

March 4, 2014

The Honorable Sherri Bevan Walsh
Summit County Prosecuting Attorney
53 University Avenue, 6th Floor
Akron, Ohio 44308-1608

SYLLABUS:

2014-006

1. Pursuant to R.C. 505.84, reasonable charges incurred by a township in the provision of fire and rescue services, ambulance services, or emergency medical services may be billed to township residents and nonresidents or to their respective insurance companies. (1950 Op. Att’y Gen. No. 2396, p. 685 (syllabus, paragraph 2) and 1943 Op. Att’y Gen. No. 5798, p. 44 (syllabus, paragraph 3), overruled, in part, due to statutory amendment.)
2. A township does not have the authority to bill persons who cause damage to township property or cause vehicle accidents that require clean-up resources unless those accidents involve unauthorized spills, releases, or discharges of material into or upon the environment that are subject to R.C. 3745.13.
3. A township does not have the authority to bill persons who cause vehicle accidents for the use of law enforcement response or investigation time. (1971 Op. Att’y Gen. No. 71-045 (syllabus, paragraph 4), approved and followed.)
4. A township may hire a company to send out bills on behalf of the township for the use of fire and rescue, ambulance, or emergency medical services, provided they are charges the township may lawfully collect, and further provided that the charges are paid to the township and deposited in the fire and rescue services, ambulance services, and emergency medical services fund, as required by R.C. 505.84.
5. A collection company may not add collection or administrative fees to bills for the use of fire and rescue, ambulance, or emergency medical services collected on behalf of a township. A township may use moneys from the fire and rescue services, ambulance services, and emergency medical services fund to pay a collection company to send out bills for those services on behalf of the township.



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OPINION NO. 2014-006

The Honorable Sherri Bevan Walsh
Summit County Prosecuting Attorney
53 University Avenue, 6th Floor
Akron, Ohio 44308-1608

Dear Prosecutor Walsh:

You have requested an opinion concerning the authority of a township to collect the costs it incurs in responding to and repairing the aftermath of vehicle accidents caused by negligent drivers. When a vehicle accident occurs in a township, there are many ways in which the township might incur costs. For example, a vehicle accident might require the response of township law enforcement to determine liability and issue citations. Additional police services might be required if an investigation into the accident is necessary. Depending on the circumstances and severity of the vehicle accident, fire or emergency medical services could be necessary. A township might incur further costs to clean up debris or wreckage left at the scene of an accident or to repair damage to guard rails, fire hydrants, or other township property caused by an accident.

You would like to know whether costs such as these may be billed to the persons responsible for the vehicle accidents or their insurance companies.¹ We will consider each

¹ As explained in your letter, financial pressures have prompted a board of township trustees to consider billing persons whose conduct necessitates the expenditure of township resources. You have asked about the authority of a board of township trustees to bill persons for various types of costs a township might incur. This opinion focuses on those categories of costs, but does not examine the methods by which a township, or a private company acting on behalf of a township, may bill and collect moneys. That is, we will not discuss whether, when, or how a township may be able to pursue reimbursement of its costs from Medicaid, Medicare, or private insurance carriers. Prior opinions have acknowledged the practice of billing insurance carriers,

category of costs individually. We note here that you are asking about a township's authority to bill persons responsible for vehicle accidents *in the absence of* a judgment from a court or another legal determination of liability. In other words, we are considering whether a township may bill persons responsible for vehicle accidents without first initiating a lawsuit pursuant to R.C. 5571.09, R.C. 5577.12, or another relevant provision of law. See "Alternative Methods of Cost Recovery" discussion, *infra*. You also ask whether a township may hire a company to send out bills for these various costs on behalf of a township, and if so, whether the company may add a collection or administrative fee to be paid by the person (*i.e.*, the negligent driver) being billed.

General Authority of Townships

We begin with the principle that, to perform the duties imposed upon them, township trustees may exercise only those powers conferred by statute or necessarily implied by those expressly granted.² *In re Vill. of Holiday City*, 70 Ohio St. 3d 365, 369, 639 N.E.2d 42 (1994) (recognizing the "well-settled principle that township trustees can exercise only those powers granted by the General Assembly"); *Trs. of New London Twp. v. Miner*, 26 Ohio St. 452, 456 (1875); *Hopple v. Trs. of Brown Twp.*, 13 Ohio St. 311, 324-25 (1862); see also *State ex rel. Locher v. Menning*, 95 Ohio St. 97, 99, 115 N.E. 571 (1916) ("[t]he [statutory] authority [of a statutorily created board] to act in financial transactions must be clear and distinctly granted"); 1988 Op. Att'y Gen. No. 88-088 (syllabus, paragraph 4) ("[a] board of township trustees may disburse township funds only by clear authority of law"). Township officers may not exercise a power or undertake an activity, particularly with regard to township finances, absent express or implied statutory authority to do so. 2009 Op. Att'y Gen. No. 2009-034, at 2-236. The powers and duties of boards of township trustees are set forth primarily in R.C. Title 5.

Emergency Medical Response and Transport Costs; Fire Department Response and Investigation Costs

The first types of costs we will consider are those costs incurred by a township for emergency medical response and transport and fire department response and investigation. A township may, but is not required to, provide fire protection and emergency medical services to safeguard the lives and property of citizens against damage and accidents. R.C. 505.37(A); 2005

and R.C. 505.84 ties its "reasonable charges" to the "authorized [M]edicare reimbursement rate." See R.C. 505.84; see, e.g., 2008 Op. Att'y Gen. No. 2008-001, at 2-1 n.2; 2005 Op. Att'y Gen. No. 2005-036, at 2-375 and 2-376 n.8; 2003 Op. Att'y Gen. No. 2003-017, at 2-126 n.1.

² R.C. Chapter 504 authorizes townships to adopt a limited home rule government. No townships in Summit County have adopted limited home rule government, and so this opinion does not consider the powers of the elected officers of townships that have adopted limited home rule government. See, e.g., R.C. 504.04; 2007 Op. Att'y Gen. No. 2007-036, at 2-373 nn.9-10.

Op. Att’y Gen. No. 2005-036; 1994 Op. Att’y Gen. No. 94-067 (syllabus, paragraph 1). R.C. 505.84 provides that “[a] board of township trustees may establish reasonable charges for the use of fire and rescue services, ambulance services, or emergency medical services. The board may establish different charges for township residents and nonresidents, and may, in its discretion, waive all or part of the charge for any resident.” See 2003 Op. Att’y Gen. No. 2003-017, at 2-126 (“[t]he authority for a township to charge persons who use ambulance or emergency medical services is granted by R.C. 505.84, which states that a board of township trustees ‘may establish reasonable charges’ for the use of ambulance or emergency medical services”).

The word “services” is not defined by the statute for purposes of determining what “fire and rescue services, ambulance services, or emergency medical services” encompasses and what exactly a board of township trustees may establish reasonable charges for using. When a term is not defined by statute, the term’s common or ordinary meaning should be used in applying the statute. R.C. 1.42. “Service” is “useful labor that does not produce a tangible commodity—usu. used in pl. <charge for professional ~s>.” *Merriam-Webster’s Collegiate Dictionary* 1137 (11th ed. 2007). This means that any labor provided by fire and rescue, ambulance, or emergency medical professionals is included in the word “services” for purposes of R.C. 505.84. Thus, the “emergency medical response and transport and fire department response and investigation costs” that you have asked about fall within the purview of R.C. 505.84, and a township may establish reasonable charges for those services.

The term “reasonable charges” also is not defined by R.C. 505.84. While townships are constrained by Ohio law to exercise only those powers that have been granted by the General Assembly, it also has been established that, when a statute clearly confers a grant of power to do a certain thing without placing any limitation on the manner or means of doing it, it is presumed that the grantee of such power is vested with discretion to do things incidental to the exercise of that power. *Fed. Gas & Fuel Co. v. City of Columbus*, 96 Ohio St. 530, 541, 118 N.E.103 (1917), *appeal dismissed*, 248 U.S. 547 (1919); see 1984 Op. Att’y Gen. No. 84-048, at 2-152 (modified, in part, on other grounds, by 2003 Op. Att’y Gen. No. 2003-017). Thus, even as R.C. 505.84 grants a township authority to establish “reasonable charges” for the use of fire and rescue services, ambulance services, or emergency medical services, a board of township trustees also is authorized to determine what amount or cost constitutes a “reasonable charge” for purposes of the statute.

You have asked whether a township may collect the costs it incurs in providing emergency medical response and transport and fire department response and investigation services. If those costs fall within the “reasonable charges” a township has established for the use of fire and rescue services, ambulance services, or emergency medical services, pursuant to R.C. 505.84, then a township may seek to collect those costs. Thus, pursuant to R.C. 505.84, reasonable charges incurred by a township in the provision of fire and rescue services,

ambulance services, or emergency medical services may be billed to township residents and nonresidents or to their respective insurance companies.³

Costs for Repair of Damage to Township Property; Costs for Use of Community Equipment; Costs for Clean-up of Accident Scenes

Next, we will consider costs a township incurs to repair damage to township property, costs it incurs for use of community equipment, and costs incident to cleaning up the scene of a vehicle accident. We find no explicit authority in the Revised Code for a township to collect these costs by billing persons responsible for vehicle accidents in the township. *But cf.* R.C. 5573.13 (“for the purpose of maintaining, repairing, or dragging any public road or part of any public road under their jurisdiction, ... the board of trustees may levy, annually, a tax not exceeding three mills upon each dollar of the taxable property of the township. The levy shall be in addition to all other levies authorized for township purposes, and subject only to the limitation on the combined maximum rate for all taxes now in force”); R.C. 5575.10 (the board of township trustees “shall provide annually by taxation ... an adequate fund for the maintenance and repair of township roads”). This means that a township may not bill persons who cause vehicle accidents and related damage to township property for costs incurred by the township to remedy or repair that damage. A township nonetheless may seek restitution through the courts for certain damage to township property. *See* “Alternative Methods of Cost Recovery” discussion, *infra*.

³ In 1943 and again in 1950, the Attorneys General concluded that costs incurred by a township in furnishing fire protection could be paid only with revenue generated by a tax levied upon property situated within the township. 1950 Op. Att’y Gen. No. 2396, p. 685 (syllabus, paragraph 2); 1943 Op. Att’y Gen. No. 5798, p. 44 (syllabus, paragraph 3). In 2004 the General Assembly amended R.C. 505.84 to authorize townships to set reasonable fees to be paid by township residents and nonresidents for their use of township fire protection services. 2003-2004 Ohio Laws, Part IV, 5431 (Sub. H.B. 255, eff. March 31, 2005). Thus, townships may charge for the use of fire protection services, and such charges, once collected, may be used to fund a township’s fire protection services. Consequently, we overrule the portions of the 1943 and 1950 opinions that have been superseded by statutory amendment.

Notwithstanding a township’s authority to charge for the use of fire protection services pursuant to R.C. 505.84, R.C. 505.39 continues to authorize a board of township trustees to levy a tax upon all taxable property in a township or fire district “to provide protection against fire, to provide and maintain fire apparatus and appliances, buildings and sites for apparatus and appliances, sources of water supply, materials for such water supply, lines of fire-alarm telegraph, and to pay permanent, part-time, or volunteer fire-fighting companies to operate such equipment.”

In the case of emergency action by a township that is “required to protect the public health or safety or the environment” in response to an unauthorized spill, release, or discharge of material into or upon the environment or the operation of an illegal methamphetamine manufacturing laboratory that has caused contamination of the environment, R.C. 3745.13 provides that the township “shall keep a detailed record of its costs for investigating, mitigating, minimizing, removing, or abating” the accident and then promptly certify those costs to its prosecuting attorney. A township may request that its county prosecuting attorney “bring a civil action for recovery of costs against the person responsible.” R.C. 3745.13(A). The county prosecuting attorney must then “submit a written, itemized claim for the total certified costs incurred by the [township] for the emergency action to the responsible party and a written demand that those costs be paid to the [township].” R.C. 3745.13(A). R.C. 3745.13 thus provides a specific procedure a township must follow to collect the costs of emergency response in cases of unauthorized spills, releases, or discharges of material into or upon the environment.

Thus, a township may not bill persons who cause damage to township property or cause vehicle accidents that require clean-up resources unless those accidents involve unauthorized spills, releases, or discharges of material into or upon the environment that are subject to R.C. 3745.13.

Cost of Law Enforcement Response and Investigation Time

Finally, we consider whether a township may collect costs it incurs for law enforcement response and investigation time. These costs might be directly incurred when a township police department responds to the scene of an accident or subsequently investigates the accident. You indicate in your letter that some townships enter into agreements with the county sheriff to provide law enforcement services within the township, and in those instances, law enforcement costs are billed by the county sheriff to the township. In either case, a township ultimately is responsible for the cost of providing law enforcement services in response to vehicle accidents in the township.

A township has authority to provide police protection throughout the township territory. R.C. 505.43 (“[i]n order to obtain police protection, or to obtain additional police protection, any township may enter into a contract with one or more townships, municipal corporations, park districts ..., county sheriffs, joint police districts, or with a governmental entity of an adjoining state upon any terms that are agreed to by them”); R.C. 505.48(A) (“[t]he board of township trustees of any township may ... create a township police district comprised of all or a portion of the unincorporated territory of the township”); R.C. 509.01(B) (“the board of township trustees may designate any qualified persons as police constables and may provide them with the automobiles, communication systems, uniforms, and police equipment that the board considers necessary”). Where the General Assembly has provided statutory authority for a township to provide police protection, it also has indicated how the township should pay for the service. R.C. 505.43, which provides authority for a township to enter into a contract with another political subdivision for police protection, states that the “cost of the contract may be paid for from the township general fund or from funds received pursuant to the passage of a levy.” R.C. 505.48,

which provides authority for a township to create a township police district, implies that a tax may be imposed to pay for the district: “[i]f the township police district *imposes a tax*, any territory proposed for addition to the district shall become part of the district only after all of the following have occurred.” R.C. 505.48(B) (emphasis added). That tax is authorized by R.C. 505.51(A): “[i]n the case of a township police district, the board of trustees of the township police district may levy a tax upon all of the taxable property in the township police district ... to defray all or a portion of expenses of the township police district in providing police protection.” See generally R.C. 5705.19(J); R.C. 5705.25. And R.C. 509.01(B), authorizing the designation of police constables, states that the “board may pay each police constable, *from the general funds of the township*, the compensation that the board by resolution prescribes for the time actually spent in keeping the peace, protecting property, and performing duties as a police constable.” (Emphasis added.)

In each statute authorizing the provision of police protection in townships, the General Assembly has indicated how such police protection should be funded. There is no mention of billing residents or nonresidents for the use of law enforcement response or investigation services. As evidenced above in the discussion of emergency medical and fire department response costs, the General Assembly has considered the idea of townships charging for the use of township services. Had the General Assembly intended townships to pass on the costs of law enforcement response and investigation time to those township residents or nonresidents who use the law enforcement services, the General Assembly could have enacted language similar to that used in R.C. 505.84 (“[a] board of township trustees may establish reasonable charges for the use of fire and rescue services, ambulance services, or emergency medical services. The board may establish different charges for township residents and nonresidents, and may, in its discretion, waive all or part of the charge for any resident”). See *Lake Shore Elec. Ry. Co. v. Pub. Utils. Comm’n of Ohio*, 115 Ohio St. 311, 319, 154 N.E. 239 (1926) (had the legislature intended a particular meaning, “it would not have been difficult to find language which would express that purpose,” having used that language in other matters); *State ex rel. Enos v. Stone*, 92 Ohio St. 63, 69, 110 N.E. 627 (1915) (had the General Assembly intended a particular result, it could have employed language used elsewhere that plainly and clearly compelled that result). See generally *NACCO Indus., Inc. v. Tracy*, 79 Ohio St. 3d 314, 316, 681 N.E.2d 900 (1997), *cert. denied*, 522 U.S. 1091 (1998) (“Congress is generally presumed to act intentionally and purposely when it includes particular language in one section of a statute but omits it in another”).

Whether costs a township incurs for law enforcement response time and investigation time may be billed to persons using the services was addressed by the Attorney General in 1971. “The cost of police protection and additional police protection provided by action of a township under either [R.C. 505.441 (now R.C. 505.43) or R.C. 505.48 *et seq.*] may not be met by contributions by residents, whether contractual or voluntary, but must be borne from public tax

derived revenues.” 1971 Op. Att’y Gen. No. 71-045 (syllabus, paragraph 4).⁴ In revisiting this topic, our research has not uncovered any material change in the law that would warrant a different conclusion. We find no authority in the Revised Code for a township to bill persons who cause vehicle accidents that require law enforcement response or investigation time for the cost of those law enforcement services. *But cf.* R.C. 505.511 (authorizing a township to send a bill in some instances when law enforcement has answered more than three false alarms from the same commercial or residential security alarm system within the township in the same calendar year).

Whether a Township May Hire a Private Collection Company to Send Out Bills on Behalf of the Township

You ask whether a township may hire a private collection company to send out bills on behalf of the township, and if so, whether the company may add a collection or administrative fee to the bills. We have concluded above that (1) a township may not bill persons who cause damage to township property or cause vehicle accidents that require clean-up resources except pursuant to the procedures set forth in R.C. 3745.13, and (2) a township may not bill persons who cause vehicle accidents that require law enforcement response or investigation time for the cost of those law enforcement services. Thus, with respect to your question whether a township may hire a company to send out bills on behalf of the township and whether the company may add a collection fee to the bills, we will consider only a township’s charges for fire and rescue, ambulance, or emergency medical services.

A township may impose charges for fire and rescue, ambulance, or emergency medical services pursuant to R.C. 505.84 whether the township provides the services directly or acquires them by contract from another political subdivision or a private entity. 2003 Op. Att’y Gen. No. 2003-017, at 2-127; 1981 Op. Att’y Gen. No. 81-023, at 2-86. *See generally* R.C. 505.44. R.C. 505.44(B) authorizes a township to enter into a contract to furnish or receive ambulance and emergency medical services. “The contract may provide for compensation upon such terms as the parties may agree.” R.C. 505.44(B). “A township that enters into a contract with another party for services pursuant to [R.C. 505.44] may provide in the contract that the contracting party shall collect and retain any fee that the township may charge for each run involving ambulance

⁴ 1971 Op. Att’y Gen. No. 71-045, at 2-154, further stated, with respect to R.C. 505.48-.50 and what is now R.C. 505.43:

Costs under either type of statutory authorization can be paid from the township general fund where protection is being afforded to the entire township. Where a police district covers less than the township, however, such costs must be covered though a tax levy.... Such levy is also available to support the district where the district includes the entire township.

service, emergency medical service, or nonemergency patient transport service.”⁵ R.C. 505.441(B). This means that the township may, pursuant to contract, provide that the party providing ambulance and emergency medical services to the township also shall collect and retain any fee that the township may charge for such services.

Before R.C. 505.441 was enacted, the Attorney General considered the question whether a township and a contracting party that provides ambulance and emergency medical service to the township may enter an arrangement whereby the contracting party also may collect and retain any fee that the township is authorized to collect. 1984 Op. Att’y Gen. No. 84-048 concluded that a township may authorize the entity that provides ambulance or emergency medical services pursuant to a contract to collect the charges established by the township, provided that the charges are ultimately paid to the township and deposited in the ambulance and emergency medical services fund, as required by R.C. 505.84.⁶ 1984 Op. Att’y Gen. No. 84-048 (syllabus, paragraph 2) (modified, in part, on other grounds, by 2003 Op. Att’y Gen. No. 2003-017); *see also* R.C. 505.84; 2003 Op. Att’y Gen. No. 2003-017, at 2-131 and 2-131 n.6.

1984 Op. Att’y Gen. No. 84-048, at 2-157, includes the following discussion as the basis for its conclusion:

[W]hen a statute clearly confers a grant of power to do a certain thing without placing any limitations on the manner of doing it, it is presumed that the grantee of such power is naturally and necessarily vested with discretion to do things incidental to the exercise of that power. *Since the township trustees are empowered to collect charges for the use of ambulance or emergency medical services, they are vested with discretion to establish the method of collection so long as the discretion is exercised in a lawful manner.*

I am aware of nothing which prohibits the collection of charges by the private ambulance owner initially, especially if this is the most efficient and economical means available. 1971 Op. Att’y Gen. No. 71-066, in which the question was raised whether waste disposal charges required to be collected by the township clerk pursuant to R.C. 505.31 could be initially collected by a county sanitary engineering department, states at 2-224:

It is true that the township clerk must eventually “collect” the charges and deposit them in “the waste collection fund”, Section 505.31 ..., but the statute is silent as to the method of collection. Its

⁵ As used in R.C. 505.441, “run” “includes a call and an emergency to which a contracting party responds under a contract executed pursuant to [R.C. 505.44].” R.C. 505.441(A).

⁶ When 1984 Op. Att’y Gen. No. 84-048 was issued, R.C. 505.84 had not yet been amended to include fire protection services. *See* note 3, *supra*.

mandate is fulfilled as long as the clerk ultimately receives the charges in his office and deposits them in the proper fund.

See 1983 Op. Att’y Gen. No. 83-040 (statute authorizing a county tuberculosis hospital board of trustees to enter into contracts for necessary services empowers the board to contract with a collection agency to collect unpaid charges against patients and former patients of the hospital). (Emphasis added.)

Accordingly, because a township, pursuant to R.C. 505.84, is empowered to collect charges for the use of fire and rescue, ambulance, or emergency medical services, it is vested with discretion to establish the method of collection so long as the discretion is exercised in a lawful manner. *See, e.g.*, R.C. 9.35(B).

You have asked whether a township may hire a company—presumably not the entity providing the fire, ambulance, or emergency medical services—to collect charges on behalf of the township. The logic set forth in 1984 Op. Att’y Gen. No. 84-048 guides us here. That is, for the reasons set forth in 1984 Op. Att’y Gen. No. 84-048 and 1971 Op. Att’y Gen. No. 71-066, a township may hire a private collection company to collect charges on behalf of the township in payment for fire and rescue, ambulance, or emergency medical services, provided they are charges the township may lawfully collect, and further provided that the charges are paid to the township and deposited in the fire and rescue services, ambulance services, and emergency medical services fund, as required by R.C. 505.84.⁷

Whether a Private Collection Company May Add Collection or Administrative Fees to Bills Sent on Behalf of a Township

The conclusion that a township may hire a company to send out bills on behalf of the township for the use of fire and rescue, ambulance, or emergency medical services compels a discussion of how a township may pay a private collection company for the company’s services. This issue is related to your question whether a private collection company may add collection or administrative fees to the bills sent out on behalf of a township. That is, a person’s bill would include not only charges for the actual costs incurred by a township on behalf of the person, but also an additional charge imposed by the collection company. The additional charge is intended to compensate the billing company for its services.

⁷ R.C. 505.441 addresses arrangements by which an entity may collect charges on behalf of a township and also retain the charges collected. R.C. 505.441 authorizes only a party that provides ambulance, emergency medical, or nonemergency patient transport services pursuant to R.C. 505.44 to both collect and retain fees owed a township. R.C. 505.44 and R.C. 505.441 do not concern fire protection service contracts and do not address private collection companies (*i.e.*, companies that are not the entities actually providing the ambulance, emergency medical, or nonemergency patient transport services).

We find no authority for a township to authorize a private collection company to add collection or administrative fees to bills sent out on behalf of a township to persons who have used fire and rescue, ambulance, or emergency medical services. Rather, as we have concluded above, all charges collected by a private collection company on behalf of a township in payment for the use of fire and rescue, ambulance, or emergency medical services must be paid over to the township and deposited in the fire and rescue services, ambulance services, and emergency medical services fund, as required by R.C. 505.84. *See* note 7, *supra*.

However, pursuant to R.C. 505.84, the fire and rescue services, ambulance services, and emergency medical services fund “shall be used for the payment of the costs of the management, maintenance, and operation of fire and rescue services, ambulance services, and emergency medical services in the township.” The term “management” is not defined by the statute, but its common definition includes “the act or art of managing : the conducting or supervising of something (as a business).” *Merriam-Webster’s Collegiate Dictionary* 754 (11th ed. 2007); *see generally* R.C. 1.42 (when a term is not defined by statute, the term’s common or ordinary meaning should be used in applying the statute). “Manage” means “to exercise executive, administrative, and supervisory direction of” for example, a business. *Merriam-Webster’s Collegiate Dictionary* 754 (11th ed. 2007). Billing persons for the use of fire and rescue, ambulance, or emergency medical services is part of the management of those services for a township. Accordingly, a township may use moneys from the fire and rescue services, ambulance services, and emergency medical services fund to pay a private collection company to send out bills on behalf of the township for those services.

R.C. 505.84 permits a township to establish reasonable charges for fire, ambulance, and emergency medical services. *See Fed. Gas & Fuel Co. v. City of Columbus*, 96 Ohio St. 530, 541, 118 N.E.103 (1917), *appeal dismissed*, 248 U.S. 547 (1919); 1984 Op. Att’y Gen. No. 84-048, at 2-152 (modified, in part, on other grounds, by 2003 Op. Att’y Gen. No. 2003-017). Should a township find that the cost of providing fire, ambulance, and emergency medical services has increased, the township is authorized to increase the charges for those services within reason. That is, a township may increase its charges for fire, ambulance, and emergency medical services, within reason, to include in those charges costs incurred by the township to pay a private collection company for billing services.

Alternative Methods of Cost Recovery

A township is not without resources to recover the costs it incurs in mitigating damages associated with vehicle accidents in township territory. Supplementary materials included with your request note an abundance of case law supporting the idea that negligent drivers may be held financially responsible for local government resources that are required as a result of the drivers’ negligent actions. *See, e.g., Gallick v. Baltimore & Ohio R.R. Co.*, 372 U.S. 108, 120 (1963); *Strother v. Hutchinson*, 67 Ohio St. 2d 282, 287, 423 N.E.2d 467 (1981); *Mudrich v. Standard Oil Co.*, 153 Ohio St. 31, 36, 90 N.E.2d 859 (1950).

A township may bring legal action against persons who cause injury to any township road. R.C. 5571.09. R.C. 5571.09 authorizes a board of township trustees to “bring and maintain all suits involving an injury to any township road, ditch, drain, or watercourse under the jurisdiction of such board.” In this way, a board of township trustees “may recover ... any money or other property due the township” as a result of such injuries. *Id. See generally Bd. of Etna Twp. Trs. v. Mays*, No. 92-CA-104, 1993 WL 289868 (Licking County July 19, 1993) (“[c]learly R.C. 5571.09 does not create a strict liability standard which renders a tortfeasor liable for damages upon that standard. The trial court explicitly concluded and we agree: [] R.C. 5571.09 enables a Board of Township Trustees to bring suit for damages ... to prevent such injury but does not create a standard of strict liability” and “[t]he standard for determining whether a person is liable to a Board of Township Trustees for injury to a township road is the common law standard of negligence”).

Similarly, R.C. 5577.12 provides that “[a]ny person violating any law relating to or regulating the use of the improved public roads shall be liable for all damage resulting to any such street, highway, bridge, or culvert by reason of such violation.” Further, “in the case of an injury to an improved public street, road, bridge, or culvert of a township, the damages shall be recovered by a civil action prosecuted by the board of township trustees.” R.C. 5577.12.

Legislative Remedy

In times of economic malaise, township officials must work within the existing statutory framework to allocate limited resources as required by law. *See State ex rel. Trussell v. Meigs Cnty. Bd. of Comm’rs*, 155 Ohio App. 3d 230, 2003-Ohio-6084, 800 N.E.2d 381, at ¶26 (Meigs County). If changes in statutory authority are desired, the remedy lies with the General Assembly. 2004 Op. Att’y Gen. No. 2004-035, at 2-321; 1983 Op. Att’y Gen. No. 83-034, at 2-131. *See also Bd. of Educ. v. Fulton Cnty. Budget Comm’n*, 41 Ohio St. 2d 147, 156, 324 N.E.2d 566 (1975) (“[t]he remedy desired by appellants ... must be obtained from the source of their problem—the General Assembly”).

Conclusion

Based on the foregoing, it is my opinion, and you are hereby advised that:

1. Pursuant to R.C. 505.84, reasonable charges incurred by a township in the provision of fire and rescue services, ambulance services, or emergency medical services may be billed to township residents and nonresidents or to their respective insurance companies. (1950 Op. Att’y Gen. No. 2396, p. 685 (syllabus, paragraph 2) and 1943 Op. Att’y Gen. No. 5798, p. 44 (syllabus, paragraph 3), overruled, in part, due to statutory amendment.)

2. A township does not have the authority to bill persons who cause damage to township property or cause vehicle accidents that require clean-up resources unless those accidents involve unauthorized spills, releases, or discharges of material into or upon the environment that are subject to R.C. 3745.13.
3. A township does not have the authority to bill persons who cause vehicle accidents for the use of law enforcement response or investigation time. (1971 Op. Att’y Gen. No. 71-045 (syllabus, paragraph 4), approved and followed.)
4. A township may hire a company to send out bills on behalf of the township for the use of fire and rescue, ambulance, or emergency medical services, provided they are charges the township may lawfully collect, and further provided that the charges are paid to the township and deposited in the fire and rescue services, ambulance services, and emergency medical services fund, as required by R.C. 505.84.
5. A collection company may not add collection or administrative fees to bills for the use of fire and rescue, ambulance, or emergency medical services collected on behalf of a township. A township may use moneys from the fire and rescue services, ambulance services, and emergency medical services fund to pay a collection company to send out bills for those services on behalf of the township.

Very respectfully yours,

A handwritten signature in blue ink that reads "Michael Dewine". The signature is written in a cursive style with a large, stylized initial "M".

MICHAEL DEWINE
Ohio Attorney General