

Dear Township Officials:

The Senate Finance Committee accepted a substitute version of HB 153 today. The bill contains numerous new provisions impacting townships. Some of these items we asked for, others we did not. Some of the things we did get included in the bill are: increasing LGF amounts, increasing competitive bidding thresholds, clarifying cemetery rule language, clarifying the new township merger law, permitting the allocation of township fiscal officer pay from funds other than the general fund, clarifying documentation requirements for trustee pay, permitting a township and municipality to form a joint police district, and limiting awards in law suits dealing with the destruction of public records.

Please find attached a word document that lists out the numerous provisions impacting townships. The red language was eliminated from the House version of the bill and the blue language indicates new provisions in the bill. I have also attached the summary listing out all items included in the substitute bill and a comparison of the budget bill between versions.

The Senate is expected to take testimony on the new version tomorrow and Thursday. Should you wish to testify, please let us know and we will help facilitate it for you.

All amendments to this new version of the bill are due on Friday at noon.

The Senate Finance Committee is expected to accept an omnibus amendment on Tuesday prior to passage out of committee. The full Senate is expected to vote either Wednesday or Thursday. We will update you after each vote.

Should you have any questions or concerns about any of the provisions, please do not hesitate to contact us!

ITEMS IN SUB. HB 153 IMPACTING TOWNSHIPS
Senate Finance Committee
5/31/11

Government Rate for Newspapers (Sec. 7.10 or Page 21-22 or Lines 653-685) - Requires newspapers in Ohio to establish a government rate for advertising and states that the government rate cannot exceed the lowest insert rate paid by other advertisers

Public Notice Requirements (Sec. 7.11, 7.12, 7.16 125.182 or Pages 22-26 or Lines 686-830) - Revises requirements for a newspaper to qualify as a "newspaper of general circulation" - eliminates requirement that publication be made in a newspaper published in a political subdivision and in two newspapers or in two newspapers of opposite politics - states that if a statute requires 2 or more notices, the first notice shall be published in its entirety in a newspaper and the second notice must be at least ¼ the size of the first notice and also be published in a newspaper and on the newspapers website, in addition to being published on the political subdivision's website or the statewide website - eliminates all subsequent notices after two - allows for succinct summary of a resolution as opposed to complete resolution

Sale of On-line Advertising

This item was eliminated from the bill, thus removing the ability to sell advertisement on a township website

Prequalify Responsible Bidders (Sec. 9.312 or Pages 51-55 or Lines 1590-1717) - Specifically states a township may prequalify bidders as responsible bidders prior to requesting bids for a contract - a contractor may be disqualified as a nonresponsible bidder pursuant to items listed in Code

Reverse Auctions (Sec. 9.314 or Pages 55-57 or Lines 1718-1777) Permits a township to use reverse auction to purchase supplies and services

Shared Services (Sec. 9.482 or Pages 66-68 or Lines 2085-2106) - Broad provision permitting political subdivisions to collaborate - requires political subdivisions that enter into an agreement for joint services under the bill to first obtain the written consent of a non-participating subdivision if the agreement is to be performed within that non-participating sub-division - clarifies that the language does not limit the ability of subdivisions to create and operate JEDDs or JEDZs

Health Care Plans (Sec. 9.833, 9.90, 9.901 or Pages 71-92 or Lines 2197-2874) - Requires state to create health care plans for local governments and schools - requires self-insurance programs for health care operated by local governments and schools to get approval from state - requires local governments and schools to participate in statewide plan OR consortium of two or more entities offering health care as approved by state OR a self insurance health plan approved by the state - existing township law permitting townships to offer health care shall

remain in place until state plan becomes effective - if state plan does not offer all that current law provides, township may continue to still offer those types

Contracts for Lobbying Services (Sec. 101.711 or Page 97 or Lines 3009-3019) - Prohibits a political subdivision, including a township, from entering into a contract for a legislative agent (or lobbyist) with a cost exceeding \$50,000 per year unless approved by the Controlling Board

Salary & Benefit Database (Sec. 113.47 or Pages 170-171 or Lines 5315-5341) - Requires all governmental entities to submit reportable information regarding public employee salaries and benefits annually to the Treasurer of State, who in turn shall make the information available to the public

Cost of Audits (Sec. 117.13 or Pages 172-177 or Lines 5377-5510) - Current law requires certain expenses of deputy auditors to be paid out of the state treasury such as vacation, sick time, traveling costs and hotel expenses - this language is stricken from law - new language has been added requiring the Auditor of State to establish by rule rates to be charged to local governments for recovering the costs of audits

Local Government Fiscal Distress (Sec. 118.023, 118.025, 118.04, 118.05, 118.06, 118.12, 118.31, 118.99 or Pages 177-205 or Lines 5511-6391) - Creates designation of "fiscal caution" that applies to local governments - requires the AOS to develop guidelines for identifying practices and conditions of local governments that, if uncorrected, could result in a future declaration of fiscal watch or fiscal emergency - authorizes the AOS to declare local governments that meet requirements to be under fiscal caution - requires AOS to notify a local government of fiscal caution and request written proposals for discontinuing or correcting the declaration - permits AOS to visit and inspect any local government declared to be under a fiscal caution - permits the Auditor to provide technical assistance to eliminate practices that prompted fiscal caution - allows the Auditor to (a) determine whether or not reasonable actions have been taken to discontinue or correct the declaration, and (b) if necessary, declare the local government to be in fiscal watch - requires AOS to seek a detailed financial plan for eliminating the conditions that prompted the declaration, including dates of the commencement, progress upon, and completion of those actions, as well as a five year forecast reflecting the effects of the actions identified in the plan - requires AOS to approve or reject any initial or subsequent financial plan from a political subdivision in fiscal watch, and if the Auditor determines that a feasible financial plan has not been submitted within 120 days of the declaration of fiscal watch, authorizes the AOS to declare a state of fiscal emergency - makes the following changes in current law that apply to local governments in fiscal emergency: (1) clarifies that AOS is to be reimbursed for any expenses incurred relating to a fiscal emergency, including technical and support services, (2) revises the composition of, and reduces the number of members on, a financial planning and supervision commission established when a local government is declared to be in fiscal emergency, (3) requires that AOS, rather than a financial planning and supervision commission

as under current law, serve as the financial supervisor for villages or townships with a population of less than 1,000 that are in fiscal emergency, (4) requires that a political subdivision's financial plan include a five-year forecast and that the plan be updated annually, (5) if local government fails to submit a plan, or fails to substantially comply with it, and the commission gives its certification, requires that all state funding (other than benefit assistance to individuals) be escrowed until plan is submitted or compliance is achieved, (6) permits a commission to limit expenditures from any local government fund if deemed prudent, instead of general fund expenditures, (7) provides for the dissolution of local governments are in fiscal emergency and meet specified conditions, (8) specifies that an officer of a local government in fiscal emergency who is convicted of certain violations of current law is ineligible to hold any public office in Ohio or be employed by a public entity in Ohio for seven years after the conviction

Local Government Integrating & Innovation Fund / Committees

This section was removed from the bill - the \$100 million that was to be used for the Innovation Fund was put back into the LGF

Furlough Days & Modified Work Weeks (Sec. 124.393. 124.394 or Pages 328-331 or Lines 10248-10315) - Permits a township to require furlough days for SFY 2012 and 2013 (or July 1, 2011 - June 30, 2013) for exempt permanent full-time or permanent part-time employees not subject to collective bargaining agreements - permits a township to establish a modified work week in SFY 2012-2013 which could provide in a reduction from the usual hours worked during a week - after June 30, 2013 these programs could continue but only if township is in fiscal emergency

Statewide Public Notice Website (Sec. 125.182 or Pages 337-339 or Lines 10517-10561) - Requires State's office of information technology to establish, operate and maintain the state public notice web site - specifically prohibits charging local governments a fee for posting notices

LGF Formula Modification (Sec. 131.51 or Pages 380-382 or Lines 11835-11882) - Alters the formula for the Local Government Fund starting July 2013 - basically the current formula of 3.68% will be reduced and the new percentage will be calculated as a percent of the FY 2013 distribution divided by total state revenues at that time

Destruction of Public Records (Sec. 149.351 or Pages 438- or Lines 13618-) - Limits to \$10,000 the amount that may be recovered in forfeiture for a violation of the prohibition against the destruction or damage of records of a public office and this amount includes attorney fees - action must be commenced within 6 years of the alleged destruction of said records

Use of Design Build (Chapter 153, Sec. 9.3, 4113.61) - Grants local governments, including townships, the option of hiring a design-build firm for public improvement up to \$200,000 - all projects over \$200,000 must use current law of multiple-prime contractors - defines "design-build services" as an integrated

system in which a single vendor is responsible for design, demolition, construction, alteration, repair or reconstruction of public improvements such as buildings and roads - firms must be selected based upon qualifications in a process detailed in statute - townships would have to retain a criteria architect or engineer to assist in evaluating design-build proposals - [requires political subdivisions to give preference to contractors whose principle place of business is in Ohio](#) -

Regional Councils of Government (Sec. 167.081 or Pages 517-518 or Lines 16068-16097) - Permits a regional council to enter into unit price contracts related to buildings and structures on behalf of members

New Community Authority

[This language was removed from the bill](#)

Contracting with ESC (Sec. 505.101 or Pages 747-748 or Lines 23251-23270) - Permits a township to enter into a contract with an educational service center (ESC) for the purchase of services

Documentation of Trustee Pay (Sec. 505.24 or Pages 756-759 or Lines 23534-23630) - an AG opinion in 2003 has required township trustees that are paid from funds other than the general fund to document their time and work performed - change permits township to pass a resolution at the beginning of the year setting forth percentages of funds to be used for trustee salaries AND requires trustees to certify or attest the percentage of time spent working on matters to be paid from the township general fund and from other township funds in such proportions as the kinds of services performed - this eliminates the monthly time sheets currently required

Joint Police Districts (Sec. 505.482 or Pages 770-772 or Lines 23969-24027) - Permits two or more townships or one or more townships and one or more municipal corporations to form a joint police district

Allocation of Fiscal Officer Pay (Sec. 507.09 or Pages 796-799 or Lines 24750-24841) - Current law requires the pay of a township fiscal officer to be taken from the general fund - the bill would permit the pay of a township fiscal officer to come from funds other than the general fund depending upon the work performed

Competitive Bidding Thresholds (Sec. 511.01, 511.12, 515.01, 515.07, 521.05, 5549.21) - Increases to \$50,000 all township competitive bidding thresholds

Cemetery Rules (Sec. 517.06 or Page 817 or Lines 25407-25419) - Specifically permits townships to make and enforce all needful rules and regulations for burial, interment, reinterment, or disinterment - which would permit a township to require the use of a burial vault in a township cemetery

Township Mergers (Sec. 523.01, 523.02, 523.03, 523.04, 523.05, 523.06, 523.09 or Pages 820-827 or Lines 25495-25720) - Creates [two](#) different procedures by which two or more townships could merge together should they wish to do so - [both](#)

procedures require a vote of the residents - sets forth requirements that must be included in merger agreement and if agreement is not reached within a specified time period, sets forth merger conditions until an agreement can be reached

Expedited Township/Municipal Corporation Merger (Sec. 709.44, 709.451, 709.452 or Pages 829-834 or Lines 25763-25915) - Current law requires a merger study commission and several votes of the residents prior to a township/muni merger - this eliminates the multiple votes and permits the legislative bodies to merge in one of three ways - establishes criteria that must be addressed in the merger - permits the merged entity to choose either municipal or township form of government

Allocation of Township Election Expenses (Sec. 3501.17 or Pages 2212-2218 or Lines 68759-68926) - Current law requires election expenses to generally come from the township general fund - the bill provides that, when expenses are incurred related to a township tax levy ballot issue, the township board of trustees may request that those expenses be withheld from the particular township fund to which the tax is to be credited

Office Space for Health District

This section was eliminated from the bill

Solid Waste Fees (Sec. 3734.57, 3734.577 or Pages 2384-2402 or Lines 74095-74687) - Keeps the increased tipping fee collected by state for solid waste through June 30, 2014 - current law increased fee only through June 30, 2012 - prohibits a public sector hauler from being exempt from hauling fees that would be paid by a private hauling company

Prevailing Wage Threshold (Ch 4115 or Pages 2611-2622 or Lines 81180-81538) - Increases prevailing wage threshold for new construction and reconstruction/improvement to \$3.5 million - new roads would not be \$3.5 million, rather \$78,258 and then indexed biennially - road reconstruction and improvements would not be \$3.5 million, rather \$23,447 and then indexed biennially - prevailing wage would not have to apply to school or higher education projects

Road Weight Limits (Sec. 5577.042, 5577.043 or Pages 3723-3726 or Lines 115544-115658) - Removes the provision recently enacted in HB 114, the transportation budget, that no wheel or axle load limits are to apply to vehicles that are transporting certain specific materials and do not exceed the existing gross vehicle weight limit by more than 5% or 7.5%

Enterprise Zone Extension (Sec. 5709.63, 5709.632 or Pages 3809-3822 or Lines 118235-118651) - Extends through October 15, 2012, the ability of a municipal corporation or county to create an enterprise zone

Public Utility Tax Reimbursements (Sec. 5727.84, 5727.86 or Pages 3895-3922 or Lines 120957-121813) - Current law provides public utility tangible property reimbursements to local governments for taxes lost due to electricity and natural gas deregulation - payments began phasing out in 2007 - bill changes the

reimbursement program from what was lost in taxes to the reliance on those reimbursements - reliance is measured in terms of the percentage of total revenue resources available to the local government for current operating expenses, which also includes an estimated amount for 2010 - for a township, "total resources" is defined as local property taxes, LGF distributions, TPP tax reimbursements, and utility tax reimbursements - reimbursement to local governments will be phased out by rule, whereby no more than 2% of the unit's total revenue resources are removed each year for CY 2011 and CY 2012 - if a township receives less 2% or less of its resources from utility deregulation reimbursement, the entire amount is eliminated as of July 1, 2011 - if a township has greater than 2% reliance on the utility reimbursement, the reduction in reimbursement the first year (CY 2011) is an amount equal to 2% and then 2% the second year (CY 2012) - if a township is still getting money as of CY 2013, the township will receive what they received in CY 2012 and thereafter - all revenue collected by state for these reimbursement programs will be redirected to the state's general revenue fund

Repeal of Estate Tax (Sec. 5731.02, 5731.18, 5731.181, 5731.19, 5731.21 or Pages 3924-3930 or Lines 121874-122036) - Current law establishes an estate tax on properties valued at \$338,000 or above - eighty percent of revenue from the estate tax is returned to the local government (township or municipality) of residence and twenty percent goes to the State of Ohio - bill repeals the estate tax as of January 1, 2013

New LGF Statutory Allocation Formula (Sec. 5747.51, 5747.52 or Pages 4053- or Lines 125889-) - Eliminates old statutory formula and replaces with a formula based on a variety of current year statistics and valuations - permits 75% of the LGF recipients in a county, after July 1, 2011, to request the use of the statutory formula as opposed to the alternative formula, if county is using it - eliminates all largest city veto power and population thresholds

Tangible Personal Property Tax Reimbursements (Sec. 5751.20, 5751.22 or Pages 4119-4156 or Lines 127944-129082) - Current law provides tangible personal property (TPP) reimbursements to local governments for taxes lost due to taxes lost when the state eliminated the TPP tax in 2005 - payments are scheduled to begin phasing out July 1, 2011 - bill changes the reimbursement program from what was lost in taxes to the reliance on those reimbursements - reliance is measured in terms of the percentage of total revenue resources available to the local government for current operating expenses, which also includes an estimated amount for 2010 - for a township, "total resources" is defined as local property taxes, LGF distributions, TPP tax reimbursements, and utility tax reimbursements - reimbursement to local governments will be phased out by rule, whereby no more than 2% of the unit's total revenue resources are removed each year for CY 2011 and CY 2012 - if a township receives 2% or less of its resources from TPP reimbursement, the entire amount is eliminated as of July 1, 2011 - if a township has greater than 2% reliance on the TPP reimbursement, the reduction in reimbursement the first year (CY 2011) is an amount equal to 2% and then 2% the second year (CY 2012) - if a township is still

getting money as of CY 2013, the township will receive what they received in CY 2012 and thereafter - all revenue collected by state for these reimbursement programs will be redirected to the state's general revenue fund

Water & Sewer Districts (Sec. 6119.061 or Pages 4208-4210 or Lines 130730-130779)

- Expands the contracting authority of regional water and sewer districts - declares that whenever any portion of a regional water and sewer district is incorporated as, or annexed to, a municipal corporation, the area incorporated or annexed remains under the jurisdiction of the district for purposes of the acquisition, construction, or operation of a project until the project's completion or abandonment

Fire Departments/Grants (Sec. 243.10 or Pages 4352-4354 or Lines 134998-135068) - Permits small government fire department grant money to be given to private fire departments - appropriates up to \$1,647,140 in each fiscal year to be used to make annual grants to volunteer fire departments, departments that serve one or more small governments, joint fire districts comprised of small governments and twps/muni responsible for fire departments

Disaster Fund (Sec. 247.10 or Pages 4357-4358 or Lines 135153-135176) - Provides potential assistance to local governments hit by a natural disaster or emergency

Education Shared Services Study (Sec. 267.50.90 or Pages 4448-4450 or Lines 137756-137810) - Requires the Director of 21st Century Education to develop a plan for integration and consolidation for certain school programs by July 1, 2012 - requires Director to make recommendations for consolidation and shared service models for schools - Director shall, by October 15, 2011, conduct a shared services study, including local governments, to gather baseline data and shall report an implementation plan to Governor and General Assembly by January 1, 2012

Homestead/Property Tax Rollbacks (Sec. 403.10 or Page 4656 or Lines 143535-143560) - Makes an appropriation for the rollbacks distributed to local governments and schools

Adjustment to LGF Distributions (Sec. 757.10 or Pages 4777-4784 or Lines 147115-147335) - Reduces LGF by 25% for August - December 2011 payments compared with August - December 2010 payments - reduces LGF by 50% for August 2011-July 2012 payments compared with August 2010 - July 2011 payments - county undivided funds that received less than \$750,000 in FY 2011 will receive that exact amount in FY 2012 and FY 2013 - county undivided funds that received more than \$750,000 in FY 2011 must receive at least \$750,000 in FY 2012 and FY 2013 regardless of reductions set forth in bill

Appeal of Levy Classifications (Sec. 757.20 or Page 4784 or Lines 147336-147347) - Permits a political subdivision to appeal, in writing, to the Tax Commissioner any levies classified for calculations to utility and TPP reimbursements - all appeals must be completed prior to June 30, 2013