



**Am. Sub. H.B. 87**  
125th General Assembly  
(As Passed by the House)

**Reps. Buehrer (by request), Setzer**

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**BILL SUMMARY**

- Reduces the prohibited *per se* concentrations of alcohol in a person's blood, breath, or urine for purposes of the state OMVI law, the state law relating to boating while under the influence of alcohol, and the Implied Consent Law.
- Imposes new fees for the purpose of defraying the State Highway Patrol's costs associated with the administration and enforcement of motor vehicle and traffic laws at the rates of \$8 for certificates of title, \$10 for driver's licenses, \$8 for vehicle registrations, and \$5 for temporary license placards.
- Reduces the fees that the Registrar of Motor Vehicles charges motor vehicle dealers for temporary license placards if the dealer notifies the Registrar of the issuance of the placards by electronic means.
- Increases one component of the motor vehicle fuel tax, which is currently at 2¢ per gallon, by 2¢ per gallon effective August 15, 2003, an additional 2¢ per gallon effective August 15, 2004, and an additional 2¢ per gallon effective August 15, 2005.
- Provides that a portion of this motor vehicle fuel tax component, which currently goes entirely for state purposes, be distributed to municipal corporations, counties, and townships according to a distribution formula to pay for local highway-related purposes.
- Specifies that new motor vehicles are exempt from inspection for five years under the motor vehicle inspection and maintenance program ("E-Check") instead of two years under an enhanced program and one year under a basic program as provided in current law.

- Specifies that the five-year exemption is applicable regardless of whether legal title to the motor vehicle is transferred during that period.
- Levies a rental car tax at a rate of 50¢ per day, for the purpose of offsetting contract-related costs incurred by the state as a result of amendments to the motor vehicle inspection and maintenance program.
- With respect to contracts for the implementation of the E-Check program, prohibits new contracts that would expand the program to any new counties.
- Replaces the requirement that most motor vehicles display two license plates, one on the front and one on the rear, with a requirement that they display one plate on the rear and prohibits covering the face of the license plate with any material, regardless of whether the material obstructs its visibility.
- Increases the commercial bus safety inspection fee from not more than \$100 to not more than \$200 and authorizes the Director of Budget and Management to reimburse the State Highway Safety Fund from the GRF up to the annual amount of bus safety inspection fees certified by the Director of Public Safety as having been collected.
- Eliminates the requirement for annual reimbursement from the General Revenue Fund to the Auto Registration Distribution Fund and the State Highway Safety Fund of the amount of revenue lost because boat trailers owned and registered by disabled veterans, Congressional Medal of Honor winners, and former prisoners of war are exempt from all registration taxes and fees.
- Expands the sources of federal moneys that can be used for payment of bond service charges in connection with the issuance of State Infrastructure Bank obligations.
- Increases force account limits as follows: (1) for ODOT, from \$10,000 per mile to \$25,000 per mile for maintenance or repair of a state highway and from \$20,000 to \$50,000 for bridges, culverts, and traffic control signals, (2) for counties, from \$10,000 per mile to \$30,000 per mile for construction or reconstruction of roads and from \$40,000 to \$100,000 for construction, reconstruction, improvement, maintenance, or repair of bridges or culverts, (3) for townships, from \$15,000 to \$45,000 overall

and from \$5,000 to \$15,000 per mile for maintenance and repair of roads, and (4) for municipal corporations, from \$10,000 to \$30,000 for construction, reconstruction, or repair of a street.

- Requires the Auditor of State to audit force account projects of state and local government entities at such times as the Auditor otherwise is conducting an audit of the public office; requires the Auditor to develop forms that the state and local government entities must use to estimate the costs of force account projects; and, subjects local government entities to reduced force account limits if the Auditor finds that the local governments violated the force account limits either during a regular audit or as a result of an investigation following a complaint.
- Provides for a 2006 Legislative Service Commission study of the effects of changes to the force account limits.
- Requires the Registrar to adopt rules for reassigning commercial motor vehicles and rental car fleets to registration expiration dates beginning in 2004 that will evenly spread out the number of expirations each quarter of the year and establishes requirements and procedures necessary to implement those rules.
- Requires the Registrar of Motor Vehicles to adopt rules permitting the owners of noncommercial vehicles to register their vehicles on a biennial basis upon payment of the annual taxes and fees due for two registration years.
- Requires the Registrar of Motor Vehicles and deputy registrars to request \$1 contributions from applicants for motor vehicle registration or registration renewal for both (1) the American Red Cross Fund to support the disaster services and other purposes of the American Red Cross and (2) the Juvenile Diabetes Research Trust Fund.
- Makes permanent the pilot program of ODOT whereby the Director of Transportation may combine the design and construction elements of a highway or bridge project into a single "design-build" contract.
- Limits the total dollar value of such ODOT design-build contracts to \$250 million per biennium.



- Permits a county engineer to utilize one contract that combines the design and construction elements of a bridge, highway, or safety project, but only if the cost of the project as bid does not exceed \$1.5 million.
- Permits the Director of Transportation to pay a contractor a lump sum under an incentive provision in a construction contract for completing critical work ahead of schedule.
- Allows the Director of Transportation to convey or transfer unneeded highway lands to, or permit their use by, the federal government.
- Requires the Director of Transportation's conveyances, transfers, or grants of unneeded highway lands to be (1) by deed, or in certain instances, by plat, (2) executed by the Director, and (3) in a form prescribed by the Attorney General.
- Requires the Director of Transportation to keep a record of all conveyances, transfers, grants, and use permits pertaining to unneeded highway lands.
- Subjects use permits for unneeded highway lands issued by the Director of Transportation to the conditions generally applicable to all permits to use highway lands.
- Clarifies the requirements for conveyances by the Director of Transportation of real property no longer required for highway purposes.
- Makes the Career Professional Service pilot program of ODOT permanent.
- Requires the Department of Transportation to contract with a neutral third-party entity to conduct an analysis of the Department's pavement selection process.
- Modifies the civil and criminal liability of state and local government employees when driving snow removal and road surface maintenance equipment.
- Eliminates 13 separate special license plate funds and creates one combined License Plate Contribution Fund.

- Requires all contributions that motor vehicle registrants pay when receiving special license plates and that currently are deposited into their respective separate funds to be paid into the new Contribution Fund and provides for contributions to be distributed in the same amounts as provided in current law.
- Creates in codified law the Emergency Management Agency Service and Reimbursement Fund, and requires money in the Fund to be used to pay the costs of administering programs of the Emergency Management Agency.
- Creates the Public Safety Investigative Unit Salvage and Exchange Fund, and provides that money the Department of Public Safety's Investigative Unit receives from the sale of motor vehicles and other related equipment must be deposited into the Fund to be used solely for the purchase of replacement motor vehicles and other equipment for the Investigative Unit.
- Extends until June 30, 2005, a provision specifying that for the purposes of the law governing the issuance of special permits for overweight vehicles, three or fewer steel coils are deemed to be a "nondivisible" load if the overall gross vehicle weight of the vehicle and load is less than 92,000 pounds.
- Provides that units of farm machinery produced during or after 2002 when traveling on a street or highway must meet lighting, illumination, and marking standards established by the American Society of Agricultural Engineers in 2001, and any subsequent revision of those standards.
- Requires the Director of Transportation to designate Rockside/Snow Road within Cuyahoga County as a state highway.
- Requires ODOT to add a third lane of travel in both the northbound and southbound lanes of Interstate Route 71, from one mile south of State Route 18 to the interchange with State Route 303.

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## CONTENT AND OPERATION

### Change to state OMVI law

#### Current law

The current state OMVI law contains general prohibitions against operating a motor vehicle while under the influence of alcohol or with a prohibited concentration of alcohol in the blood, breath, or urine ("state OMVI"). A person of any age is prohibited from operating a vehicle within Ohio if he has a concentration of .10 of 1% or more by weight of alcohol in his blood, a concentration of .10 of one gram or more by weight of alcohol per 210 liters of his breath, or a concentration of .14 of one gram or more by weight of alcohol per 100 milliliters of his urine (R.C. 4511.19(A)). A person who is under 21 years of age is prohibited from operating a motor vehicle within Ohio if he has a concentration of at least .02 of 1%, but less than .10 of 1% by weight of alcohol in his blood, a concentration of at least .02 of one gram, but less than .10 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of at least .028 of one gram, but less than .14 of one gram by weight of alcohol per 100 milliliters of his urine (R.C. 4511.19(B)). A person who violates any of these latter prohibitions is guilty of the offense of operating a motor vehicle after underage alcohol consumption ("state OMVUAC").

Similarly, current state law also prohibits anyone of any age from operating or being in physical control of any vessel or manipulating any water skis, aquaplane, or similar device ("boating") on the waters of this state if the person is under the influence of alcohol or if he has an alcohol concentration in his blood, breath, or urine in a prohibited amount. The prohibited amount in each case is identical to that established for OMVI. (R.C. 1547.11(A).) Current law also prohibits boating after underage alcohol consumption in the same manner as for the operation of a motor vehicle (R.C. 1547.11(B)).<sup>1</sup>

In both the OMVI and BUI statutes, if a person has a concentration of less than .10 of 1% by weight of alcohol in his blood, a concentration of less than .10 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of

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<sup>1</sup> These prohibitions will be referred to collectively as "BUI law."

less than .14 of one gram by weight of alcohol per 100 milliliters of his urine, that fact may be considered with other competent evidence in determining whether a person is "under the influence" of alcohol (R.C. 1547.11(D) and 4511.19(D)(2)).

### **Operation of the bill**

The bill modifies the offenses of state OMVI, state OMVUAC, and state BUI laws by reducing the specified concentrations of alcohol that have to be present in a person's blood, breath, or urine *per se* in order for the person to have committed the offense. The bill prohibits a person of any age from operating a motor vehicle within this state and from boating on the waters of this state if he has a concentration of .08 of 1% or more by weight of alcohol in his blood, a concentration of .08 of one gram or more by weight of alcohol per 210 liters of his breath, or a concentration of .11 of one gram or more by weight of alcohol per 100 milliliters of his urine (R.C. 1547.11(A) and 4511.19(A)). The bill also prohibits a person who is under 21 years of age from operating a motor vehicle within Ohio and from boating on the waters of this state if he has a concentration of at least .02 of 1%, but less than .08 of 1% by weight of alcohol in his blood, a concentration of at least .02 of one gram, but less than .08 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of at least .028 of one gram, but less than .11 of one gram by weight of alcohol per 100 milliliters of his urine (R.C. 1547.11(B) and 4511.19(B)).

The bill also provides in both the OMVI and BUI statutes that if a person has a concentration of less than .08 of 1% by weight of alcohol in his blood, a concentration of less than .08 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of less than .11 of one gram by weight of alcohol per 100 milliliters of his urine, that fact may be considered with other competent evidence in determining whether the person is "under the influence" of alcohol (R.C. 1547.11(D) and 4511.19(D)(2)).

### **Corresponding changes in Implied Consent Law and OMVI initial appearance provision**

In the motor vehicle Implied Consent Law, if a person is arrested for OMVI and submits to a chemical test of his blood, breath, or urine to determine its alcohol content, and the test shows that the person has a concentration of alcohol in his blood, breath, or urine at or above the concentrations specified in current law, the person's driver's or commercial driver's license, permit, or nonresident operating privilege is suspended immediately under the administrative license suspension provision of the Implied Consent Law. The bill reduces these concentrations, which appear several times in the Implied Consent Law, to the same lower levels contained in the state OMVI and BUI statutes, as modified by the bill. (R.C. 4511.191(D)(1), (D)(1)(c)(iv), (F), and (H)(1)(d)(ii).)



**Corresponding reduction in prohibited concentrations that will become effective January 1, 2004**

Amended Substitute Senate Bill No. 123 of the 124th General Assembly made a large number of changes in the traffic laws. That act had a delayed effective date of January 1, 2004, so there are a number of Revised Code sections that have a current version and a future version that takes effect January 1, 2004.

Am. Sub. S.B. 123 included a new *per se* concentration prohibition in both the state OMVI and BUI laws that is not a part of current law. This concentration is .12 of 1% or more by weight per unit volume of alcohol in a person's blood serum or plasma (future versions of R.C. 1547.11(A)(4) and 4511.19(A)(3)). The bill makes a corresponding reduction in this amount, reducing it from .12 to .096.

**New fees for defraying costs of enforcing motor vehicle and traffic laws**

(R.C. 4501.061, 4503.10 (and future version of 4503.10), 4503.182 (and future version of 4503.182), 4505.09, 4506.08, 4507.23, and 5502.02)

For the purpose of defraying the costs associated with the administration and enforcement of motor vehicle and traffic laws by the State Highway Patrol, the bill imposes several new fees for various motor vehicle-related transactions. The rates of the new fees and transactions to which the new fees apply are as follows:

(1) \$8 for certificates of titles, including a new certificate of title, duplicate certificate of title, and notation of any lien on a certificate of title; this new fee is collected by the clerk of a court of common pleas and paid to the Registrar of Motor Vehicles. However, the bill exempts licensed motor vehicle dealers from this new fee.

(2) \$10 for driver's licenses, including, a temporary instruction permit, driver's license, motorcycle operator's endorsement, driver's license renewal, duplicate driver's license, motorized bicycle license or duplicate, commercial driver's license (CDL), CDL temporary instruction permit, CDL renewal, and duplicate CDL; this fee is collected by a deputy registrar and transmitted to the Registrar in accordance with existing procedures, but, in the same manner as existing driver's license fees, is not charged if the applicant for a driver's license is a totally disabled veteran.

(3) \$8 for registration of a motor vehicle or commercial motor vehicle, including registration and registration renewal, and transfer of a registration (R.C. 4507.12, not in the bill); this fee is collected by a deputy registrar and transmitted to the Registrar in accordance with existing procedures.

(4) \$5 for issuance of a temporary license placard.

The new fees are to be deposited in the State Highway Patrol Fund, which the bill creates in the state treasury. The fund is to be used solely to defray the Patrol's costs in enforcing and administering the state's motor vehicle and traffic laws.

The bill also modifies language of current law that specifies the expenditures of the Department of Public Safety that are to be paid from fees and taxes relating to the registration, operation, or use of vehicles on public highways. Under the bill, the Department's expenditures for the *administration and enforcement of motor vehicle and traffic laws*, rather than the Department's "operation and maintenance" expenses as under current law, are to be paid from these fees. The bill also acknowledges that these fees and taxes are constitutionally restricted and must be used for specified highway purposes (Ohio Constitution, Article XII, Section 5a).

**Reduction of fees to dealers for temporary license placards**

(R.C. 4503.182 (and future version of 4503.182))

With regard to the issuance of temporary license placards by licensed motor vehicle dealers, the bill reduces the fees that the Registrar of Motor Vehicles charges the dealers for placards by the amount of the service fee (\$3.25 in 2003 and \$3.50 in 2004) if the dealer notifies the Registrar of the issuance of the placards by electronic means via computer equipment. However, the bill specifies that the dealers would still collect and retain those fees from vehicle purchasers to whom the dealer issues a placard.

**Increase in one component of the motor vehicle fuel tax**

(R.C. 5735.27, 5735.29, and 5735.291)

**Current tax**

The state motor vehicle fuel tax, which is levied on all dealers in motor vehicle fuel, is an excise tax on the use, distribution, and sale within the state of fuel used in the operation of motor vehicles. Currently totaling 22¢ per gallon, it is composed of one levy of 1¢ per gallon, three levies each of 2¢ per gallon, and one levy of 15¢ per gallon. Expenses such as highway bond payments and other specified payments are paid first; thereafter, the state retains a portion of the balance and distributes the remainder to local governments according to statutory formulas.

One of the three 2¢ levies is imposed by R.C. 5735.29. All of the revenue raised by this component of the fuel tax currently is used only for state purposes such as state highway bond retirement; repairing and erecting traffic signs and control devices; enforcing state vehicle registration and operation laws; and other purposes related to the state highway system.

### **Operation of the bill**

The bill modifies the stated highway-related purposes contained in R.C. 5735.29 by adding provisions relating to local governments, thus permitting the revenue raised by that component to be distributed to local governments for expenditure by those entities. In addition, the proceeds of this component may be used for constructing certain railroad crossing devices. Specifically, the additional purposes are:

(1) To enable the counties, townships, and municipal corporations to properly plan, construct, widen, reconstruct, and maintain their public highways, roads, and streets;

(2) To enable counties and municipal corporations to pay principal, interest, and charges on bonds and other obligations issued for highway improvements;

(3) To provide revenue for the installation of certain railroad crossing protective devices (R.C. 4907.47, not in the bill).

The bill provides that the tax of 2¢ per gallon levied by this tax component will increase to 4¢ per gallon on August 15, 2003, 6¢ per gallon on August 15, 2004, and 8¢ per gallon on August 15, 2005.

### **Distribution of the tax money raised by affected component**

Under current law, the Treasurer of State first transfers to the Tax Refund Fund the amount of money generated by the 2¢ tax necessary to pay certain tax refunds. Next, 7/8 of 1% of the total amount generated is credited to the Waterways Safety Fund and 1/8 of 1% is credited to the Wildlife Boater Angler Fund.<sup>2</sup> Finally, any amounts needed for highway bond debt service are transferred to the proper funds or accounts. The remaining balance is credited to the Highway Operating Fund, which is used solely by the state.

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<sup>2</sup> Under R.C. 5735.051, the General Assembly has found as a fact that of the revenues raised by the motor vehicle fuel tax, 1% is attributable to the operation of motor vehicles upon Ohio waters.

As noted above, the bill modifies the permissible uses of the revenue raised by this tax component to include expenditures by local governments of revenue raised by that component. Under the bill, after the above mandatory transfers are made, a "specified portion" of the remaining balance of the taxes collected under the relevant motor fuel tax component is credited to the Gasoline Excise Tax Fund.<sup>3</sup> This "specified portion" is a percentage of that remaining balance that increases (as the tax increases) each of the three fiscal years beginning August 15, 2003. The following chart illustrates the percentages and amounts prescribed by the bill:

Total amount of tax per gallon	"Specified portion" (fractional amount of the <i>total tax</i> credited to the Gasoline Excise Tax Fund) <sup>4</sup>	Amount in cents credited to the Gasoline Excise Tax Fund (for distribution to local governments)	Total amount of new tax money (in cents) for use by the state	Approximate percentages of the <i>total new increases</i> that go to local governments/to the state
Two cents (existing tax)	None	None	Not applicable	Not applicable
Four cents (after first two-cent increase of 8/15/03)	One-eighth	One-half cent	One and one-half cents	25/75
Six cents (after second two-cent increase of 8/15/04)	One-sixth	One cent	Three cents	25/75
Eight cents (after third two-cent increase of 8/15/05)	Three-sixteenths	One and one-half cents	Four and one-half cents	25/75

Under the bill, the specified portions in the Gasoline Excise Tax Fund, irrespective of amount, are distributed in the following manner:

<sup>3</sup> *The Gasoline Excise Tax Fund, contains local government motor fuel tax distribution formulas.*

<sup>4</sup> *Amounts are approximate because it is not known how much of the increases, if any, will be credited to the Tax Refund Fund, etc.*

(1) Forty-two and eighty-six hundredths percent (42.86%), minus a designated amount for townships, is distributed among municipal corporations in accordance with one of the formulas in the Gasoline Excise Tax Fund law.

(2) Thirty-seven and fourteen hundredths percent (37.14%), minus a designated amount for townships, is distributed among the counties in accordance with one of the formulas in the Gasoline Excise Tax Fund.

(3) Twenty percent (20.00%) is distributed among townships in accordance with one of the formulas in the Gasoline Excise Tax Fund.

The state's share of the increases, minus a designated amount for townships, must be expended in the manner prescribed in current law for revenues raised by the affected tax component.

**Distribution of a designated portion of the new motor vehicle fuel tax revenues to townships**

Under the bill, money is subtracted each year from the portions of the revenues generated by the new motor vehicle fuel tax increase otherwise allocated to the state, municipal corporations, and counties. This money is distributed to townships under a formula specified in the bill. The money subtracted each year is as follows:

(1) Effective August 15, 2003, \$460,000 is subtracted from the share otherwise allocated to municipal corporations, \$460,000 is subtracted from the share otherwise allocated to counties, and \$1.5 million is subtracted from the share otherwise allocated to the state (\$2.42 million total).

(2) Effective August 15, 2004, \$920,000 is subtracted from the share otherwise allocated to municipal corporations, \$920,000 is subtracted from the share otherwise allocated to counties, and \$3 million is subtracted from the share otherwise allocated to the state (\$4.84 million total).

(3) Effective August 15, 2005, \$1.38 million is subtracted from the share otherwise allocated to municipal corporations, \$1.38 million is subtracted from the share otherwise allocated to counties, and \$4.5 million is subtracted from the share otherwise allocated to the state (\$7.26 million total).

Each year the total amount is allocated among townships according to the following formula:

(1) In the year beginning August 15, 2003, each township receives the greater of \$14,718 or 70% of the formula amount for that township.



(2) In the year beginning August 15, 2004, each township receives the greater of \$29,436 or 70% of the formula amount for that township.

(3) In the year beginning August 15, 2005, each township receives the greater of \$44,155 or 70% of the formula amount for that township.

"Formula amount" for a township is defined as the amount that would be allocated to that township if 50% of the total revenues credited to townships under the bill's provisions were allocated among townships in the state proportionate to the number of lane-miles within the boundaries of the respective townships and the other 50% of the revenues credited pursuant to the bill's provisions were allocated among townships in the state proportionate to the number of motor vehicles registered within the respective townships.

### **Modification of the new vehicle exemption under the E-Check program**

Under current law, a motor vehicle, the legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser, is exempt from the motor vehicle inspection and maintenance program (E-Check) for a period of two years.<sup>5</sup> The bill exempts such vehicles from the inspection program for a period of five years. Further, the bill specifies that a motor vehicle that is exempt from the motor vehicle inspection and maintenance program for the five-year period remains exempt during that period regardless of whether legal title to the motor vehicle is transferred during that period. (R.C. 3704.14(F)(4).)

### **Rental car tax**

(R.C. 4503.86)

The bill levies a tax of 50¢ per day on each transaction by which a motor vehicle is rented from a motor vehicle renting dealer, beginning July 1, 2003.<sup>6</sup> The tax must be paid by the person renting the vehicle, and applies to each day or portion of a day for which the vehicle is rented. The purpose of the tax is to offset

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<sup>5</sup> "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a dealer purchasing in the capacity of a dealer, who in good faith purchases the new motor vehicle for purposes other than resale. (R.C. 4517.01.)

<sup>6</sup> A "motor vehicle renting dealer" is any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, rental agreement, or other contractual arrangement for a period of less than 30 days under which a charge is made for its use at a periodic rate and the title to the motor vehicle is in a person other than the user, but does not mean a manufacturer or its affiliate renting to its employees or to dealers. (R.C. 4549.65.)

contract-related costs incurred by the state as a result of amendments to the motor vehicle inspection and maintenance program.

The motor vehicle renting dealer must collect the tax from the person renting the motor vehicle, and remit all collections to the Treasurer of State. The Tax Commissioner is required to prescribe forms and procedures governing the payment, collection, and remission of the tax.

The bill provides that any person who fails to comply with the procedures prescribed by the Tax Commissioner is subject to a fine of not less than \$100 or more than \$1000.

**No new counties for the E-Check program**

(R.C. 3704.143)

Current law regulates any contract entered into by the state under the state Air Pollution Control Law with a private operator for the purpose of conducting emissions inspections under the motor vehicle inspection and maintenance program that commonly is referred to as "E-Check." Current law prohibits the Director of Administrative Services or the Director of Environmental Protection, as applicable, from renewing any such contract that was in existence on September 5, 2001. Further, the Director of Administrative Services or the Director of Environmental Protection, as applicable, is prohibited from entering into any new contract upon the expiration or termination of any contract that was in existence on September 5, 2001. The bill provides that either Director also is prohibited from entering into any new contract for the implementation of a motor vehicle inspection and maintenance program in a county in which such a program was not operating on that date.

**Single license plate displayed on rear of vehicle**

Current law requires owners and operators of most kinds of motor vehicles to display on the front and rear of their vehicles license plates and validation stickers issued by the Registrar of Motor Vehicles and deputy registrars (R.C. 4503.19 and 4503.21). The plates are retained for a multi-year period determined by the Director of Public Safety or the vehicle owner. In years that plates are not issued, the Registrar issues a validation sticker that must be attached to the plate located on the rear of the vehicle. Motor vehicle manufacturers and dealers, motorcycles, motorized bicycles, trailers, manufactured homes, mobile homes, trailers, and semitrailers are issued only one plate, which must be displayed on the rear of the vehicle (R.C. 4503.21 and 4503.22). A commercial tractor that does not receive an apportioned license plate under the International Registration Plan (IRP) is issued two license plates, but must display the validation sticker on the front license plate. An apportioned vehicle receiving an apportioned license plate

under the IRP must display the license plate on its front if it is a commercial tractor and on its rear if it is any other type of vehicle. (R.C. 4503.19.) School buses are not issued license plates, but must display identifying numbers issued by the Superintendent of the State Highway Patrol (R.C. 4503.17, not in the bill).

The bill replaces the requirements for two license plates and the display of the plates on the front and rear of motor vehicles with a requirement that a single license plate be displayed on the rear of each vehicle (R.C. 4503.21). In years that license plates are not issued, the Registrar must continue to issue a validation sticker for the single plate.

The bill permits historical motor vehicles to display just one model year license plate or two model year license plates, one on the front of the vehicle and one on the rear (R.C. 4503.181).

The bill provides that the display of a single current license plate and validation sticker on the rear of a motor vehicle sufficiently indicates that a vehicle is registered within this state. Any reference in state law to license plates, a set of license plates, registration plates, or validation stickers is deemed to be a reference to the single license plate and validation sticker that the bill specifies. (R.C. 4503.192.)

The bill removes references to the set of county identification stickers that currently are issued to passenger cars and replaces them with references to one sticker. The bill also removes language that specifies that the manufacturers, dealers, and in-transit permit holders of trailers, manufactured homes, and semitrailers be issued only one license plate and validation sticker as well as language that requires the display of only a single plate on the rear for vehicles of motor vehicle manufacturers, dealers, and in-transit permit holders, and motorcycles, motorized bicycles, manufactured homes, mobile homes, trailers, and semitrailers; this language is no longer necessary since the bill requires the display of a single license plate on the rear of all motor vehicles. (R.C. 4503.19 and 4503.21.) The bill specifies that a commercial tractor, irrespective of its IRP status, must display its license plate and validation sticker on its front (R.C. 4503.19).

A provision of current law prohibits a motor vehicle that is owned or leased by the state and that is designed to carry passengers from being operated or driven ". . . unless it has displayed, in a prominent position on both the front and rear of the vehicle, identification plates . . ." The bill amends this phrase to read ". . . unless it has displayed, in a prominent position on the rear of the vehicle, a license plate . . ." The bill also changes references to "plates" and "tags" in this provision to "plate." (R.C. 4503.23.)



In the provision of current law that prohibits a person from operating or causing to be operated a motor vehicle of a manufacturer or dealer unless the vehicle carries and displays "two placards," the bill replaces that phrase with "a placard." (R.C. 4549.10.)

### **Covering license plates**

Under current law, license plates may not be covered by any material that obstructs their visibility. The bill replaces this language with a prohibition against any person covering the face of the license plate with any material whatsoever, regardless of whether the material obstructs its visibility. Law unaffected by the bill establishes this violation as a minor misdemeanor (R.C. 4503.21).

### **Commercial bus safety inspection fees**

(R.C. 4513.52 and 4513.53)

The commercial bus safety inspection program was established in October of 2000; it applies to most commercial buses, but does not apply to church buses or school buses unless those buses also are used for commercial purposes. The State Highway Patrol conducts the inspections and collects a fee for each inspection in an amount not to exceed \$100, as established by the Director of Public Safety by rule. Current law specifies that the fees collected by the patrol be paid into the GRF.<sup>7</sup>

Under the bill, the Director of Public Safety may establish a fee not to exceed \$200 for each bus inspected. The bill continues the requirement that bus inspection fees be paid to the GRF, but requires the Director of Public Safety, annually on the first day of June, to determine the amount of bus inspection fees collected and certify the amount to the Director of Budget and Management. The Director of Budget and Management then is authorized by the bill to transfer cash from the GRF to the State Highway Safety Fund in an amount "up to" the amount certified.

### **Elimination of the annual reimbursement from the General Revenue Fund to the Auto Registration Distribution Fund and the State Highway Safety Fund**

Under current law, any owner of a boat trailer who is a disabled veteran, has been awarded the Congressional Medal of Honor, or was a prisoner of war

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<sup>7</sup> Section 5a of Article XII of the Ohio Constitution requires that moneys derived from fees relating to the operation or use of vehicles on public highways be expended only for specified highway purposes. The fees for bus inspections may be subject to this constitutional restriction.

may apply to the Registrar of Motor Vehicles for the registration of the boat trailer without the payment of any registration tax, service fee, or any applicable local motor vehicle license tax. Every year by January 15, the Registrar must determine the amount of taxes and fees so exempted from payment and certify the amount to the Director of Budget and Management for reimbursement. The Director then must transfer the amount certified from the General Revenue Fund (GRF) to the Auto Registration Distribution Fund and the State Highway Safety Fund in the same proportions as would be the case if the boat trailer registrations were not so exempted.

The bill eliminates this reimbursement from the GRF to the Auto Registration Distribution Fund and the State Highway Safety Fund. (R.C. 4503.173.)

**Registration of commercial motor vehicles and rental car fleets**

(R.C. 4503.101)

Current law requires the Registrar of Motor Vehicles to adopt rules governing the registration of motor vehicles. Generally, motor vehicles are required to be registered upon the motor vehicle owner's date of birth. However, with respect to any person who owns 20 or more motor vehicles, the Registrar is required to adopt rules to permit such a person to select any single date as the date upon which to register the vehicles.

The bill requires the Registrar to adopt rules for reassigning commercial motor vehicles and rental car fleets to registration expiration dates beginning in 2004 that will evenly spread out the number of expirations each quarter of the year. The bill permits a fleet owner of at least two vehicles to request the Registrar to divide the total number of fleet vehicles into groups (up to four) for purposes of establishing different registration expiration dates. The bill also provides for registration taxes to be prorated if a vehicle is registered for less than a year during the transition period (which may be extended over a two-year period), but specifies that the new \$8 registration fee established by the bill would not be prorated and would be charged in full for each registration renewal of a vehicle during the transition period.

**Voluntary biennial registration for noncommercial motor vehicles**

(R.C. 3704.14, 4503.103, and 4503.11)

Current law authorizes the Registrar to adopt rules to permit any person, other than a person receiving an apportioned license plate for commercial vehicles (under the International Registration Plan), to file an application for registration

for the next two succeeding registration years. The bill *requires* the Registrar to adopt such rules.

At the time of application, the person must pay the annual taxes and fees for each registration year, provided that the taxes may be prorated (see below). A person who is registering a vehicle under the voluntary biennial registration must pay both of the following, for each year of registration: (1) a deputy registrar service fee or a BMV service fee (\$3.25 through December 31, 2003, and \$3.50 thereafter) as applicable, and (2) the bill's additional \$8 fee for defraying the Highway Patrol's costs of administering and enforcing the motor vehicle and traffic laws.

If a person registers a vehicle for less than a full registration year, current law authorizes prorating registration fees based on the type of fee and the amount of time remaining on the registration period. Under current law, state registration taxes may be prorated on a monthly basis while local motor vehicle registration taxes are prorated only on a semi-annual basis. Under the bill, the taxes payable on all applications for the voluntary biennial registration are prorated in the same manner. The tax due is the sum of the state tax due as may be prorated under current law, plus the local motor vehicle registration taxes due as may be prorated under current law for the first year, plus the full amount of the state and local taxes for the second year.

No person applying for a multi-year registration under current law or under the bill is entitled to a refund of any taxes or fees paid.

Additionally, in regard to the motor vehicle inspection and maintenance program ("E-Check"), if an owner's vehicle is subject to E-Check and the owner has voluntarily chosen to register the vehicle biennially, the bill requires the owner to have the vehicle inspected annually or biennially, as applicable, in accordance with rules adopted by the Director of Environmental Protection.

### **Donations when registering a motor vehicle**

(R.C. 4501.42, 4501.43, 4503.105, and 4503.106)

Under current law, persons registering or renewing the registration of a motor vehicle are asked whether they wish to make a \$1 voluntary contribution to the Save Our Sight Fund. In addition to this cause, the bill requires the Registrar of Motor Vehicles or a deputy registrar to ask each person applying for or renewing a motor vehicle registration whether the person wishes to make a \$1 voluntary contribution to the American Red Cross Fund and the Juvenile Diabetes Research Trust Fund, both of which are created by the bill. Every registration or renewal application must include an option for the motor vehicle owner to make a contribution to each of these funds. The Registrar must forward all donations so



collected during each calendar quarter to the Treasurer of State, who must deposit them into the respective funds.

**American Red Cross Fund**

The bill creates the American Red Cross Fund in the state treasury. The American Red Cross Fund consists of the contributions paid to the Registrar by applicants who choose to make voluntary contributions to the Fund. From the moneys deposited in the Fund, the Treasurer of State first must reimburse the BMV for its administrative costs incurred in performing its duties in soliciting and collecting contributions to the Fund. The Treasurer then must pay the remaining moneys in the Fund to the Greater Cleveland Chapter of the American Red Cross in its capacity as the coordinating chapter for all American Red Cross chapters in Ohio. The Greater Cleveland Chapter must deposit the contributions into a segregated account to be used for disaster services and other purposes of the American Red Cross in Ohio as directed by that organization's service council. All investment earnings of the Fund must be credited to it. (R.C. 4501.42.)

**Juvenile Diabetes Research Trust Fund**

The bill creates the Juvenile Diabetes Research Trust Fund in the state treasury. The Juvenile Diabetes Research Trust Fund consists of the contributions paid to the Registrar by applicants who choose to make voluntary contributions to the Fund. From the moneys deposited in the Fund, the Treasurer first must reimburse the BMV for its administrative costs incurred in performing its duties under section 4503.106 of the Revised Code. On the first day of each January, April, July, and October, the Treasurer then must pay all money in the Fund to the Juvenile Diabetes Research Foundation International. All investment earnings of the Fund must be credited to it. (R.C. 4501.43.)

**Consolidation of a number of special license plate funds into one fund**

(R.C. 4501.20, 4501.21, 4501.22, 4501.29, 4501.30, 4501.311, 4501.32, 4501.33, 4501.39, 4501.40 4501.41, 4501.61, 4501.71, 4503.251, 4503.50, 4503.51, 4503.55, 4503.561, 4503.591, 4503.67, 4503.68, 4503.69, 4503.71, 4503.711, 4503.72, 4503.73, and 4503.75)

Under current law, whenever a person obtains one of a number of special license plates for his vehicle, he must pay to the Registrar of Motor Vehicles or deputy registrar a contribution in a specified amount. This contribution goes into a special fund in the state treasury and then is distributed to the organization specified in statute whose logo or name appears on the special license plate. The contributions must be expended by the organizations in specified ways. The special license plates that have their own funds in the state treasury and are addressed by the bill are as follows: (1) Future Farmers of America, (2)

Collegiate, (3) Pro Football Hall of Fame, (4) Ducks Unlimited, (5) Professional sports team, (6) Boy Scouts of America, (7) Girl Scouts of the United States of America, (8) National Organization of Eagle Scouts, (9) Fraternal Order of Police, (10) Fraternal Order of Police Associates of Ohio, (11) Ohio CASA/GAL (Court-appointed special advocate/guardian ad litem), (12) Leader in Flight, and (13) Rotary International.

The bill eliminates these 13 separate funds and creates the License Plate Contribution Fund. All the contributions that currently are deposited into the separate funds will be paid into the new Contribution Fund, which retains the distribution language of the respective funds for each kind of contribution.

All investment earnings of the new fund are credited to it. Not later than May 1 of every year, the Registrar must distribute to each of the 13 entities that sponsor the affected special license plates the investment income the Fund earned the previous calendar year. The amount paid to each entity is proportionate to the amount of money it received from the Fund for license plates during the previous calendar year.

#### **Design-build authority of ODOT**

Since 1995, ODOT has had a pilot program whereby each biennium the design and construction elements of a number of highway and bridge projects are combined into a single "design-build" contract. By the end of 2002, the Director of ODOT was to report to the General Assembly. The report was to evaluate the pilot program, including whether the program saved costs and time in the completion of these projects. Under the pilot program, for each biennium, the total dollar value of the design-build contracts is limited to \$250 million. The Director must award these design-build contracts in accordance with ODOT's general competitive bidding law, except that, in lieu of the plans required by that law, the Director must prepare and distribute a "scope of work document" upon which the bidders can base their bids.

The bill makes this pilot program permanent and retains the biennial \$250 million limit and scope of work provision of that program.

#### **Design-build authority of county engineers**

Under Section 14 of Substitute House Bill 73 of the 124th General Assembly, until July 1, 2003, a county engineer may combine the design and construction elements of a bridge project into one contract. A maximum of 15 bridge projects statewide may be completed using such "design-build" contracts, and the contracts cannot exceed \$2 million each.

Under the bill, notwithstanding current law governing contracts for professional design services, a county engineer may utilize a design-build contract for an unlimited number of bridge, highway, or safety projects, but only if the cost of each project as bid does not exceed \$1.5 million. When a county engineer is required to use competitive bidding, he must award a design-build contract in accordance with the general county competitive bidding law. In lieu of plans, the county engineer must prepare and distribute a scope of work document upon which bidders can base their bids.

A county engineer may request the Director of Transportation to review and comment on the scope of work document or the construction plans for conformance with state and federal requirements. Upon such a request, the Director must review and comment on the documents or plans. (R.C. 5543.22.)

**Lump sum payment under an incentive provision in an ODOT construction contract**

(R.C. 5525.20)

Current law permits the Director of Transportation to include incentive and disincentive provisions in contracts for projects or phases of projects that involve factors such as a lengthy detour, excessive disruption to traffic, or a significant impact on public safety. Under an incentive provision, the contractor is compensated a certain amount for each day specified critical work is completed ahead of schedule; under a disincentive provision, the contractor is assessed a deduction for each day the specified critical work is completed behind schedule. Under the bill, the Director may elect to compensate the contractor in the form of a lump sum incentive for completing critical work ahead of schedule.

**Payment of bond service charges on State Infrastructure Bank obligations**

(R.C. 5531.10(A)(6))

Continuing law authorizes the issuance of obligations of the state for any of the purposes for which the Department of Transportation's State Infrastructure Bank may be used. Bond service charges on the obligations are to be paid from pledged receipts and any applicable special funds. **Pledged receipts**" is defined as (1) moneys accruing to the state from the disposition or use of qualified projects and from the repayment of loans made from proceeds received from the sale of obligations, (2) accrued interest received from the sale of obligations, (3) income from the investment of the special funds, (4) any donations available for the payment of bond service charges, and (5) any amounts in the State Infrastructure Bank pledged to the payment of such charges.

The bill adds that, if the amounts in the State Infrastructure Bank are insufficient for the payment of such bond service charges, "**pledged receipts**" also means moneys that are apportioned by the United States Secretary of Transportation under Title 23 of the United States Code (or any successor legislation) or under any other federal law relating to aid for highways, and that are to be received as a grant by the state, to the extent the state is not prohibited by state or federal law from using such moneys *and* the moneys are pledged to the payment of the bond service charges.

**Conveyances, transfers, and permits pertaining to unneeded highway lands**

(R.C. 5501.45)

Current law allows the Director of Transportation to convey or transfer, or permit the use of, lands that are owned by the state, that are acquired or used for the state highway system or highways, and that are no longer needed by the state for highway or recreation purposes (R.C. 5501.45(A)). Conveyances, transfers, and grants of and permits to use the unneeded highway lands may be made or provided to state institutions, agencies, commissions, or instrumentalities, to political subdivisions, to taxing districts of the state, or to institutions receiving financial assistance from the state (R.C. 5501.45(E)(1)).

The bill adds the federal government to the list of entities that may receive or use unneeded highway lands (R.C. 5501.45(E)(1)). It also establishes several new requirements for conveyances, transfers, or grants of unneeded highway lands. They are (1) to be by deed or, if a statutory dedication of a public road is included, by plat, (2) executed by the Director, and (3) in the form prescribed by the Attorney General. Additionally, under the bill, the Director must keep a record of each conveyance, transfer, grant, or permit to use pertaining to unneeded highway lands. (R.C. 5501.45(E)(1) and (4).)

Current law also sets forth several requirements that are *generally applicable to all conveyances* of state-owned lands, which technically would include conveyances of unneeded highway lands. Specifically, all conveyances must be (1) drafted by the Auditor of State, (2) executed in the name of the state, (3) signed by the Governor, (4) countersigned by the Secretary of State, and (5) sealed with the Great Seal of the State; the Auditor of State must keep a record of each conveyance. (R.C. 5301.13--not in the bill.) But, current law also provides that the Director's conveyances, transfers, or grants pertaining to unneeded highway lands *are exempt* from these general conveyance requirements (R.C. 5501.45(E)(1)). The bill clarifies this exemption by stating that only the general conveyance requirements that are contrary to the specific requirements for conveyances, transfers, or grants pertaining to unneeded highway lands are inapplicable (R.C. 5501.45(E)(3)). Thus, the only general conveyance

requirements that do not appear to apply are that the conveyance has to be drafted and recorded by the Auditor of State, signed by the Governor, and countersigned by the Secretary of State.

Finally, current law also allows the Director to grant a permit to any individual, firm, or corporation to use or occupy a portion of *any* road or highway on the state highway system, which technically would include permits to use unneeded highway lands. These permits are subject to a number of specific conditions such as (1) the occupancy of the roads or highways must be in the location prescribed by the Director and (2) the Director can change the location when the Director deems a change necessary for the convenience of the traveling public. (R.C. 5515.01--not in the bill). But, current law also provides that the Director's permits to use unneeded highway lands are exempt from these general permit conditions. The bill removes this exemption, so that the Director's permits to use unneeded highway lands will be subject to these general permit conditions (R.C. 5501.45(E)(1)).

#### **Sales of unneeded highway property**

(R.C. 5501.34)

Under current law, if the Director of Transportation acquires real property for highway purposes and if circumstances subsequently alter the highway requirements so that the property, or a portion of it, is no longer needed, the Director may sell all the right, title, and interest of the state in any of the property in a specified manner (by public auction or by private sale to abutting property owners). These conveyances are to be by a deed (1) executed by the Governor, (2) bearing the Great Seal of the State, and (3) in the form prescribed by the Attorney General. The Director must keep a record of them. (R.C. 5501.34.)

Current law also sets forth several requirements that are *generally applicable to all conveyances* of state-owned property. Specifically, all conveyances must be (1) drafted by the Auditor of State, (2) executed in the name of the state, (3) signed by the Governor, (4) countersigned by the Secretary of State, (5) sealed with the Great Seal of the State, and (6) recorded by the Auditor of State. (R.C. 5301.13--not in the bill.) But, current law also provides that the Director's above-described sales of unneeded highway property are exempt from these general conveyance requirements (R.C. 5501.34(G)).

The bill clarifies that only the general conveyance requirements that are contrary to the specific requirements for the Director's sales of unneeded highway lands are inapplicable. Thus, the requirements that all conveyances of real property by the state must be countersigned by the Secretary of State and drafted and recorded by the Auditor of State do not appear to apply in this instance. (R.C. 5501.34(G).)



### **ODOT's Career Professional Service**

ODOT has a pilot program within the department known as the "Career Professional Service" (CPS). This program includes ODOT employees who, regardless of job classification, meet both of the following conditions:

(1) They are supervisors, professional employees who are not in a collective bargaining unit, confidential employees, or management level employees.

(2) They exercise authority that is not merely routine or clerical in nature and report only to a higher level unclassified employee or employee in the CPS.

Every other year the Director of Transportation must adopt a business plan for ODOT that states the department's mission, business objectives, and strategies and that establishes a procedure by which employees in the CPS will be held accountable for their performance. After an employee is appointed to a CPS position, the employee's direct supervisor provides the employee with a written performance action plan that describes ODOT's expectations for that employee in fulfilling the department's business plan. CPS employees receive written performance reviews based on the employee's fulfillment of the mission, business objectives, and strategies of the business plan. ODOT must give an employee whose performance is unsatisfactory an opportunity to improve his performance for a period of at least six months before the department can take any disciplinary action. Under conditions imposed by law for the pilot program, no person may be appointed to a position in the CPS after June 30, 2003, including for the purpose of filling a CPS vacancy that occurs for any reason.

The bill makes the CPS pilot program permanent and permits persons to be appointed to CPS positions after June 30, 2003.

### **ODOT pavement selection process analysis**

(Section 12)

The bill requires the Department to contract with a neutral third-party entity to conduct an analysis of the Department's pavement selection process, including but not limited to life cycle cost analysis, user delay, constructability, and environmental factors. The Department is required to convene an advisory panel of interested parties to assist it in the selection of the neutral third-party entity and to prepare the scope of the study. The entity must be an individual or an academic, research, or professional association with an expertise in pavement selection processes. Additionally, the entity must have no financial interest in any pavement selection decisions and must not be a research center for concrete or asphalt pavement. The analysis must compare and contrast the Department'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.

The third-party entity is required to issue a final report with recommendations by October 31, 2003. Prior to issuing the report, the entity must allow a comment period. The Department is required to change its pavement selection process based on the report's recommendations.

### **Force accounts**

(R.C. 117.16, 723.52, 723.53, 5517.02, 5543.19, and 5575.01; Section 8)

#### **Overview**

In general, "force account" is a term used in regard to the cost of a highway project; below the amount established for a force account project, a governmental agency may use its own labor force and equipment; above the amount established by law, the governmental agency must competitively bid a project. Although each of the force account statutes is structured differently, the bill generally increases force account limits that apply to ODOT road and bridge projects, county road and bridge projects, township road maintenance and repair, and municipal street repair. The bill requires the Auditor of State to develop forms that ODOT and the political subdivisions must use in determining whether they may proceed by force account. The bill also requires the Auditor to evaluate force account projects whenever ODOT or a political subdivision is being audited and reduces force account cap levels for subdivisions that fail to comply with the bill's limits.

#### **Force account limits**

**ODOT.** The bill increases the force account limits for ODOT from \$20,000 to \$50,000 for construction of a bridge or culvert, or the installation of a traffic control signal, or for any single structure. It also increases the force account limits from \$10,000 per mile to \$25,000 per mile for road maintenance or repair work. The Director must let the contract to the lowest competent and responsible bidder unless he is able to proceed by force account. (R.C. 5517.02.)

**Counties.** The bill increases the county force account limits from \$40,000 to \$100,000 for construction or repair of a bridge or culvert. It also increases the force account limits from \$10,000 to \$30,000 per mile for construction or reconstruction of a road. When the estimated cost of the work exceeds these amounts, the county must proceed through competitive bidding. (R.C. 5543.19.)

**Townships.** Current law allows a board of township trustees to proceed either by contract or force account in the maintenance and repair of roads. When

the board proceeds by contract and the amount involved exceeds \$15,000, the board must let the contract to the lowest responsible bidder; if the amount is \$15,000 or less, current law states that the contract may be let without competitive bidding. Under the bill, this amount is increased to \$45,000. The bill also specifies that if the maintenance or repair of the road is \$45,000 or less, *the work may be done by force account*. The bill also increases the \$5,000 per mile limit for the construction or reconstruction of a township road to \$15,000 per mile, above which current law requires a township to receive competitive bids before either accepting a bid or deciding to proceed by force account. (R.C. 5575.01.)

**Municipal corporations.** Under current law, when the estimated cost of construction, reconstruction, or repair of a street exceeds \$10,000, the proper municipal officers must receive competitive bids for furnishing all the labor, materials, and equipment and doing the work, after newspaper advertisement as provided by law, and must *consider and reject* such bids before ordering the work done by force account. The bill increases the force account limit (without first considering bids) from \$10,000 to \$30,000 and rephrases the statute so that the officers must consider and *may* reject the bids. If the bids are rejected, the municipal corporation may proceed by force account. Law unaffected by the bill specifies that the municipal force account statutes "do not apply to any municipal corporations having a charter form of government." (R.C. 723.52 and 723.53.)

### **Auditor of State**

The bill requires the Auditor of State to do all of the following:

- (1) Develop a force account project assessment form that ODOT and each political subdivision must use to estimate or report the cost of a force account project;
- (2) Make the form available to public offices by any cost-effective, convenient method accessible to the Auditor and the public offices;
- (3) When conducting a regularly scheduled audit, examine the forms and records of each force account project that a public office has completed since the last time the Auditor conducted an audit, to determine compliance with force account limits and other force account provisions.

The form developed by the Auditor to assess projects, which generally replaces specific references to cost estimates in the various force account provisions, must include (1) costs for employee salaries and benefits, (2) any other labor costs, (3) materials, (4) freight, (5) fuel, (6) hauling, (7) overhead expenses, (8) workers' compensation premiums, and (9) all other items of cost and expense, including (10) a reasonable allowance for the use of all tools and equipment used

in connection with the work and (11) for the depreciation on the tools and equipment (R.C. 117.16(A)(1)).

Under the bill, if the Auditor receives a complaint from any person that a public office has violated the force account limits established for that office, the Auditor may conduct an audit in addition to the regular audit, if the Auditor has reasonable cause to believe that an additional audit is in the public interest (R.C. 117.16(B)).

The bill also subjects local government entities to reduced force account limits if the Auditor finds that the local governments violated the new force account limits. If the Auditor finds one violation, the Auditor must notify the political subdivision that for one year from the date of the notification, the force account limits are reduced as follows: (1) for a county, the limit is \$10,000 per mile for road construction or reconstruction and \$40,000 for bridge or culvert construction, (2) for a township, the limit is \$15,000 for road maintenance and repair and \$5,000 per mile for construction projects, and (3) for a municipal corporation, the limit is \$10,000 for street construction or repair. If the Auditor finds a second violation within two years of the first violation, the reduced force account limits are in effect for two years. These reduced force account limits are in addition to any other action the Auditor is authorized to take. (R.C. 117.16(C).)

### **LSC force account study**

(Section 8)

The bill requires the staff of the Legislative Service Commission, upon the approval of the Commission, to conduct a study beginning in January 2006, of the force account limits established by the bill for ODOT and counties, townships, and municipal corporations. The study must consider the number of force account projects completed by ODOT and the political subdivisions and must assess the use of taxpayer funds for those projects. The study must discuss any measurable effects on economic development that may relate to specific force account projects and also must address findings of the Auditor of State, including whether ODOT or any political subdivisions were found to have violated the force account limits and whether any political subdivisions were subject to reduced force account limits as a result of the audits.

If approved by the Commission, the staff must submit a report to the General Assembly not later than January 1, 2007.

### **Transportation of steel coils**

(Section 9)

Current law establishes weight limits for trucks operating on highways, but includes a process for permits to be issued for vehicles to exceed the weight limits (R.C. 4513.34, not in the bill). One of the main factors determining the issuance of a special permit is whether the load is capable of being divided into two or more smaller loads. Generally the Director of Transportation and local authorities determine whether a vehicle or load is nondivisible on a case-by-case basis (OAC 5501:2-11-03). Existing law provides that from July 1, 2001, through July 1, 2003, three or fewer steel coils are deemed to be a nondivisible load for purposes of the special permits, provided that the maximum overall gross vehicle weight of the vehicle and load does not exceed 92,000 pounds. The bill extends this determination from July 1, 2003, through June 30, 2005.

### **Designation of a state highway**

(Section 19)

The bill requires the Director of Transportation to designate the road known as Rockside/Snow Road within Cuyahoga County as a state highway. The Director can also designate any additional connecting roads necessary to incorporate Rockside/Snow Road as part of the state highway system.

### **Addition of third lane of I-71 in particular area**

(Section 18)

The bill requires the Department of Transportation, in accordance with its existing schedule for reconstruction of Interstate Route 71, to add a third lane of travel in both the northbound and southbound lanes of that highway, from one mile south of State Route 18 to the interchange with State Route 303.

### **Public employee liability when operating road maintenance equipment**

(R.C. 4511.04)

Current law declares that most state traffic and vehicle equipment laws do not apply to persons and vehicles "while actually engaged in work on the surface of a highway within an area designated by traffic control devices." It further specifies that the traffic and vehicle equipment laws do apply to these persons and vehicles when traveling to or from such work. The bill modifies this provision to specify that such persons and vehicles are subject to the state OMVI laws even while engaged in work on the surface of a highway. (R.C. 4511.04(A).)

Current law also establishes immunity from criminal prosecutions for "the drivers of snow plows, traffic line stripers, road sweepers, mowing machines, tar distributing vehicles, and other vehicles utilized in snow and ice removal or road surface maintenance" who violate specified traffic laws if both of the following apply: (1) the vehicle operators are engaged in work on a highway, and (2) the vehicles are equipped with flashing lights and the lights are in operation. The specified traffic laws include driving too slowly and various laws relating to driving in marked lanes and passing other vehicles. The current law exempting these vehicle operators from criminal law further states that *this law* does not exempt the operators from civil liability for violating the specified traffic laws. (See **COMMENT.**)

In addition to the traffic laws specified under current law, the bill establishes immunity from criminal prosecution for the driver of a highway maintenance vehicle who operates a vehicle in an unsafe condition or who violates vehicle size and weight restrictions while engaged in the performance of official duties (R.C. 4511.04(B)). The statement of civil liability similarly is modified to specify that the exemption from criminal prosecution does not exempt the vehicle operators from civil liability in regard to the operation of an unsafe vehicle or vehicle size and weight violations (R.C. 4511.04(C)(1)). The bill further specifies that the driver of a vehicle *transporting* highway maintenance equipment is not exempt from criminal liability for vehicle size and weight violations (R.C. 4511.04(C)(2)).

The bill retains the requirement that the immunity from criminal prosecution applies only when the flashing lights on the vehicle are operating, but specifically requires the vehicle operator to be engaged in the "performance of official duties" on a street or highway and also specifies that the highway maintenance vehicle must be owned by the state or a political subdivision (R.C. 4511.04(B)). The bill also defines "highway maintenance vehicle" as a "vehicle used in snow and ice removal or road surface maintenance, including a snow plow, traffic line striper, road sweeper, mowing machine, asphalt distributing vehicle, or other such vehicle designed for use in specific highway maintenance activities" (R.C. 4511.04(D)).

### **Emergency Management Agency Service and Reimbursement Fund**

(R.C. 5502.39)

Currently, two funds created in uncodified law--the EMA Utility Payment Fund and the Salvage and Exchange-EMA Fund--may be used by the Emergency Management Agency to pay specified costs. The bill instead creates in codified law a new fund in the state treasury, the Emergency Management Agency Service and Reimbursement Fund, which consists of money collected under the

Emergency Management Agency Law. Money in the Fund must be used to pay the costs of administering programs of the Agency.

**Creation of the Public Safety Investigative Unit Salvage and Exchange Fund**

(R.C. 4501.10)

As is the case with all state agencies, the Department of Public Safety may dispose of excess and surplus supplies, including motor vehicles. Generally, the money the Department currently receives from the sale of motor vehicles and related equipment must be deposited into either the Highway Safety Salvage and Exchange Administration Fund or the Highway Safety Salvage and Exchange Highway Patrol Fund. Money in these funds can be used only to purchase replacement motor vehicles and related equipment.

The bill creates the Public Safety Investigative Unit Salvage and Exchange Fund in the state treasury and provides that money that the Department of Public Safety's Investigative Unit receives from the sale of motor vehicles and other related equipment must be deposited into the Fund to be used solely for the purchase of replacement motor vehicles and other equipment for the Investigative Unit.

**Farm machinery lighting and marking standards**

(R.C. 4513.111)

Current law establishes lighting, illumination, and marking standards regarding the operation of farm machinery on a street or highway. The bill provides that units of farm machinery produced during or after 2002 when traveling on a street or highway must meet lighting, illumination, and marking standards established in American Society of Agricultural Engineers standard ANSI/ASAE S279.11 APR01 or any subsequent revision of that standard. (The current standard is ANSI/ASAE S279.10 OCT98.)

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**COMMENT**

The general liability of a public employee for specific acts in the performance of the employee's duties may be governed elsewhere in law. *See* R.C. 9.87 and Chapter 2743. of the Revised Code for liability of state employees or Chapter 2744. of the Revised Code for liability of political subdivision employees.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-25-03	p. 168
Reported, H. Finance & Appropriations	03-11-03	pp. 222-223
Passed House (63-34)	03-12-03	pp. 244-249

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