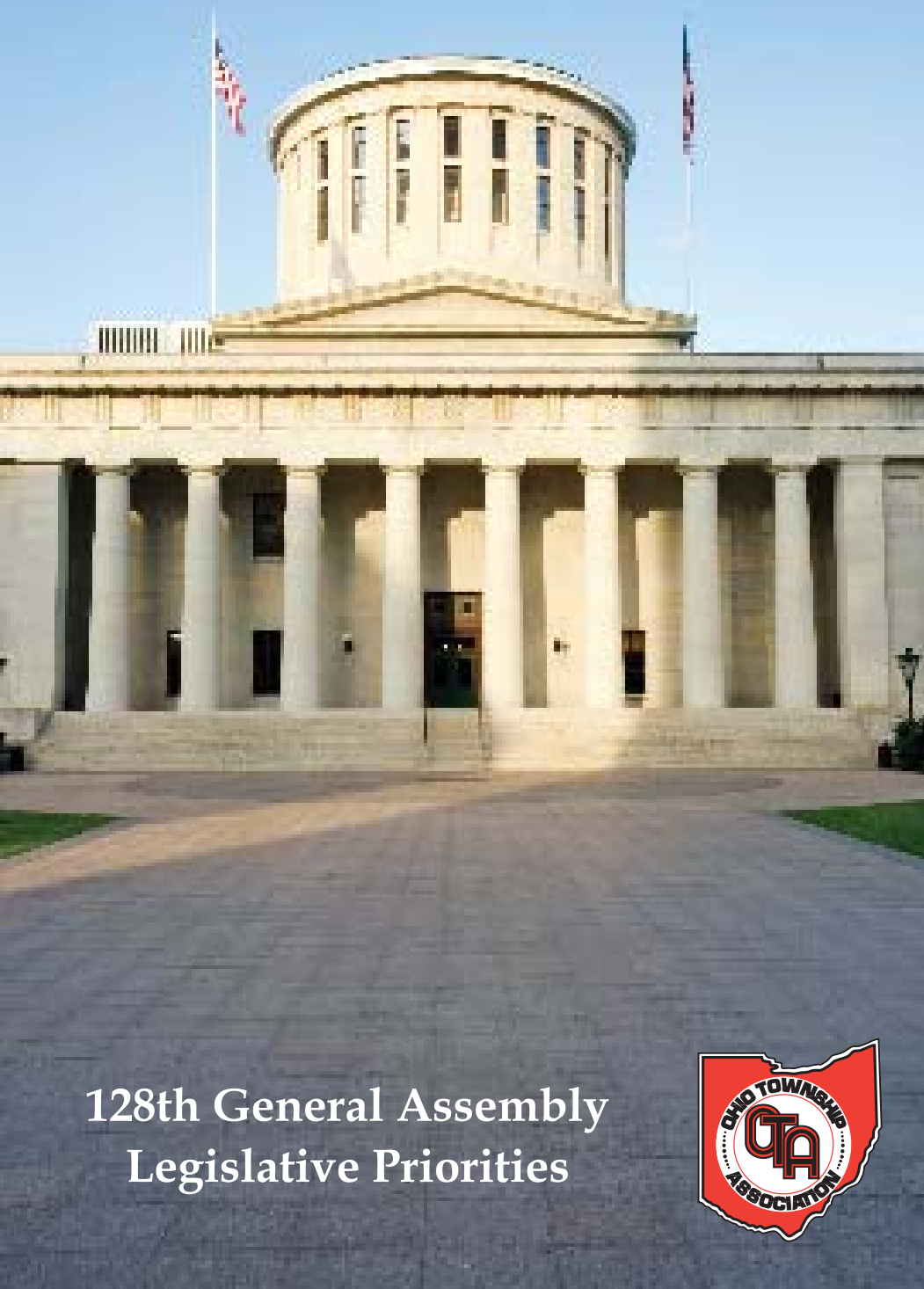


# Ohio Township Association



128th General Assembly  
Legislative Priorities



# OHIO TOWNSHIP ASSOCIATION

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# 128TH GENERAL ASSEMBLY

## TOWNSHIP LEGISLATIVE PRIORITIES

Township governments across Ohio provide a variety of essential services to residents living in the unincorporated territory of the state. Those services can include fire, EMS, police, parks, recreation, cemeteries, senior services and zoning. With more than 45 percent of the state's population residing in townships, the trustees that govern each township need the tools to effectively and efficiently provide those services.

Townships, unlike municipalities, are creatures of statute and have only those authorities specifically or inherently granted to them by state law. The Ohio Township Association (OTA) is committed to preserving and protecting township government in Ohio and securing the necessary legislative changes to provide Ohio's townships with the tools needed to strengthen their communities.

### **TAX AND FINANCE**

#### **Financial Assistance**

Since 1936 the state has committed to providing revenue assistance to local governments for basic services the state does not and simply cannot provide. This revenue assistance, otherwise known as the Local Government Fund (LGF), was reformulated in the previous General Assembly to create a reliable and stable formula that reacts with the state's budget increases and decreases. The LGF is one of the primary sources of revenue for townships and the moneys received from the LGF go toward roads, safety services, parks and cemeteries, all major responsibilities of townships. The OTA requests that the state continue to honor their commitment to local governments by providing revenue assistance through the LGF.

#### **Reimbursement of Lost TPP Tax Revenue**

A key component of Ohio's 2005 tax reform was the phased out elimination of the tangible personal property (TPP) tax and the replacement of that tax with the commercial activity tax (CAT). Part of the tax reform package called for reimbursements to local governments to hold them harmless for five years and phased down payments through 2018. While the OTA does not have a position on the alteration of business taxes in Ohio, the state essentially eliminated a tax that funded local programs and replaced it with a tax that ultimately benefits the state's general revenue fund. After the phase out and reimbursement period concludes, townships statewide will lose an estimated \$71 million.

The OTA is working with other local government, service and school groups on a proposal that would create a permanent replacement formula for lost TPP dollars. The OTA supports the creation of a state fund to fully and permanently reimburse townships for foregone TPP revenue by utilizing the suggested replacement formula. In the meantime, the OTA respectfully requests that the General Assembly extend the hold harmless reimbursement provision through 2011. The cost of extending this provision is \$11.5 million from CAT revenues.

## ***GROWTH & DEVELOPMENT***

### **Annexation**

The annexation laws were greatly revised in the 124th General Assembly with the enactment of SB 5. Since then, experience has shown that the law needs to be refined. The OTA simply requests for the language in R.C. Chapter 709 to reflect what was originally agreed to by all parties during the SB 5 negotiations. Specifically, township-owned land is being included in annexation petitions and the township has no grounds for objection due to the township not being classified as an owner pursuant to the law.

Additionally, when property is annexed under R.C. 709.023 the land is to remain in the township, allowing the township to always collect inside millage on the territory that was annexed. Unfortunately, municipalities are using tax increment financing (TIF) and other tax diversion programs to divert the inside millage away from the townships. The OTA respectfully requests that language be added to R.C. 709.023 to expressly prohibit any diversion of funds from townships when land is annexed under this provision.

### **Development Plans**

As previously noted, townships are home to more than 45 percent of the state's population and thus development activity - residential, commercial and industrial - is happening in townships. Creating and maintaining development opportunities in Ohio is critical to the state's economy. Where services are available, townships are often the preferred location for new development. County engineers are required to approve all road infrastructure needs for any development in townships. The OTA is requesting legislative timelines for the approval or denial of township road infrastructure projects by the county engineer. We recommend a 30-day turnaround time for approval or denial of township road projects. Furthermore, should a project be denied, the county engineer should provide specific recommendations for changes. Should the township resubmit the project for approval with the recommended changes, the county engineer shall approve the project.

## JEDDs

One way that townships and municipalities work together to foster development is in creating Joint Economic Development Districts (JEDDs). The use of a JEDD allows the land to remain in the township and the municipality to levy the income tax on businesses within the JEDD. The OTA recommends clarifying existing JEDD laws to make it easier for communities to join together. Furthermore, we recommend permitting all political subdivisions, not just those in charter counties, to use all types of JEDDs that are currently in the Revised Code.

## Tax Increment Financing

In HB 66, passed in the 126th General Assembly, changes were made to the TIF law to require counties to sign off on municipal TIFs, as county service levies will be directly impacted by the granting of TIF districts. The OTA strongly encourages the General Assembly to extend that same courtesy to townships when land lies within the township and the municipality, such is the case when land is annexed under R.C. 709.023.

## Water & Sewer

All local governments should have the authority to offer water and sewer services to their residents. Facilities built wholly or partially with federal or state funds should be available to all who live in the service area regardless of the jurisdiction in which they reside. Municipalities should not require annexation in exchange for services, nor should residents of townships be forced to pay excessive charges for those services should the state or county require the resident to tap in.

## ***LAND USE REGULATION***

### Cell Tower Placement

Abundant use of cellular telephones has prompted communication companies to search constantly for prime locations to enhance communication. Townships currently have the authority to regulate the placement of cellular towers within residentially zoned areas, however, more and more problems are arising with the placement of towers on land that is zoned for agriculture or mixed use. Ideally, townships would like to regulate the placement of all cellular towers within their respective jurisdictions. Additionally, the OTA proposes that notice be given to all surrounding property owners and to the township officials prior to the erection of a cellular tower.

## Discharging of a Firearm

Ohio's landscape is changing and the rural areas are fast becoming the center of the population shift in Ohio. There are approximately 20 townships in Ohio that have populations above 25,000 people in the unincorporated area and 50 townships with populations above 10,000. These population figures demonstrate that townships are not just the rural areas of vacant farm lands as they once were. Many Ohio townships have zoning regulations that permit up to two homes per acre, thus creating major safety concerns when a firearm is discharged. The OTA proposes legislation that would put townships on equal footing as municipalities with language that would permit the adoption of firearm discharge regulations based upon population and density within the township.

## General Welfare

According to the last federal census, there was more growth in townships across Ohio than in cities. With growth comes the need for townships to have adequate planning and zoning tools available to help facilitate and manage the growth. Pursuant to R.C. Chapter 519, townships are given zoning authority. In the 125th General Assembly, the legislature gave and then took away broad authority for townships to pass zoning resolutions for the general welfare of the community, specifically in residential areas. The OTA proposes that townships be given broader general welfare zoning authority to mirror municipal zoning authority. Additionally, all aspects of zoning, including enforcement, should be streamlined and more person friendly in their use.

## Impact Fees

Local governments in 33 states are increasingly using impact fees to shift more of the costs of financing public facilities from the general taxpayer to the beneficiaries of those new facilities. Impact fees, when based on a comprehensive plan and used in conjunction with a capital improvement plan, can be an effective tool for ensuring adequate infrastructure to accommodate growth. The OTA proposes townships be given the authority to impose impact fees on new development and that revenue be used for infrastructure and service needs in that area.

## Subdivision Regulations

Townships should be able to adopt their own subdivision regulations or, at the very least, propose changes to plat and subdivision regulations. A clear voice in the process is needed. The OTA strongly recommends giving townships that adopt home rule authority under R.C. Chapter 504 the permissive authority to approve or reject all subdivision regulations within their jurisdiction.

## Wind Farms

In the previous General Assembly, legislation was enacted pertaining to the regulation of wind farms. Townships may regulate the placement of wind farms less than 5 mw, and wind farms 5 mw or greater will be regulated by the Ohio Power Siting Board. Language was added to R.C. Chapter 519 and R.C. Chapter 4906 detailing regulatory authority. One provision was overlooked during this legislative change. R.C. 4906.06 requires an applicant of a proposed major utility, which a wind farm 5 mw or greater is considered, to serve notice to the municipal corporation and county in which the major utility is wishing to locate. Wind farms 5 mw or greater will be sited in townships as well as municipalities and the OTA respectfully requests that townships be served notice pursuant to R.C. 4906.06(B).

## Zoning

Pursuant to R.C. 703.20 and 703.201, a village may surrender corporate powers or may be dissolved under certain conditions. When a village surrenders its corporate powers or is dissolved, the land falls back under the governance of the township. The OTA recommends language in these respective R.C. sections that would apply township zoning, if currently in place, to the reverted village land automatically upon surrender of corporate powers or dissolution.

## **CEMETERIES**

### Funding

Under current law a township may sell plots and set fees for services performed at township cemeteries. The revenue received must be used to help offset the cost of the maintenance and upkeep of the cemeteries. Townships may also submit a cemetery levy before the voters to raise additional revenue. The OTA recommends language be included to permit townships to sell headstones and vaults, in addition to plots, and to allow the funds received to be used to ensure the perpetual care of the cemetery.

### Abandoned Cemeteries

With the discovery of abandoned cemeteries, townships become responsible for their maintenance and upkeep. Procedures for the takeover of an abandoned cemetery need to be clarified in the Revised Code. The OTA strongly urges the Department of Commerce - Real Estate Division to set up a grant program to assist townships in maintaining abandoned cemeteries.

## Indigent Burials

From 1974 through July 2001, the state reimbursed townships for expenses incurred when an indigent passes away within their jurisdiction. The state eliminated the assistance program in HB 94 enacted in the 124th General Assembly. The indigent burial program was facilitated by the Ohio Department of Job and Family Services and reimbursed up to \$750 for adults and \$500 for children. Now townships are responsible for all of the costs associated with an indigent death including: headstone, plot, urn or casket, and funeral services. The OTA recommends the indigent burial reimbursement program be reinstated at the previous funding levels.

## ***TRANSPORTATION & INFRASTRUCTURE***

### Damage to Township Roads

The outward migration to the unincorporated areas has caused an increase of traffic on township roads, especially by heavy commercial vehicles. Businesses that produce heavy truck traffic, such as mining, logging, CAFFOs and solid waste to name a few, and do damage to township roads, should be required to provide financial help to the township in which the business resides for infrastructure improvements.

### Force Account Limits

The limits on force account work (R.C. 5575.01) were last increased in 2003. Fuel and supply costs have increased significantly since 2003. The OTA is requesting an increase in the force account limits to reflect the cost of doing business today. Furthermore, we respectfully request that the force account thresholds be indexed to the construction price index so that the force account limits keep pace with inflation. Additionally we request clarifying language in R.C. 5575.01 to state the definition of construction/reconstruction projects versus maintenance and repair of a current road.

### Speed Limits

Townships are not permitted to set speed limits on township roads. The OTA proposes granting townships the authority to set speed limits on their roads with the approval of the county engineer. At the very least, this authority should be granted to those townships that have adopted limited home rule authority under R.C. Chapter 504.

### Vehicle Weight Limits

Township roads are susceptible to heavy damage. Townships should be able to set weight limits on roads within their jurisdiction. We respectfully request the legislature provide an efficient and cost effective means for enforcement of such limits.

## ***SAFETY SERVICES***

### ***Firefighter Service***

More than 90 percent of townships in Ohio have a good standard of fire protection covering more than 96 percent of the population in unincorporated areas of the state. Township fire departments are staffed with full-time and/or part-time and volunteer firefighters. Only full-time firefighters may contribute to the Ohio Police & Fire Pension Fund for relief and retirement benefits. Part-time and paid volunteer firefighters are not eligible for the OP&F Pension Fund. Any part-time or paid volunteer firefighters hired on or after May 4, 1992, are not permitted to contribute to the Public Employees Retirement System (PERS) even if they have a full-time job in which they pay into PERS. Emergency medical technicians (EMT) are public employees per PERS definition and must contribute to PERS; however, a trained firefighter that is also an EMT may not be included in PERS.

In a time when recruiting and retaining volunteers is very difficult, the OTA supports legislation that would permit part-time and paid volunteer firefighters' enrollment in PERS. At the very least, all currently enrolled PERS members should be able to keep contributing to PERS.

## ***COURTS***

### ***Community Courts***

An urban township, as defined by R.C. Chapter 504, is a township that has adopted limited home rule government and has at least 15,000 people in the unincorporated territory of the township. Today, Ohio has 21 urban townships that govern more than 616,000 Ohioans. Urban townships are larger in population than most cities and three times the population threshold (5,000) for a village to become a city. These townships have the sophistication and financial means to create and operate such a court or district. The OTA firmly believes that urban townships should have the authority to have a community court or partner with a municipality or another urban township for a joint judicial district.

## ***REDUCING TOWNSHIP COSTS***

### ***Audits***

The OTA recognizes the fact that audit costs have risen dramatically in recent years and the length of time to complete the audit has also increased. The Association supports finding alternative ways to lower the cost and shorten the time required to perform mandated state audits. One suggestion would be to reward a township for a clean audit. If the township has a clean audit then the township would not be audited for four years as opposed to two.

## Fiscal Officer Bonding

Township fiscal officers are required to be bonded for the “faithful performance of the duties of the office of township fiscal officer.” Faithful performance is not limited to theft in office; rather, this statement could include a simple error on a grant application, a bad investment or the transposing of two numbers on a check.

The bonding levels for township fiscal officers are set by R.C. 507.04 and in 2004 the bonding levels were increased and set according to township budget categories. The OTA recommends lower bonding amounts for fiscal officers to secure their “faithful performance” and require townships to have theft insurance which covers all elected officials and employees.

## Prevailing Wage

Ohio’s prevailing wage law applies to construction projects undertaken by public authorities and requires that public authorities pay the local prevailing rate of wages to workers on the project. Ohio’s prevailing wage rates vary from locality to locality, and are based on collective bargaining agreements. The prevailing wage for township funded projects should be a local option, not a requirement. If prevailing wage is not made an option, the state should increase the thresholds for public improvements to \$250,000.

## Unemployment Compensation

Currently, when a part-time township employee loses his/her full-time job, the township must pay part of the unemployment even though the employment status with the township has not changed. The township is then paying the salary of the township employee and the unemployment compensation. Townships should not be required to pay unemployment compensation to an employee whose township employment status has not changed.

## Unfunded Mandates

In 1994, the General Assembly passed legislation requiring local fiscal impact statements for all legislation affecting local governments. Even with the enactment of that procedure, the General Assembly is still passing laws that impose new or additional requirements on local governments without the funding needed to implement such requirements. A procedure should be established by which local governments can contest new laws that are not fully funded, yet give the General Assembly adequate time to modify or fund the mandates they impose.

## Notes

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