OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 23
135th General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsor: Rep. Edwards

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PUBLIC UTILITIES COMMISSION

Railroads

Wayside detector systems

- Requires a person who receives a message regarding a defect detected by a wayside detector system to immediately notify the operator of the applicable train, rolling stock, or on-track equipment if the receiver of the message is not the operator.
- Requires the Public Utilities Commission (PUCO) and Ohio Department of Transportation (ODOT) to work with each railroad company that does business in Ohio to ensure that wayside detector systems (systems that detect defects on moving trains, rolling stock, and on-track equipment) used by those companies are operational, effective, and current.
- In accordance with federal regulations, requires the PUCO and ODOT to investigate the safety practices of any railroad company that does not work with them in good faith related to the use of the wayside detector systems.
- Requires the PUCO and ODOT to issue a report to the Federal Railroad Administration (FRA) recommending enforcement action against the railroad company if the results of an investigation show that the company does not appear to be in compliance with federal safety standards.
- Requires the PUCO and ODOT to issue a copy of that report to the Governor, the Senate President, the Speaker of the House, and the Minority Leaders of both the Senate and the House of Representatives.

Two-person freight train crews

- Requires a train or light engine used in connection with the movement of freight to have at least a two-person crew.
- Specifies that the two-person crew requirement is solely related to safety.
- Permits the PUCO to assess a civil penalty against a person who violates the two-person crew requirement.
- Requires the Attorney General to bring a civil action to collect the civil penalty for violating the two-person crew requirement upon request to do so from PUCO.
- Provides that the above provisions no longer apply if the federal government adopts a two-person crew requirement for trains or light engines in Ohio.

Hazardous waste transportation report

- Requires the PUCO and Ohio Environmental Protection Agency (OEPA) to prepare and submit a written report to the General Assembly, within 90 days of the bill's effective date, pertaining to the transportation of hazardous materials and hazardous waste.

Wayside detector systems

(R.C. 4955.50 and 4955.51)

The bill requires the Public Utilities Commission (PUCO) and the Ohio Department of Transportation (ODOT) to work with each railroad company that does business in Ohio to ensure that their wayside detector systems are operational, effective, and current. Wayside detector systems are the electronic devices or series of connected devices that scan passing trains, rolling stock, on-track equipment, and their component equipment and parts for defects. Defects include hot wheel bearings, hot wheels, defective bearings, dragging equipment, excessive height or weight, shifted loads, low hoses, rail temperature, and wheel condition. Given the size and speed of trains, the wayside detector systems often are crucial for detecting and warning operators about defects that may result in an accident.

In examining the wayside detector systems, the PUCO, ODOT, and railroads must consider all of the following:

1. Whether the systems are properly installed, maintained, repaired, and operational in accordance with the U.S. Department of Transportation, Federal Railroad Administration (FRA), and Association of American Railroads standards;
2. Whether expired, nonworking, or outdated systems or component parts are removed and replaced with new parts or an entirely new system that reflects the current best practices and industry standards;
3. That the distance between the systems is appropriate when accounting for natural terrain, safety considerations, and sufficient response time in managing any defect alerts; and
4. That each railroad company has defined, written standards and training for employees relating to the systems, their defect alerts, the course of action that employees are required to take to respond to an alert, and appropriate monitoring and responses by the company if employees fail to take the required course of action.

The bill requires all wayside detector systems installed and operating in Ohio to either send their emergency alerts to the operator of the train, rolling stock, or on-track equipment, or to have the person who receives the emergency alert immediately notify the operator of the defect. The PUCO and ODOT must ensure the systems act accordingly as part of their consideration of wayside detector systems in Ohio.

Investigation

If a railroad company refuses to work or otherwise cooperate with the PUCO and ODOT in good faith, the bill requires the PUCO and ODOT to investigate that railroad company's safety practices and standards. The investigation must be in accordance with the federal regulations that authorize state investigations (49 C.F.R. Part 212). If the railroad company does not appear to be in compliance with the federal railroad safety laws, the PUCO and ODOT must report the noncompliance to the FRA and recommend that the FRA take enforcement action against the railroad company. The PUCO and ODOT must send a copy of that report to the Governor, the President of the Senate, the Speaker of the House, and the Minority Leader of both the Senate and the House of Representatives.

In the case of laws related to railroad safety and security, the federal government has expressly preempted state laws on the subject, with certain narrow exceptions.[1] As part of that preemption, Ohio cannot directly regulate or impose penalties on a railroad company for failure to comply with state or federal regulations. However, FRA regulations authorize state participation in investigative and surveillance activities related to federal railroad safety, such as the investigative activities authorized by the bill.[2] Also, if the FRA does not act on a state's request for FRA action within a certain time period, a state may bring an action in federal court for assessment of federally authorized civil penalties or may bring an action for injunctive relief.[3]

Two-person freight train crews

(R.C. 4999.09)

The bill requires a train or light engine that moves freight to have a crew that consists of at least two individuals. No railroad superintendent, trainmaster, or other railroad employee can order or "otherwise require" a train or light engine used in connection with the movement of freight to be operated unless it has at least a two-person crew. (Hostler service[4] and utility employees[5] are not subject to the minimum crew requirement; neither term is defined in the bill).

The bill specifies that the two-person crew requirement is solely related to safety, including ensuring that no train or light engine used in connection with the movement of freight in Ohio is left without a functional crew person as a result of a medical emergency. Despite safety requirement clarification, it is unclear what the medical emergency language means with regard to a two-person crew.

Civil penalties

Under the bill, the PUCO may assess a civil penalty against a person who has willfully violated the minimum crew requirement as follows:

Violation	Penalty Range
If, within three years of the violation, PUCO has not assessed a civil penalty	$250 – $1,000

[1] 49 United States Code (U.S.C.) § 20106.

[2] 49 Code of Federal Regulations (C.F.R.) Part 212.

[3] 49 C.F.R. 212.115.

[4] According to railroad industry usage, "hostler service" involves moving locomotives within a railroad yard to various locations for fuel, cleaning, service, and repair.

[5] Federal regulations define "utility employees" as railroad employees that are temporarily part of a train or yard crew to help the crew assemble, disassemble, or classify rail cars or operate trains. C.F.R. 218.5.

Violation	Penalty Range
If, within three years of the violation, PUCO has assessed one civil penalty	$1,000 – $5,000
If, within three years of the violation, PUCO has assessed two or more civil penalties	$5,000 – $10,000

The bill requires the Attorney General, upon PUCO's request, to bring a civil action to collect these penalties. Penalties collected under the bill are deposited to the credit of the Public Utilities Fund. The fund is used for PUCO's administration and its supervision and jurisdiction over the state's railroads and public utilities.[6]

Provisions not applicable if federal requirements imposed

The bill provides that all of the provisions discussed above no longer apply on and after a federal law or regulation takes effect requiring a train or light engine used in connection with the movement of freight in Ohio to have a crew of at least two individuals. If Ohio enacts a two-person crew requirement that conflicts with federal rulemaking on the matter, a court could find that the requirement is unconstitutional under the Supremacy Clause of the U.S. Constitution.[7]

Hazardous waste transportation report

(Section 749.10)

The bill requires the PUCO and Ohio Environmental Protection Agency (OEPA) to prepare and submit a written report to the General Assembly regarding the transportation of hazardous materials and hazardous waste. The report must examine current federal and state laws specific to both of the following:

1. The regulations and protocols pertaining to the transportation of hazardous materials and hazardous waste; and
2. Any requirements pertaining to when, how, and to whom the transportation of hazardous materials and hazardous waste must be disclosed.

The written report also must include recommendations for (1) strengthening Ohio's safety requirements for hazardous materials and waste transportation, and (2) appropriate enhancements to current civil and criminal penalties related to the mishandling of hazardous materials or waste and the failure to meet disclosure requirements. The PUCO and OEPA must submit the report to the General Assembly within 90 days of the bill's effective date.

[6] R.C. 4905.10, not in the bill.

[7] Govinfo.gov/content/pkg/FR-2022-07-28/pdf/2022-15540.pdf. See United States Constitution, Article VI, Cl. 2.

DEPARTMENT OF TRANSPORTATION

Ohio Rail Development Commission

Composition of the Commission

- Beginning on October 21, 2025 (or, at an earlier date, if the current chairperson vacates their position), specifies that the Director of Transportation or the Director's designee must serve as the chairperson of the Ohio Rail Development Commission.
- Specifies that when the Director begins serving as the chairperson both of the following occur:
  - The Governor will no longer appoint one member to be the chairperson; but
  - The number of commission members appointed by the Governor to represent the general public increases from one to two, thereby maintaining the current number of members on the Commission.

Passenger rail

- Allows the Commission to utilize a designee to construct and operate an intercity conventional or high speed passenger transportation system.
- Specifies that the plan for the system must provide for the connection of any points in Ohio and nearby states, rather than providing for the connection of Cleveland, Columbus, and Cincinnati and any points in between only, as in current law.

Regional Transit Authority (RTA) audits

- Eliminates a requirement that the State Auditor annually conduct an audit of the accounts and transactions of one large and two small RTAs.
- Eliminates the associated requirement that the Auditor send a copy of that audit report to the Senate President, Speaker of the House, and Director of Budget Management within 90 days of completion.
- Retains the general requirement that the Auditor audit all RTAs pursuant to the law governing the audit of public agencies.

Highway ramps

- Requires ODOT to ensure that limited access exit and entrance ramps to interstate highways exist at least every 4.5 miles in adjacent municipal corporations, provided that:
  - Each municipal corporation has a population above 35,000;
  - The municipal corporations are located in different counties; and
  - At least one of the municipal corporations is in a county with a population above one million.

- Requires ODOT use money appropriated to it for highway purposes to construct the ramps.

State Infrastructure Bank

- Requires any loan made to a small municipal corporation by ODOT from the State Infrastructure Bank to be a zero-interest loan.
- Requires a municipal corporation to qualify for ODOT's Small City Program to be eligible for a zero-interest loan.

Oversize/overweight limits and permits

- Authorizes a vehicle powered primarily by electric battery power to exceed the statutory gross vehicle weight and axle load limits by up to 2,000 pounds.
- Requires the ODOT Director and every county to issue an annual permit for both of the following:
  - The vehicles that haul farm machinery, when the farm machinery otherwise qualifies for the ODOT "Farm Equipment Permit" or a similar county permit for farm machinery and equipment; and
  - The vehicles that haul agricultural produce or agricultural production materials that otherwise could be hauled by farm machinery under the ODOT "Farm Equipment Permit" or a similar county permit for farm machinery and equipment.

ODOT pavement selection process analysis

- Requires ODOT to contract with a neutral third-party entity to conduct a study of the Department's pavement selection process.
- Requires the ODOT Director to appoint an advisory council to recommend the neutral third-party entity, oversee the study, and make final recommendations based on the study.
- Requires ODOT to make changes to its pavement-selection process based on the neutral third-party entity's study and recommendations included in the advisory council's final report.

Ohio Workforce Mobility Partnership Program

- Creates the two year Ohio Workforce Mobility Partnership Program and requires ODOT to administer it.
- Authorizes the boards of trustees of one or more RTAs, from either urban or rural locations, to singularly or jointly apply for grant funding under the program.
- Requires RTAs to use grant funding for specified purposes related to supporting workforce transit, such as supporting the employment needs of economically significant employers.

- Requires the ODOT Director to manage the program by establishing any necessary procedures and requirements, such as establishing grant application and evaluation processes.
- Earmarks $15million in each fiscal year from Highway Operating Fund (Fund 7002) appropriation item 772422, Highway Construction − Federal for ODOT to administer the program.

Private transit voucher study

- Requires the Office of Transit within ODOT to conduct a study to evaluate the use of private transit vouchers for low-income individuals that evaluates both of the following:
  - Whether the use of private transit vouchers would benefit low-income individuals in maintaining effective access to transportation services; and
  - Whether the distribution of private transit vouchers is a cost-effective option to eliminate public transit routes with low ridership.

Strategic transportation and development analysis

- Requires ODOT, in collaboration with the Department of Development and the Governor's Office of Workforce Transportation, to conduct a statewide study of the Ohio transportation system.
- Specifies that the study analyze various aspects of Ohio's current transportation systems and capacities and forecast future needs and how those needs may be met.

Brent Spence Bridge Corridor Project

- Specifies that all spending related to the Brent Spence Bridge Corridor Project be documented in the Ohio Administrative Knowledge System (OAKS) and visible in the Ohio State and Local Government Expenditure Database.

Indefinite delivery indefinite quantity (IDIQ) contracts

- Authorizes the ODOT Director to enter into indefinite delivery indefinite quality (IDIQ) contracts for up to two projects in FYs 2024 and 2025.
- For IDIQ contracts, requires the Director to prepare bidding documents, establish contract forms, determine contract terms and conditions, develop and implement a work order process, and take any other action necessary to fulfill the Director's duties and obligations related to IDIQ contracts.

Ohio Rail Development Commission

Composition of the Commission

(R.C. 4981.02)

The bill modifies the makeup of the Ohio Rail Development Commission by specifying that on October 21, 2025, or when the current chairperson of the Commission vacates their position before that date, the Director of Transportation or the Director's designee must serve as the chairperson of the Commission. The Director currently serves as a voting member of the Commission, but current law requires the Governor (with the advice and consent of the Senate) to appoint a chairperson. Under the bill, once the Director or the Director's designee becomes chairperson, the Governor must appoint another member of the Commission who represents the general public.

The Commission currently is comprised of 15 members – four nonvoting members from the legislature; two voting members, one appointed by the Senate President and one appointed by the Speaker of the House; the Director of Transportation and the Director of Development Services, both voting members; and seven voting members appointed (with the advice and consent of the Senate) by the Governor. The seven members appointed by the Governor are: (1) a chairperson, (2) a person who represents the interests of a freight rail company, (3) a person who represents the interests of passenger rail service, (4) a person who has expertise in infrastructure financing, (5) a person who represents the interests of organized labor, (6) a person who represents the interests of manufacturers, and (7) a person who represents the general public.

Under the bill, the Governor still will appoint seven members after October 21, 2025 (or on the date that the current chairperson vacates their position), but will appoint two general public members instead of one general public member and one chairperson.

Passenger rail

(R.C. 4981.04)

The bill allows the Ohio Rail Development Commission to utilize a designee to construct and operate an intercity conventional or high speed passenger transportation system. Current law requires the Commission to develop a plan for the construction and operation of that type of system. It also limits the authority for construction and operation of the system to the Commission.

The bill further specifies that the plan must provide for the connection of any points in Ohio and nearby states, as determined by the Commission. Current law limits the plan to providing for the connection of Cleveland, Columbus, and Cincinnati and any points in between those cities only.

Regional Transit Authority (RTA) audits

(Repealed R.C. 5501.09; R.C. 117.11, not in the bill)

The bill eliminates a requirement that the State Auditor annually conduct an audit of the accounts and transactions of one large and two small RTAs. Accordingly, the bill eliminates the

associated requirement that the Auditor send a copy of that audit report to the Senate President, Speaker of the House, and Director of Budget Management within 90 days of completion. Under current law retained by the bill, the Auditor must audit all RTAs pursuant to the law governing the audit of public agencies. However, a copy of that report is not required to be sent to the President, Speaker, and Director.

Highway ramps

(R.C. 5501.60)

The bill requires ODOT to ensure that limited access exit and entrance ramps to interstate highways exist at least every 4.5 miles in adjacent municipal corporations, provided that:

- Each municipal corporation has a population above 35,000 (based on the most recent federal ten-year census);
- The municipal corporations are located in different counties; and
- At least one of the municipal corporations is in a county with a population above one million (based on the most recent federal ten-year census).

Under current law, ODOT has jurisdiction over the placement, establishment, construction, maintenance, and repair of interstate highways and their exit and entrance ramps. Generally, ODOT works with municipal corporations on construction projects when an interchange is necessary or desired by either ODOT or the municipal corporation. Multiple factors are considered before construction, including economic activity, environmental impact, safety, residential character and location, property rights, controlling urban sprawl, farmland preservation, construction costs, and funding.

State Infrastructure Bank

(R.C. 5531.09)

The State Infrastructure Bank consists of federal grants and awards, other assistance received by ODOT, and any other money appropriated by law. It is administered by the Director of Transportation. Money in the Bank is used to provide loans, loan guarantees, and other financial support to encourage public and private investments in transportation projects in Ohio. Both public and private entities may apply for financial assistance from the Bank.

The bill requires the ODOT Director to provide zero-interest loans from the Bank to small cities. To be eligible, a small city must meet the qualifications of ODOT's Small City Program. The Small City Program provides federal funds to small cities with populations from 5,000 to 24,999 that are not located within a metropolitan planning organizations' boundaries.

Oversize/overweight limits and permits

(R.C. 4513.34 and 5577.044)

Current law prohibits a person from operating a vehicle on highways and bridges if the size or weight of the vehicle exceeds certain statutory limitations, unless the vehicle qualifies for an exemption or the owner has a special permit. Currently, a vehicle fueled solely by

compressed natural gas (CNG) or liquid natural gas (LNG) may exceed the gross vehicle weight and axle load limits by up to 2,000 pounds. The bill extends this same exemption to a vehicle powered primarily by electric battery power. Similar to the CNG or LNG vehicle, the battery-powered vehicle may not exceed the weight and load limits on a highway, road, or bridge that is subject to reduced maximum weights.

Current law also provides for a general size exemption for farm machinery and an additional allowance for farm machinery to exceed the weight limits up to 7.5% while transporting farm commodities. Farm machinery includes all of the machines and tools used in the production, harvesting, and care of farm products (e.g., trailers used for agricultural produce, agricultural tractors, threshing machinery, hay-baling machinery, corn shellers, hammermills, etc.) Generally, the owner of farm machinery must obtain a farm equipment permit to cover weight above the 7.5% allowance and for other use of that machinery on the roads and highways beyond farm commodity transportation.[8]

The farm equipment permit issued by ODOT is a one-year permit. However, if the same farm machinery or the agricultural products hauled by that farm machinery is loaded onto a commercial trailer or semitrailer, the ODOT permit is a 90-day permit.[9] The bill thus requires ODOT and every county to issue an annual permit for both of the following:

1. The vehicles that haul farm machinery, when the farm machinery otherwise qualifies for the ODOT "Farm Equipment Permit" or a similar county permit for farm machinery and equipment; and
2. The vehicles that haul agricultural produce or agricultural production materials that otherwise could be hauled by farm machinery under the ODOT "Farm Equipment Permit" or a similar county permit for farm machinery and equipment.

The bill allows the ODOT Director and the counties to continue to issue permits for those vehicles for less than a year in addition to the annual permit. Additionally, the Director and counties may establish the fees for the permits. The fees are designed to compensate for damages caused to the road, highway, or bridges over which the overweight vehicle travels.

ODOT pavement selection process analysis

(Section 755.10)

The bill requires ODOT, subject to Controlling Board approval, to contract with a neutral third-party entity to conduct a study of ODOT's pavement selection process. The study must include a life cycle cost analysis and user delay analysis and a review of constructability and environmental factors. The entity must be an individual or an academic, research, or professional association with an expertise in pavement selection processes. The entity cannot be a research center for concrete or asphalt pavement. The third-party entity's study must

[8] R.C. 4501.01(U), 5577.042, and 5577.05, not in the bill.

[9] Ohio Administrative Code (O.A.C.) 5501:2-1.

compare and contrast ODOT's pavement selection process with those of other states and with model selection processes as described by the American Association of State Highway and Transportation Officials and the Federal Highway Administration.

By July 31, 2023, the bill requires ODOT to appoint an advisory council to recommend the neutral third-party entity and to approve the scope of study. The advisory council must consist of the following members:

1. The ODOT Director, who must act as Chairperson of the council;
2. A member of the Ohio Society of Certified Public Accountants;
3. A member of a statewide business organization representing major corporate entities from a list of three names recommended by the Speaker of the House of Representatives;
4. A member of the Ohio Society of Professional Engineers;
5. A member of a business organization representing small or independent businesses from a list of three names recommended by the President of the Senate;
6. A representative of the Ohio Concrete Construction Association; and
7. A representative of Flexible Pavements Association of Ohio, Inc.

Members of the advisory council representing the Ohio Society of Certified Public Accountants, the Ohio Society of Professional Engineers, the small or independent businesses, and the major corporate entities cannot have any conflict of interest with the position.

The advisory council must select the neutral third-party entity and determine the scope of the entity's study by September 1, 2023. Once appointed, the council must meet at least every 30 days to direct and monitor the work of the neutral third-party entity, including responding to any questions raised by that entity. The council must publish a schedule of meetings and provide adequate public notice of the meetings. The meetings are subject to public meeting requirements.

The advisory council must issue a final report to the Director with recommendations concerning ODOT's pavement selection process. The report and recommendations must take into account the study conducted by the neutral third party. The advisory council must allow a comment period of at least 30 days before issuing its final report, which must be completed by December 31, 2023. The council ceases to exist once it issues the final report.

ODOT must make changes to its pavement-selection process based on the neutral third-party's study and recommendations included in the advisory council's final report.

Ohio Workforce Mobility Partnership Program

(Sections 203.45 and 755.20)

The bill establishes a two year Ohio Workforce Mobility Partnership Program and requires ODOT to administer it. Under the program, the board of trustees of any regional transit authority (RTA) (urban or rural) may singularly or jointly apply for grant funding for individual or collaborative projects. The grant funding must be used to support the

transportation of resident workforce members between the service territories of the RTAs. An economically significant employment center is a single site, multiple adjoining sites, or a business park where the employers located at the site or park employ at least 250 full-time onsite employees.

The boards must also use the money to focus on transportation that supports the employment needs of economically significant employment centers located within or near the service territories of RTAs. Specifically, that support must include easy, efficient, and economical transportation for a resident workforce that may either:

1. Live in an RTA service territory with little or no public transit access to an economically significant employment center; or
2. Live within one RTA's service territory but be employed full-time within another RTA's service territory.

The ODOT Director must manage the program by establishing any necessary procedures and requirements to administer it. Those may include grant application procedures, application evaluation criteria, award processes, and any conditions for spending grant money awarded under the program. The bill earmarks $15 million in each fiscal year from Highway Operating Fund (Fund 7002) appropriation item 772422, Highway Construction − Federal for ODOT to administer the program.

Private transit voucher study

(Section 755.30)

The bill requires the Office of Transit (within ODOT) to conduct a study to evaluate the use of private transit vouchers for low-income individuals. For purposes of the study, a private transit voucher is a voucher for ridesharing, transportation network company, taxicab, or other similar vehicle for hire arrangements. A low-income individual is an individual residing within a family unit with an income that is 400% or less of the federal poverty level.

The study must specifically evaluate whether the use of the private transit vouchers would:

1. Benefit low-income individuals in maintaining effective access to transportation services; and
2. Be a cost-effective option to eliminate public transit routes with low ridership.

The Office must submit a report of its findings and recommendations by July 1, 2024, to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the respective committees of the House of Representatives and Senate responsible for transportation-related matters.

Strategic transportation and development analysis

(Section 203.47)

The bill requires ODOT, in collaboration with the Department of Development and the Governor's Office of Workforce Transformation, to conduct a statewide study of the Ohio transportation system. The study must do all of the following:

1. Analyze statewide and regional demographics;
2. Investigate economic development growth opportunities;
3. Examine current transportation systems and capacities;
4. Forecast passenger and freight travel needs over a 10-, 20-, and 30-year timeframe;
5. Identify current and future transportation links;
6. Evaluate and rank current and potential risks of future system congestion; and
7. Make actionable recommendations for transportation system projects to support statewide economic growth, especially in improving the links between Toledo and Columbus and Sandusky and Columbus.

ODOT may contract with third parties, as necessary, to execute the study. The bill appropriates $10 million in FY 2024 for the study.

Brent Spence Bridge Corridor Project

(Section 203.47)

The bill requires ODOT to document all spending related to the Brent Spence Bridge Corridor Project in the Ohio Administrative Knowledge System (OAKS) and made visible in the Ohio State and Local Government Expenditure Database. The Database is maintained by the State Treasurer and the Directors of Budget and Management and Administrative Services and is accessible on their websites. It is designed to track state expenditures and create greater transparency with the public.[10]

Indefinite delivery indefinite quantity (IDIQ) contracts

(Section 203.100)

The bill requires the ODOT Director to advertise, seek bids for, and award indefinite delivery indefinite quantity (IDIQ) contracts for up to two projects in FYs 2024 and 2025. An IDIQ contract is a contract for an indefinite quantity, within stated limits, of supplies or services that will be delivered by the awarded bidder over a defined contract period. When entering into IDIQ contracts, the Director must prepare bidding documents, establish contract forms,

[10] For additional information regarding the Ohio State and Local Government Expenditure Database, see the LSC Final Analysis for H.B. 110 of the 134th General Assembly (PDF), which is available on the General Assembly's website: legislature.ohio.gov.

determine contract terms and conditions, develop and implement a work order process, and take any other action necessary to fulfill the Director's duties and obligations related to IDIQ contracts. The Director must ensure that an IDIQ contract includes the maximum overall value of the contract, which may include an allowable increase of $100,000 or 5% of the advertised contract value, whichever is less, and the duration of the contract, including a time extension of up to one year if determined appropriate by the Director. The requirements pertaining to IDIQ contracts are an extension of the requirements from previous transportation budgets.

DEPARTMENT OF PUBLIC SAFETY

Pay ranges for Highway Patrol officers and other employees

- Establishes pay range 19 and step value seven in pay range 17 in salary schedule E-1 for exempt state employees and repeals a requirement that the Director of Administrative Services adopt rules establishing pay range 19 and step value seven in pay range 17.
- Prohibits all employees except Highway Patrol captains from being assigned to step value seven in pay range 17 of schedule E-1.
- Beginning July 1, 2023, assigns exempt sergeants and lieutenant colonels in the Ohio State Highway Patrol, or their equivalents, to pay ranges 14 and 19, respectively, in salary schedule E-1.

Noncommercial trailer registration

- Requires the Registrar of Motor Vehicles to authorize an owner or a lessee of a noncommercial trailer to register the trailer permanently.
- Specifies that the one-time cost of a permanent registration is:
  - Eight times the annual registration tax for a noncommercial trailer (which is determined by the weight of the trailer);
  - Eight times the annual $11 Bureau of Motor Vehicles (BMV) fee;
  - Eight times the amount of any local motor vehicle taxes (if applicable); and
  - Eight times the $5 deputy registrar/BMV service fee.
- Specifies that a permanent registration is not transferable to any other trailer and is nonrefundable.

Plug-in hybrid electric motor vehicle additional registration fee

- Reduces, from $200 to $100, the additional motor vehicle registration fee that applies to plug-in hybrid electric motor vehicles.
- Delays the application of the fee reduction until January 1, 2024.

Removable windshield placard expiration

- Extends the maximum validity period from five years to ten years for a removable windshield placard issued to a person with a disability that limits or impairs the ability to walk.

Motor vehicle certificate title

- Requires the purchaser of a financed motor vehicle to affirmatively choose between receiving a physical certificate of title or having the title remain electronic upon completion of all payments financing the motor vehicle.

- Requires the lender to have a physical certificate of title delivered to the purchaser, without any additional fee, if the purchaser elects to have a physical certificate of title.

Enhanced driver's licenses and ID cards

- Requires the Director of Public Safety to enter into an agreement with the U.S. Department of Homeland Security in order to obtain approval to issue enhanced driver's licenses, enhanced commercial driver's licenses (CDL), and enhanced identification (ID) cards.
- Requires the Registrar of Motor Vehicles to adopt rules governing the issuance and security of enhanced driver's licenses, CDLs, and ID cards, all of which facilitate land and sea border crossings between the U.S. and Canada, Mexico, and the Caribbean.
- Requires an applicant for an enhanced driver's license, CDL, or ID card to comply with specified application requirements, including providing proof of citizenship and paying an additional $25 fee.
- Stipulates that the Ohio laws applying to driver's licenses, CDLs, and ID cards apply to their enhanced versions, unless otherwise specified.

Tinted motor vehicle windows

- Reduces the criminal penalty for minor misdemeanor motor vehicle window tinting violations from a fine of up to $150 to a fine of up to $25.
- Expands an exception to existing window tinting prohibitions to allow a law enforcement agency to use nonconforming tinted windows on any vehicle used in the scope of the agency's duties, rather than limiting that use to special investigatory and canine unit purposes, as in current law.

Pay ranges for Highway Patrol lieutenants and other employees

(R.C. 124.152 and 5503.031; Section 812.15)

The bill establishes pay range 19, which applies to exempt state employees beginning July 1, 2023. An employee assigned to pay range 19 must be paid between $120,286 annually ($57.83 per hour) and $157,643 annually ($75.79 per hour), depending on the assigned step value (the bill establishes six step values for pay range 19).

The bill also establishes step seven in pay range 17, to begin July 1, 2023. An employee assigned to step value seven in pay range 17 of schedule E-1 must be paid an annual salary of $137,217 (approximately $65.97 per hour). However, only a captain in the Highway Patrol may be assigned to step value seven in pay range 17. While other employees paid in accordance with schedule E-1 may be assigned to pay range 17, step values one through six, no other employee paid in accordance with the schedule may be assigned to step value seven.

The bill repeals a requirement established in H.B. 462 of the 134th General Assembly, effective April 3, 2023, that the Director of Administrative Services adopt rules establishing pay

range 19 and step value seven in pay range 17. Under current law, the rules adopted by the DAS Director must identify the hourly and annual pay for step value seven in range 17, which must be proportionally higher than the hourly and annual pay for step value six. The rules establishing pay range 19 must require an individual be paid a minimum annual salary of $101,935 up to a maximum annual salary of $122,465. The rules also must create step values within the range and determine the hourly and annual pay for each step.

The bill prohibits the DAS Director from taking any action with respect to the rule adoption requirements repealed by the bill. It also specifies that the elimination of the rule adoption requirement takes effect July 1, 2023.

The requirement for the DAS Administrator to adopt the pay schedule rules takes effect April 3, 2023, which is before the date the repeal of that requirement and the prohibition against taking action are to take effect (July 1, 2023). Therefore, the effect of the prohibition against the DAS Director adopting the rules is unclear.

Beginning July 1, 2023, the bill also requires sergeants in the Ohio State Highway Patrol who are paid in accordance with the exempt employee salary schedules, to be paid in accordance with pay range 14 in schedule E-1. Under continuing law, lieutenants, staff lieutenants, captains, majors, and lieutenant colonels in the Highway Patrol, or their equivalents, must be paid in accordance with the following pay ranges from schedule E-1:

- Lieutenant or equivalent officer, pay range 15;
- Staff lieutenant or equivalent officer, pay range 16;
- Captain or equivalent officer, pay range 17;
- Major or equivalent officer, pay range 18;
- Lieutenant colonel or equivalent officer, pay range 19.

Under continuing law, schedule E-1 generally applies to employees who are part of the state job classification plan and who are not considered public employees for purposes of the Public Employees' Collective Bargaining Law.

Noncommercial trailer registration

(R.C. 4503.10, 4503.103, 4503.107, 4503.11, and 4503.191)

The bill requires the Registrar of Motor Vehicles to authorize an owner or a lessee of a noncommercial trailer to register that trailer permanently. Under current law, the owner or lessee of a noncommercial trailer may only register the trailer annually or for up to five years under the multi-year registration program available to most motor vehicles. The owner or lessee of a commercial trailer or semitrailer, however, has a permanent registration option. The bill creates a similar process for noncommercial trailers.

Permanent registration costs

The bill specifies that the one-time cost of a permanent noncommercial trailer registration is:

1. Eight times the annual registration tax for a noncommercial trailer (the annual tax ranges from $16 to $140, depending on the unladen weight of the trailer up to 10,000 pounds);[11]
2. Eight times the annual Bureau of Motor Vehicles fee (the annual fee is currently $11);
3. Eight times the amount of any local motor vehicle taxes (the annual taxes range from $0 to $30, depending on the taxes levied in the registrant's jurisdiction);[12] and
4. Eight times the deputy registrar/BMV service fee (the fee is currently $5).

Thus, for example a 5,000-pound trailer with a base annual registration cost of $70 ($59 for the annual registration tax plus $11 for the additional annual BMV fee), plus the maximum amount of local motor vehicle taxes ($30), plus the $5 service fee, multiplied by eight, equals $840 for a permanent registration. If the registrant registers in a jurisdiction without a local motor vehicle tax, the cost for permanent registration would be $600.

The cost structure is similar to the current law permanent registration for a commercial trailer or semitrailer. By registering the commercial trailer permanently, the owner or lessee of the trailer pays in advance for eight years of registration, but then pays nothing in registration taxes and fees for the rest of the lifetime of the trailer beyond the eight years.

Permanent registration requirements

In addition to paying all required taxes and fees, an owner or lessee must submit a completed application for registration and comply with all other motor vehicle registration requirements. At that point, the Registrar or deputy registrar must issue to the applicant a permanent license plate and a permanent validation sticker. The noncommercial trailer permanent registration is exclusive to the trailer that is registered, and is not transferable to any other trailer. Additionally, the applicant is not entitled to any refund of any taxes or fees that are paid for the permanent registration (e.g., if the noncommercial trailer only lasts for five years, the applicant cannot get a refund for the additional three years of taxes and fees that were paid on it).

Plug-in hybrid electric motor vehicle additional registration fee

(R.C. 4503.10; Section 803.10)

The bill reduces, from $200 to $100, the additional motor vehicle registration fee that a person must pay when registering a plug-in hybrid electric motor vehicle. A plug-in hybrid electric motor vehicle is a passenger car powered in part by a battery cell energy system that can be recharged via an external source of electricity. The bill delays the application of the fee reduction until January 1, 2024.

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[11] R.C. 4503.04(E), not in the bill.

[12] R.C. Chapter 4504. A local jurisdiction may exempt noncommercial trailers weighing 1,000 pounds or less, at the discretion of the local jurisdiction. R.C. 4504.20, not in the bill.

Current law retained by the bill imposes additional registration fees on other alternative fuel vehicles, as follows:

- $200 for a battery electric motor vehicle (a passenger car powered wholly by a battery cell energy system that can be recharged via an external source of electricity); and
- $100 for a hybrid motor vehicle (a passenger car powered by an internal propulsion system consisting of both a combustion engine and a battery cell energy system that cannot be recharged via an external source of electricity but can be recharged by other vehicle mechanisms that capture and store electric energy).

Removable windshield placard expiration

(R.C. 4503.44)

The bill extends the maximum validity period from five years to ten years for a removable windshield placard issued by the BMV to a person with a disability that limits or impairs the ability to walk. Under current law, the BMV issues two types of removable windshield placards: a standard placard that expires up to five years after the date of issuance and a temporary placard that expires within six months. When an applicant applies for a placard, the applicant must turn in a prescription from an authorized health care provider specifying how long the disability is expected to last. The temporary placard is issued to a person whose disability is expected to last for less than six months (for example, a broken leg). The standard placard is issued to a person with a disability that is expected to last longer than six months. Those with either a disability lasting longer than five years or a permanent disability must renew the standard placard every five years.

Motor vehicle certificate of title

(R.C. 4505.131)

Motor vehicles are often purchased through a financing agreement between a purchaser, motor vehicle dealer, and a lender. When a purchaser finances a motor vehicle, the certificate of title for the motor vehicle is recorded electronically into the Automated Title Processing System (ATPS), with the lien for the financing noted on the electronic title. The certificate of title for that motor vehicle remains an electronic document by default, even after the purchaser has paid off the motor vehicle loan in full. A purchaser may request a physical certificate of title in the name of the purchaser from the clerk of court. However, the purchaser must pay an additional $15 to obtain the physical certificate of title, having paid $15 previously at the point of sale for the electronic certificate of title.

Under the bill, a purchaser may request a physical certificate of title when the loan obtained to purchase the motor vehicle is paid in full. The lender must send a form to the purchaser upon completion of payments allowing the purchaser to affirmatively choose between receiving a physical title or having the title remain electronic. If the purchaser wishes to have a physical title, the lender must obtain and deliver to the purchaser a physical certificate of title at no extra cost to the purchaser.

The process specified above does not apply, however, if the completion of payments is because the purchaser has sold, traded, or otherwise no longer has an ownership interest in the motor vehicle.

Enhanced driver's licenses and ID cards

(R.C. 4506.01, 4506.072, 4506.11, 4507.01, 4507.021, 4507.061, 4507.063, 4507.13, 4507.511, and 4507.52)

Enhanced driver's licenses, which are issued by states, provide proof of identity and U.S. citizenship. They are issued through a secure process, include technology that makes travel easier, and have been approved by the U.S. Secretary of Homeland Security. While they function as a driver's license, they also provide holders an alternative to a passport for purposes of entering the United States from Canada, Mexico, or the Caribbean through a land or sea port of entry. Currently, states that issue enhanced driver's licenses include Michigan, Minnesota, New York, Vermont, and Washington.

An enhanced driver's license makes it easier for a U.S. citizen to cross the border into the U.S. because it includes:

1. A vicinity radio frequency identification (RFID) chip that enables the person's biographic and biometric data to be brought up for inspection by a U.S. Customs and Border Protection officer as the person approaches a border inspection booth; and
2. A machine-readable zone or barcode that the officer can read electronically if equipment to utilize the RFID chip is not available.

Similarly, an "enhanced commercial driver's license" is a commercial driver's license (CDL) that has the characteristics listed above. An "enhanced identification card" is an identification (ID) card that also has those characteristics, but does not authorize the holder to drive.

Memorandum of understanding and adoption of rules

The bill requires the Director of Public Safety to enter into a memorandum of understanding with the U.S. Department of Homeland Security (DHS) or other designated federal agency for purposes of obtaining approval to issue an enhanced driver's license, enhanced CDL, and enhanced ID card. The memorandum of understanding must provide that an enhanced license or ID card is acceptable as proof of identity and citizenship for Ohio residents entering the United States at authorized land and sea ports. In conjunction with DHS or the other designated federal agency, the Director may enter into an agreement with Mexico, the Caribbean countries, Canada, or any Canadian province for purposes of implementing a border-crossing initiative.

Pursuant to the memorandum of understanding, the Registrar of Motor Vehicles, subject to approval by the Director, must adopt rules governing the issuance of an enhanced driver's license, enhanced CDL, and enhanced ID card. The rules must establish:

1. Acceptable proof of identity and citizenship for applicants;

2. Reasonable security measures to prevent counterfeiting and to protect against unauthorized disclosure of personal information that is contained in an enhanced license or ID card (including the use of a one-to-many biometric match system or RFID technology);
3. Any other additional characteristics, as the Registrar determines necessary.

The Registrar also may adopt any other rules necessary to implement issuance of an enhanced driver's license, enhanced CDL, and enhanced ID card.

Issuance of enhanced licenses and ID cards

The bill requires the Registrar or any deputy registrar to issue an enhanced license or ID card to eligible applicants pursuant to the memorandum of understanding between the Director and the DHS or other designated federal agency, and in accordance with the rules adopted by the Registrar. An eligible applicant must:

1. Provide satisfactory proof of the applicant's identity and citizenship;
2. Submit a biometric identifier, as required by rule;
3. Sign a declaration on a form prescribed by the Registrar acknowledging the use of the one-to-many biometric match and radio frequency identification or other security features of the license;
4. Pay a fee of $25, in addition to the other fees current law prescribes for issuance of a driver's license, CDL, or ID card; and
5. Comply with all other conditions, qualifications, and requirements for issuance of a driver's license, CDL, or ID card.

Status and use of enhanced licenses and ID cards

All provisions in the Revised Code relating to a drivers' license, a CDL, or an ID card include and apply to an enhanced driver's license, enhanced CDL, and enhanced ID card, respectively.

Tinted motor vehicle windows

(R.C. 4513.241)

The bill reduces the criminal penalty for certain minor misdemeanor window tinting violations from a fine of up to $150 to a fine of up to $25. The violations to which the fine reduction applies are as follows:

1. Operating, parking, leasing, or renting a motor vehicle that violates window tinting requirements (specified in administrative rules); and
2. Using reflectorized materials on or in any front windshield, side windows, sidewings, or rear window.

The bill also expands an existing exception to all of the window tinting prohibitions, including those described above, for motor vehicles used by law enforcement agencies. It allows a law enforcement agency to use nonconforming tinted windows on any motor vehicle

when it is used for a purpose within the scope of the agency's duties. Under current law, a law enforcement agency may only use those windows on vehicles in either of the following circumstances:

1. The vehicle lacks the distinct markings of a law enforcement vehicle, but it is being operated by or on behalf of a law enforcement agency in an authorized investigation or other activity that requires the presence and identity of the vehicle occupants to be undisclosed; or
2. The vehicle is primarily used by the agency's canine unit for transporting a police dog.

LOCAL GOVERNMENT

Cincinnati Southern Railway

- Permits a railway board of trustees (board) created under the Ferguson Act of 1869 to sell a railway or portion of a railway upon approval by the electorate, including when and in what amount the proceeds are to be periodically disbursed to the city.
- Permits a board to establish a trust fund to invest the proceeds of the sale of the railway.
- Clarifies that all net earnings and income under a lease of a municipally owned railway must be paid into the city's treasury to the credit of the sinking fund or bond retirement fund.
- Requires a board to report to the city annually, and to periodically disburse earnings from the fund to the city, in a frequency and amount to be determined by the board in consultation with the fiscal officer of the city, and which must meet the minimum disbursement criteria as determined by the electors.
- Requires the city to spend the proceeds from the trust fund only on the rehabilitation, modernization, or replacement of existing infrastructure improvements, and prohibits the city from using the proceeds to pay for the construction of new infrastructure improvements.
- Prohibits the city from using the proceeds of the trust fund to pay debt service, unlike other revenues from a municipally owned railway.
- Requires members of the board appointed after the bill's effective date to be residents of the municipal corporation that owns the railway.
- Requires the board to administer the trust fund according to the prudent investor standard of care, to retain at least one independent financial advisor, and to adopt policies and objectives for the investment of the trust fund, which must be made public.
- Permits the board to hire staff and retain advisors as appropriate, if reasonably related to the assets and purpose of the trust fund, and requires that they, as well as the cost of administering the trust fund, be paid from the investment earnings of the trust fund.
- Prohibits board members from having conflicts of interest, from borrowing funds or deposits from the board, or from being an indorser, surety, or obligor for moneys loaned by or borrowed from the board.
- Provides that any proceedings pending or in progress on the bill's effective date are deemed to be taken in conformity with the bill's provisions.

Force accounts

- Removes the force account monetary limits for county engineers concerning road, highway, bridge, and culvert projects.

- Replaces the monetary limits with scope of work limits, thereby requiring competitive bidding when the size of the project exceeds the statutory parameters, but authorizes the county to do the work if the project is within those parameters.
- Exempts the scope of work operations done by the county engineer from the requirement to use a force account assessment form and from the related audit, except for an audit to determine compliance with the applicable size limitations.
- Prohibits the county engineer from dividing projects into separate sections or work items to circumvent the scope of work and competitive bidding requirements.

Confidential estimates

- Authorizes a board of county commissioners and a county engineer to keep the engineer's total cost estimate for a project that will be competitively bid confidential.
- Stipulates that when the total cost estimate for a project is confidential, the final contract entered into by the county is exempt from the general statutory requirement that the contract not exceed the engineer's estimate plus 10%.

Traffic cameras

- Eliminates the authority of a county or township to operate traffic cameras for civil enforcement of red light or speeding offenses.
- Affirms the authority of a county or township to use a traffic camera or associated license plate reader for the purpose of detecting and assisting in the enforcement of criminal offenses.

Traffic camera fine revenue

- Authorizes a local subdivision to use local government fund reimbursement payments made on the basis of traffic camera fines collected by the subdivision for school zone infractions to acquire or upgrade public safety technology.

Transportation improvement districts

Agreement with a RTA

- Authorizes a transportation improvement district (TID) to enter into an agreement (including a multi-year agreement) with a regional transit authority (RTA) in Hamilton County regarding road and bridge projects in the same manner that counties, municipal corporations, or townships may enter into an agreement with a TID under current law.
- Stipulates that under the agreement:
  - The TID, along with any participating county, municipal corporation, or township, may fund and finance qualifying projects, which are projects involving the construction or maintenance of roads or bridges related to the provision of service by the RTA;
  - The TID may issue bonds to assist in its provision of funding and financing; and

- The RTA may levy, pledge, and assign sales and use taxes to reimburse the TID for the debt service on qualifying bonds issued by the TID.

- Applies the current law authority, immunity, and responsibilities granted to a TID for other projects to a qualifying project.
- Authorizes a TID to fund and finance projects, in addition to its current law authorization to manage projects directly.
- Authorizes a TID to employ, hire, or otherwise retain the services of auditors.
- Authorizes the qualifying RTA to pledge its sales and use tax revenue to pay debt service on county, municipal, and township bonds to fund qualifying projects.

Local government spending

- Authorizes any county, municipal corporation, or township to make appropriations to pay costs incurred by a TID, rather than only the county, municipal corporations, and townships that are part of the TID as in current law.

County cooperation

- Authorizes a TID to enter into an agreement with the board of county commissioners that created the TID and with the boards of county commissioners of any contiguous group of counties to exercise all powers of the TID with respect to a project that is both of the following:
  - Located partially or wholly within any county that is a party to the agreement; and
  - Partially funded with federal money.

Special improvement districts

- Prohibits park district property from being included in a special improvement district unless the park district consents to its inclusion.

Aggregate minerals mining zoning

- Requires a county or township to allow aggregate mineral surface mining activities in any zoning district (i.e., residential, commercial, industrial) as either a permitted use or conditional use when those activities are to be added to an existing mineral mining operation as authorized by a permit issued by the Department of Natural Resources.

The Cincinnati Southern Railway

The bill permits a railway board of trustees (board) created under the Ferguson Act of 1869 to sell a municipally owned railway, upon approval of the electorate, and invest the proceeds in a trust fund. In practice, the bill applies only to the Cincinnati Southern Railway Board of Trustees.

Background

The City of Cincinnati owns and leases the Cincinnati Southern Railway, the only municipally owned interstate railway in the country. The railway, completed in 1879, begins in Cincinnati and runs south through Lexington (KY), Danville (KY), Somerset (KY), Oneida (TN), Oakdale (TN), and Dayton (TN) before ending in Chattanooga on the southern border of Tennessee. The railway currently is leased to the Cincinnati, New Orleans and Texas Pacific Railway.[13]

The Cincinnati Southern Railway was authorized by the General Assembly with the passage of the Ferguson Act of 1869 (the "Ferguson Act").[14] The Ferguson Act created the Cincinnati Railway Board of Trustees, which governs the Cincinnati Southern Railway. The board consists of five members, no more than three of whom can be of the same political party, appointed by the Mayor of Cincinnati and approved by the city council. Trustees serve five-year terms, and have no term limits.[15]

The Ferguson Act, as subsequently amended, explains the current process by which the city may sell railway property.[16]

Procedures to sell railway property

The bill creates new procedures to sell railway property, upon approval by the electorate, and repeals the current law sales provisions. These steps are outlined below.

Resolution proposing a sales agreement

(R.C. 746.02(A)(1))

Under the bill, the board may solicit or receive offers for all or any portion of a railway. Then, the board may approve and enter into a sales agreement by adopting a resolution that includes the terms of the proposed sale, including the method to be used to determine the minimum annual amount to be transmitted to the municipal corporation. This annual amount may only be amended upon consultation with the municipality's fiscal officer. The amount transferred each year must be equal or greater than the amount approved by the electors, if ultimately approved. (See "**Periodic disbursements to the city**," below, for more details on disbursements under the trust fund).

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[13] See the Cincinnati Southern Railway's website, which is available at cincinnatisouthernrailway.org.

[14] "An act relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants" passed May 4, 1869 (66 O. L. p. 80).

[15] Cincinnati Code of Ordinances Sec. 205-1.

[16] H.B. 1 of the 100th General Assembly, Am. S.B. 200 of the 98th General Assembly, Am. H.B. 314 of the 102nd General Assembly, S.B. 562 of the 104th General Assembly, and H.B. 69 of the 112th General Assembly.

Resolution setting a date of election

(R.C. 746.02(A)(2) and (B), (C), (D), and (E))

After the board has adopted a resolution with the proposed sale terms, the board may adopt a second resolution setting the date of the election in which the question of approval of the sale is to be submitted to the electors of the municipal corporation, along with the applicable ballot language. The board must then certify this resolution to the legislative authority and fiscal officer of the municipal corporation. The legislative authority, upon receiving a copy of the resolution, must certify the resolution to the board of elections no less than 90 days before the election date specified in the resolution. The board of elections must then submit the resolution for the approval or rejection of the electors of the municipal corporation at the election specified in the resolution.

The bill specifies the applicable ballot language, which includes the terms of the proposed sale, and which specifies that the funds will be used for the purpose of the rehabilitation, modernization, or replacement of existing streets, bridges, municipal buildings, parks and green spaces, site improvements, recreation facilities, improvements for parking purposes, and any other public facilities owned by the municipal corporation, and to pay for the costs of administering the trust fund.

The legislative authority must provide notice of the election, by publishing it in a newspaper of general circulation within the municipal corporation for the two consecutive weeks before the election, and the board of elections must post it on the board of elections' website no later than 30 days before the election, if the board of elections maintains a website.

The notice must state the time and place of the election, and include the terms of the proposed sale, which must include a description of the railway or portion of the railway to be sold, the name of the proposed purchaser, the purchase price to be paid, including the amount and due date of any installments of the purchase price, the purposes for which the proceeds of the sale may be used, and the initial minimum annual amount payable to the municipal corporation.

If the question is approved by a majority of the electors voting on it, the railway board of trustees may proceed to complete the sale. The net proceeds from the sale are deposited into the railway proceeds trust fund established by the bill. If the question is not approved by the electors, the board may not move forward with the sale.

Current railway sale process

(Section 610.50 (repeal of Ohio General Code section 15149, Am. S.B. 200 of the 98th General Assembly (1949), and H.B. 69 of the 112th General Assembly (1977)))

Under the current process repealed by the bill, the proceeds from selling a portion of the railroad must be paid into the treasury of the municipal corporation, to the credit of a sinking fund or bond retirement fund, and must be applied to the reduction of the bonded debt of the municipal corporation until the debt is extinguished. Additionally, current law provides that the railroad may be sold only upon approval of the electorate, the question to be submitted to the electors in the first general election that occurs 40 days after the

announcement of the proposed sale by the board. This requirement does not apply to "property adjacent to the railroad having no major affect, influence, or importance to its operation."

The bill preserves current law permitting the board to sell "any property, land, right-of-way, or easement which is a part of its line of railway but which is no longer needed, in the opinion of such board, in the operation thereof . . . ."[17] Under the bill, the board continues to be able to sell *unneeded* property without requiring approval from the electorate.

Railway proceeds trust fund

(R.C. 746.03(A), 746.06, and 746.07; Section 610.50 (repeal of Ohio General Code section 15149, Am. S.B. 200 of the 98th General Assembly (1949), and H.B. 69 of the 112th General Assembly (1977)))

The bill establishes the railway proceeds trust fund ("trust fund"), to consist of net proceeds from the sale of all or part of a railway, to be administered by board. The sole beneficiary of the trust fund is the municipality that owned the railway or portion of the railway before the sale. Funds in the trust fund are not considered part of the unencumbered balance or revenue of the municipality for the purposes of certifying available revenue for tax levies.[18]

Under current law repealed by the bill, proceeds from the sale of all or part of a railway must be paid to the municipal treasury to the credit of the sinking fund or bond retirement fund, for the purpose of paying on debt service.

The bill clarifies that, under continuing law, all net earnings and income under a lease of a municipally owned railway must still be paid into the municipal treasury to the credit of the sinking fund or bond retirement fund. But under the bill, proceeds from the sale of all or part of a railway may not be used to pay debt service, and instead must be deposited into the trust fund, to be invested as the board determines, the earnings of which are periodically disbursed (see "**Periodic disbursements**," below). "Debt service" means the principal, interest, and redemption premium payments, and any deposits pertaining thereto, required with respect to bonds.

The municipal corporation must spend the proceeds from the trust fund only on the rehabilitation, modernization, or replacement of existing infrastructure improvements. It is prohibited from using the proceeds to pay for the construction of new infrastructure improvements. Under the bill, "existing infrastructure improvements" is defined as streets, bridges, municipal buildings, parks and green space, site improvements, recreation facilities, improvements for parking purposes, and any other public facilities that are owned by a municipal corporation with a useful life of five or more years.

[17] Am. H.B. 314 of the 102nd General Assembly (1957).

[18] See R.C. 5705.35 and 5705.36, not in the bill.

Board duties

(R.C. 746.03(B) and (C) and 746.04)

The bill puts the board in charge of the trust fund, and makes other changes to the board. Under the bill, any board members appointed after the bill's effective date must be residents of the municipal corporation.

The board must manage and administer the trust fund, in accordance with the bill's provisions and with ordinances passed by the legislative authority of the municipal corporation not in conflict with the bill. The investment of the trust fund is not subject to the Uniform Depository Act or any other conflicting provisions of the Revised Code.

The bill permits the board to invest and reinvest the moneys and assets held in the trust fund, holding them to the "prudent investor" standard of care. This standard requires the trustees, when investing, to consider the purposes, terms, distribution requirements, and other circumstances of the trust, exercising reasonable care, skill, and caution, among other things.[19]

The bill also requires the board to retain at least one independent financial advisor to assist it in investing the trust fund. In order to fulfill the board's duties and responsibilities in administering the trust fund, the board may hire managers, administrative staff, agents, attorneys, and employees, and engage advisors, as are appropriate and reasonable in relation to the assets of the trust fund, the purposes of the trust, and the skills and knowledge of the board members. The board must provide for payment of these and other reasonable expenses of administering the trust fund from the investment earnings on the trust fund.

The bill also requires the board, in consultation with the fiscal officer of the municipal corporation, to adopt management and investment policies containing objectives and criteria designed to ensure the trust fund is administered efficiently and self-sustaining, and that the money and assets in the trust fund are not diminished while providing the municipal corporation its periodic disbursements (see "**Periodic disbursements**" below). The policies must address asset allocation targets and ranges, risk factors, asset class benchmarks, eligible investments, time horizons, total return objectives, a strategy for long-term growth of the principal of the trust fund, competitive procurement processes, fees and administrative expenses, and performance evaluation guidelines. The board must make these policies public upon their adoption.

The board also must make an annual report to the fiscal officer of the municipal corporation, in form and content as reasonably requested by the fiscal officer, showing the fiscal transactions of the trust fund for the calendar year, the amounts of accumulated moneys and securities, and the most recent balance sheet showing the financial condition of the fund by means of audited financial statements.

Additionally, the bill prohibits certain conflicts of interest within the board: no board member may have any direct or indirect interest in the gains or profits of any investment made

[19] See R.C. 5809.02, not in the bill, for a complete description of the prudent investor standard of care.

by the board, and no member, and no person directly or indirectly connected with the board, for self or as an agent or partner of others, may borrow any of the funds or deposits of the board or trust fund, or in any manner use the funds except to make current and necessary payments as authorized by the board. No member or agent of the board may become an Indorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board.

Periodic disbursements

(R.C. 746.05)

The beneficiary of the trust fund is the municipal corporation that owned the railway that was all or partly sold. To this end, the board must periodically, at least annually, disburse a certain amount of proceeds of the trust fund to the municipal corporation.

No later than September 30 each year, the board must certify to the municipal corporation the amount of funds the board will disburse to the municipal corporation over the course of the municipal corporation's immediately following fiscal year. During that year, with such frequency and in such installments as may be determined by the board after consultation with the fiscal officer of the municipal corporation, the board must transmit the certified amount to the municipal corporation.

The amount transferred must be no less than the amount approved by the electors when the electors voted to approve the sale of the railway (see "**Procedures to sell railway property**," above), which must increase each year in the manner set forth in the methodology that was approved by the electors.

The amount must be paid from investment earnings of the trust fund, after the payment of the expenses incurred in administering the trust fund. If there are not sufficient investment earnings in a year to pay the certified amount, the board must pay the remainder of the certified amount from the principal amount of the trust fund.

Force accounts

(R.C. 117.16, 117.161, 5543.19, 5543.191, and 5543.192)

The bill removes the force account monetary limits for county engineers concerning road, highway, bridge, and culvert projects. "Force account" is a term used to establish whether a governmental agency may use its own labor force to complete a project or whether it must use competitive bidding. Otherwise put, a force account threshold is a threshold amount that, once exceeded, a governmental agency must use competitive bidding. Under current law, counties are subject to a $30,000 per mile limit for highway construction and reconstruction and a $100,000 per project limit for construction, reconstruction, improvement, maintenance, or repair of bridges and culverts.

The bill replaces the monetary limits with scope of work limits. Thus, it authorizes a county to use county engineer employees and the material and equipment owned, leased, or

purchased by the county for projects that are within the scope of the work limits. If the work is outside of that scope, the county is required to competitively bid the project. Similar scope of work limits exist under current law for ODOT for bridge, culvert, and paving work.[20]

The scope of work limits created by the bill for counties are as follows:

1. Construct, replace, or widen any bridge or replace the superstructure of a bridge up to 60 feet from face of abutment to face of abutment;
2. Replace the concrete deck of a bridge up to 75 feet from face of abutment to face of abutment;
3. Construct, replace, or lengthen any pipe, including a multi-cell pipe, under a roadway, including making any necessary modifications to wingwalls and the related roadway modifications, when the total waterway opening for all the cells does not exceed 85 square feet;
4. Construct, replace, or lengthen any culvert under a roadway, including making any necessary modifications to wingwalls and the related roadway modifications, when the total span of the culvert does not exceed ten feet;
5. Perform any full-width asphalt surface paving operation up to 400 feet per centerline mile;
6. Widen an existing roadway up to 1,800 square yards per lane mile;
7. Perform a chip-and-seal operation on a two-lane roadway up to 15,000 square yards per centerline mile per layer, excluding any noncontinuous turn lanes; and
8. Perform a partial or full-depth concrete pavement repair up to 120 square yards per lane mile.

The scope of work limits also authorize a county to perform the approach roadway work required for bridge or culvert projects up to 200 feet from the abutment wall of the bridge or outside edge of the culvert and for pipe replacement up to 50 feet in either direction from the centerline of the pipe. The length of the approach guardrails is not included in the approach work size limits. The bill prohibits a county engineer from dividing a project into separate sections or items of work in order to keep it within the scope of work limits.

Additionally, the bill exempts the work performed within the scope of work limits from the standard force account audits, except to determine compliance with the applicable size restrictions. A county engineer is not required to complete or submit the force account assessment form otherwise required for work done by force account. However, if a county performs work that is outside of the scope of work limits, the State Auditor can impose a 20% reduction from the original scope of work authorized for the type of work that is the subject of

[20] R.C. 5517.021, not in the bill.

the violation. Additional violations may also result in additional reductions or tax withholdings based on the scope of work and the project that is the subject of the violation.

Confidential estimates

The bill authorizes a board of county commissioners to specify that, prior to opening up competitive bidding for a road, bridge, or culvert project, the official county engineer's total cost estimate for the project will be confidential. After bidding is open, the board may publish that total cost estimate, but the unit price components and the estimated costs of particular items must be kept confidential and are not subject to public records requests. When the total cost estimate for a project is kept confidential, the final contract entered into by the county is then exempt from the general statutory requirement that a contract cannot exceed the county engineer's estimate plus 10%. ODOT has similar authority under current law.[21]

Traffic cameras

(R.C. 4511.092, 4511.093, 4511.0913, and 5747.502)

The bill eliminates the authority of a county or township to operate a traffic law photo-monitoring device ("traffic camera") for civil enforcement of red light or speeding offenses. Under current law, a county or township may operate a civil enforcement program, provided the county or township abides by the numerous statutory regulations and restrictions concerning the program. For example, townships currently cannot operate traffic cameras on interstate highways. While the bill requires a county or township to end the use of traffic cameras for a civil enforcement program, the county or township may continue to use the traffic cameras (or associated license plate readers) for detecting and assisting in enforcing criminal offenses.

While the bill prohibits counties and townships from operating the traffic cameras, the local government fund (LGF) reductions may continue to apply thereafter due to the lag between the times that camera fines are: (1) collected, (2) reported to the Tax Commissioner, and (3) deducted from the county's or township's LGF payments. Additionally, a residual adjustment may apply for several years after a county or township stops operating traffic cameras if the fines collected exceed the LGF payments the county or township would have otherwise received.

Traffic camera fine revenue: public safety technology

(R.C. 5747.502(C)(4))

Continuing law reduces local government fund (LGF) payments for any municipal corporation that operates traffic cameras by an amount based on the fines collected by the municipality for camera-recorded refractions. However, the state reimburses a municipality for amounts withheld as a result of school zone infractions. Similar reductions apply, and reimbursements are paid for townships and counties that have traffic camera programs, but

[21] R.C. 5525.15, not in the bill.

the bill elsewhere discontinues township and county authority for those programs. Still, reimbursements may continue to be paid to townships and counties after the termination of that authority due to the one-year lag in the process of reporting fines and calculating reimbursements.

Under current law, these reimbursement payments must be used solely by the local subdivision for school safety expenses. The bill expands the allowable use of these payments to also include acquiring or upgrading public safety technology, such as body cameras, license plate readers, and gunfire locator or detection systems.

Transportation improvement districts

Agreement with a RTA

(R.C. 306.353, 5540.01, 5540.03, and 5540.06)

The bill authorizes a transportation improvement district (TID) to enter into an agreement (including a multi-year agreement) with the regional transit authority (RTA) in Hamilton County in order to construct or maintain roads and bridges that relate to the RTA's provision of services ("qualifying project"). Under current law, a county, municipal corporation, or township ("local government") may enter into a similar agreement with the RTA. Under the agreement, the TID (along with any other participating local government) agrees to fund and finance the qualifying project. The bill authorizes the TID to issue bonds to assist in that funding and financing. Relatedly, the bill authorizes the RTA to levy, pledge, and assign sales and use taxes in order to reimburse the TID and any other local government for the debt service on the bonds issued by the TID or local government.

An agreement between a TID and the Hamilton County RTA, as authorized by the bill, must go through the same process as agreements for qualifying projects under current law. Namely, the appropriate public works integrating committee must approve the agreement (requiring an affirmative vote of six members of the committee). The committee must notify the RTA of its decision to approve or deny the agreement; and the RTA may only spend funding as authorized under the agreement. The committee also must annually review the agreement (unless it is a multi-year agreement that was previously approved).

In order to ensure the full payment of any bonds issued by the TID (or any other authorized local government), the bill prohibits the RTA and the electors that approve the sales and use tax from repealing, rescinding, or reducing the sales and use tax until the debt service on the bonds is fully paid.

The bill applies the general authority, immunity, and responsibilities granted to a TID for projects under current law to the qualifying project with the RTA. Additionally, it expands a TID's authority to cooperate with any governmental agencies in the planning, design, acquisition, construction, maintenance, funding, and financing of projects, including the qualifying projects. Finally, it authorizes a TID to employ, hire, or otherwise retain the services of auditors.

Local government spending

(R.C. 5540.02)

The bill authorizes any county, municipal corporation, or township to make appropriations to pay costs that a TID incurs, provided that the money is available for that purpose. Under current law, only the local governments that are part of the TID may make appropriations to support it. The expansion allows other local governments that benefit from, but are not a part of, the TID to share in its costs.

County cooperation

(R.C. 5540.03)

The bill authorizes a TID to enter into an agreement with the board of county commissioners that created the TID and the boards of county commissioners of any contiguous group of counties to exercise the powers of that TID for a project that is both of the following:

1. Located partially or wholly within any county that is a part of the agreement; and
2. Is partially funded with federal money.

Under current law, a TID may enter into an agreement with one contiguous county, but not necessarily a group of counties. As a creature of statute, a TID may only take actions specifically authorized by statute. The bill's expansion specifically enables the Lucas County TID to undertake transportation system improvements that benefit Lucas, Wood, Ottawa, and Sandusky counties, if these counties win a federal Safe Streets and Roads for All grant.

Special improvement districts: park district property

(R.C. 1710.01, 1710.02, 1710.03, and 1710.13)

Under continuing law, one or more municipal corporations or townships may designate a special improvement district (SID) for the purpose of levying a special assessment on property in the area to fund public improvements and services that benefit the area. In general, any parcel may be included in a SID and subject to SID special assessments, even those exempt from property tax. However, under continuing law, property owned by the federal government, the state, a church, or a county, township, or municipal corporation may not generally be included in a SID unless the property owner consents to its inclusion. The bill extends this consent requirement to property owned by a park district. In other words, the bill prohibits park district property from being included in a SID unless the district consents to its inclusion.

Aggregate minerals mining zoning

(R.C. 303.02 and 519.02)

The bill requires a county or township to allow aggregate mineral surface mining activities in any zoning district (i.e., residential, commercial, industrial) as either a permitted use or conditional use through the board of zoning appeals when both of the following apply:

1. The county or township has authorized a zoning resolution for the aggregate mineral mining operation; and

2. The activities to be conducted by the operation are authorized by a permit issued by the Department of Natural Resources.

The bill retains current law's specification that if a county or township intends to regulate aggregate minerals surface mining through a zoning resolution, it can only do so in the interest of public health or safety.

DEPARTMENT OF TAXATION

Motor fuel tax allowances and refunds

- Continues the 1% fuel dealer and 0.5% retailer shrinkage allowances in effect biennially since 2008, superseding the 3% and 1% allowances in permanent codified law.

Motor fuel tax allowances and refunds

(Section 757.20)

Since FY 2008, each motor fuel dealer that properly files and pays monthly motor fuel excise taxes may deduct from the payment the tax otherwise due on 1% of the fuel the dealer received, minus 0.5% of the fuel sold to retail dealers.[22] This allowance is to cover the costs of filing the report and to compensate for evaporation, shrinkage, and other "unaccounted for" losses. Under permanent codified law, however, the percentages are 3% and 1%, respectively.[23] But each of the last eight transportation appropriation acts reduced the 3% discount to 1% (minus 0.5% of fuel sold to retail dealers). The bill continues the allowance at the reduced 1% level throughout the FY 2024-2025 biennium.

Retail fuel dealers who have purchased fuel on which the excise tax has been paid may receive a refund to account for evaporation and shrinkage.[24] In permanent codified law, the refund equals 1% of the taxes paid on the fuel each semiannual period. But, as with the dealer shrinkage allowance, the retailer refund has been reduced to 0.5% for each fiscal year from 2008 through 2023 by uncodified provisions in the last eight transportation appropriation acts. The act continues the reduced percentage at this level through the FY 2024-2025 biennium.

HISTORY

Action	Date
Introduced	02-15-23
Reported, H. Finance	03-01-23
Passed House	03-01-23

ANHB0023PH-135/ts

[22] Section 757.20 of H.B. 74 of the 134th General Assembly.

[23] R.C. 5735.06(B)(1)(c), not in the bill

[24] R.C. 5735.141, not in the bill.