for the relocation of the overhead cables, wires, and appurtenant equipment underground. Nothing in this section requires the owner of the overhead cables, wires, and appurtenant equipment to agree to a contract that contains terms or conditions that are not acceptable to the owner. Unless a pre-existing arrangement provides otherwise or the parties to the contract agree otherwise, the township shall pay the cost of the relocation as provided in the contract. A proceeding for the relocation may be combined with a proceeding for the furnishing of new street lighting facilities or other street

improvement.

~~Any corporation, company, partnership, association, municipal corporation, or person with which the board of township trustees contracts for the relocation of overhead cables, wires, and appurtenant equipment underground shall identify and consult with the owner of such cables, wires, and equipment during the planning of the relocation, and shall notify the owner at least twenty-four hours in advance of beginning the relocation.~~

A board of township trustees may, by resolution, adopt and enforce regulations requiring owners of property abutting a street in which overhead wires, cables, and appurtenant equipment supplying a utility service have been relocated underground and service connections have been provided to the street, right-of-way, or property line, to install underground wires, cables, or conduits from the street or right-of-way to the buildings or other structures on the property to which the utility service is supplied. The township may pay the cost incurred in installing underground wires, cables, or conduits from the street or right-of-way to the buildings or other structures on the property to which the utility service is supplied.

For the purpose of relocating overhead wires, cables, and appurtenant equipment and installing underground wires, cables, conduits, and appurtenant equipment, a township may enter upon any private land to examine or survey lines for the wires, cables, conduits, and appurtenant equipment and may appropriate as much land as is necessary for the relocation and installation.

The township is not liable for any service outages or other damage caused by the underground relocation project. The owner of the overhead cables, wires, and appurtenant equipment is not liable for any service outages or other damage caused by the underground relocation project, unless the outage or other damage was caused by the owner's negligence. Nothing in this section otherwise alters township liability under Chapter 2744. of the Revised Code.

Sec. 515.16. Any person may file a petition with the township fiscal officer requesting the board of township trustees to relocate underground any overhead cables, wires, and appurtenant equipment on streets or rights-of-way and designated private streets in an unincorporated area of the township. The petition shall specify the metes and bounds of the area to be included in the underground relocation project and any designated properties served by private streets as designated in the petition and shall be signed by at least seventy-five per cent of the landowners in the specified area whose land either abuts the streets or rights-of-way, including any designated properties served by private streets, or otherwise would be specially

benefited by the project.

The township fiscal officer shall give notice of the petition and a copy of it to the board of township trustees, schedule a hearing on the petition, and provide notice in the manner set forth in section 515.04 of the Revised Code. The board shall hear the petition in the manner set forth in section 515.05 of the Revised Code.

If the board of township trustees decides in favor of the petition, it shall contract only with the corporation, company, partnership, association, municipal corporation, or person that owns the overhead cables, wires, and appurtenant equipment that are to be relocated. Nothing in this section requires the owner of the overhead cables, wires, and appurtenant equipment to agree to a contract that contains terms or conditions that are not acceptable to the owner. Unless a pre-existing arrangement provides otherwise or the parties to the contract agree otherwise, the township shall pay the cost of the relocation project as provided in the contract. Any part of the costs of the relocation project to be paid by the township pursuant to the contract shall be assessed upon abutting or specially benefited property.

Except as otherwise provided in this section, the costs and expenses of the underground relocation project and related proceedings ultimately shall be paid by special assessments against the properties located in the project area that abut the streets or rights-of-way in question, including any designated properties served by private streets, or that otherwise are specially benefited by the project. The assessments shall be made and levied in one of the following methods:

- (A) As a percentage of the tax value of the property.
- (B) In proportion to the special benefit resulting from the relocation project.
- (C) By the foot frontage of the property abutting the streets or rights-of-way.
- (D) In an equal amount against each property.

The board of township trustees, by resolution, shall assess all lands abutting the streets or rights-of-way in the project area, including any designated properties served by private streets, and lands otherwise specially benefited by the project. The resolution may allow the assessments to be paid over a number of years, but not more than ten years.

The board of township trustees, by resolution, may provide for the payment of interest on unpaid assessments, which shall be treated as part of the costs and expenses of the underground relocation project. The resolution shall specify the rate of interest, which shall be based on the current prime rate.

If the board of township trustees finds that the underground relocation project will result in general as well as special benefits, the board may pay from the township general fund a portion of the costs and expenses of the project, except for any accrued interest on unpaid assessments, that represents the value of the general benefits. In no case shall the total assessments exceed the special benefits to the entire project area resulting from the project.

The board of township trustees shall certify the assessments and interest on unpaid assessments, when applicable, to the county auditor. The auditor shall place the assessments and interest on unpaid assessments, when applicable, upon the tax duplicate and collect the assessments and interest in the same manner and at the same time that taxes are paid and collected. The collected assessments and collected interest shall be deposited into the township general fund.

During any year in which installment payments of the assessments are due, the board of township trustees, by resolution, may waive the payments for all the assessed lands and pay the aggregate amount of the assessments for that year minus any accrued interest on unpaid assessments out of the township general fund.

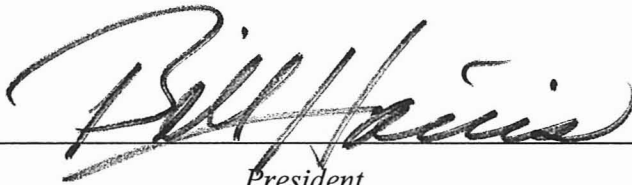
The township is not liable for any service outages or other damage caused by the underground relocation project. The owner of the overhead cables, wires, and appurtenant equipment is not liable for any service outages or other damage caused by the underground relocation project, unless the outage or other damage was caused by the owner's negligence. Nothing in this section otherwise alters township liability under Chapter 2744. of the Revised Code.

The provisions of section 515.15 of the Revised Code govern relocation projects requested by petition under this section.

SECTION 2. That existing sections 515.04, 515.05, 515.08, 515.11, 515.12, and 515.15 of the Revised Code are hereby repealed.



Speaker _____ of the House of Representatives.



President _____ of the Senate.

Passed April 30, 2008

Approved May 14, 2008



Governor.

Sub. H. B. No. 244

5305

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Mark C. Flanders

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
15th day of May, A. D. 2008.

Jon B.

Secretary of State.

File No. 79

Effective Date 8/14/08