



Bill Analysis

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Legislative Service Commission

H.B. 68*

126th General Assembly
(As Introduced)

Rep. T. Patton

BILL SUMMARY

- Gives to the Director of Public Safety authority to prescribe the form for application for licensure as a Class A, B, or C private investigator or security guard provider and for registration as an employee of a licensed private investigator or security guard provider and revises certain application procedures as follows:
 - Requires an applicant for licensure or registration to provide fingerprints for a criminal records check directly to the Superintendent of Criminal Identification and Investigation and to notify the Superintendent of any intent to carry a firearm.
 - Requires the Superintendent to conduct a criminal records check of all applicants for licensure as a private investigator or security guard provider or for registration as an employee of a licensee and directs the Superintendent to request information related to that person from the FBI.
- Establishes a procedure and fee for the annual renewal registration as an employee of a licensed private investigator or security guard provider.
- Changes five fees related to the licensure of private investigators and security guard providers and the registration of employees.
- Establishes an \$8 fee for each certificate of completion provided to a driver training school by the Department of Public Safety and requires a driver training school to issue a certificate of completion to each person

** This analysis does not address appropriations, fund transfers, and similar provisions. Also, this analysis was prepared before the introduction of the bill appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

who successfully completes a training course necessary to obtain or maintain a driver's license.

- Permits the Director of Public Safety to impose fines on holders of, and applicants for, driver training school licenses and driver training instructor licenses for certain violations.
- Increases the fee for a written motor vehicle registration information report from \$1.50 to \$2.
- Redirects the fees for personalized and initial reserved license plates from the Highway Operating Fund to the State Highway Safety Fund.
- Combines four funds (Seat Belt Education Fund, Elementary School Program Fund, Trauma and Emergency Medical Services Fund, and Trauma and Emergency Medical Services Grants Fund) that receive seat belt fine money and are used by the Department of Public Safety into the Emergency Medical Services Fund.
- Retains the respective uses of the money but eliminates the specific percentages received by each of the four separate Public Safety funds.
- Renames the Unidentified Motor Vehicle Receipts Fund as the Unidentified Public Safety Receipts Fund; provides that it is to be used for receipts of the Department of Public Safety, not just the Bureau of Motor Vehicles; and eliminates the Highway Patrol Fee Refund Fund.
- Requires investment earnings of the Security Deposit Fund to be credited to the existing Bureau of Motor Vehicles Fund.
- Eliminates the Film Production Reimbursement Fund.
- Increases the deduction of certain amounts from local government distributions of state motor fuel tax revenues when the additional fuel use tax is eliminated.
- Permits counties and municipal corporations to pledge and obligate money received from the state motor vehicle license and fuel taxes, and from TIF service payments in lieu of taxes, for the repayment of State Infrastructure Bank obligations issued for public transportation projects.
- Specifies that the amount certified by the Treasurer of State as being necessary to meet all payments of debt service and financing costs due

during the fiscal year from the Highway Capital Improvement Bond Service Fund is to be transferred from the Highway Operating Fund to the Bond Service Fund in equal monthly installments from September to February of that fiscal year, rather than as the money becomes available, as provided in current law.

- Establishes that if ODOT keeps its cost estimate for a construction project confidential until bids are received, the requirement for contracts to be awarded at not more than the estimated cost plus 5% does not apply.
- Eliminates the requirement that the information ODOT bidders must furnish detailing their pending work be printed and made under oath.
- Permits the Director of Transportation to enter into agreements with the United States or any U.S. department or agency for costs of providing services, and project cooperation agreements with the United States Department of the Army for construction projects, which may include provisions for advance payments by the Director without prior Controlling Board approval.
- Allows the Director of Transportation to sell, by any method most advantageous to the Department, including an Internet auction, personal property that is unfit for use or not needed by the Department of Transportation.
- Moves the date for the Ohio Turnpike Commission annual report from on or before April 1 to on or before July 1.

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CONTENT AND OPERATION

Licensure and registration of private investigators, security guard providers, and employees

(R.C. 109.572, 4749.03, 4749.06, and 4749.10)

Continuing law requires private investigators and security guard providers to be licensed by the Director of Public Safety and their employees to be registered with the Director. The bill changes selected aspects of the application procedures for licensure and registration. Under current law, an applicant for licensure or registration submits an application to the Director of Public Safety along with a set of fingerprints for use in a criminal records check. The Director then requests the Superintendent of Criminal Identification and Investigation to conduct a criminal records check for a person who is applying for licensure. The Director *may* request a criminal records check for a person applying for registration as an employee. Under the bill, a person would still submit an application for licensure or registration to the Director (the bill gives the Director specific authority to prescribe the format of the application) but the applicant would provide the fingerprints directly to the Superintendent. The applicant also provides the information the Superintendent requires on a form the Superintendent provides and pays any fee the Superintendent imposes. The Superintendent conducts a criminal records check of all applicants for licensure and registration and reports the findings to the Director who makes the licensure or registration decision as under current law.

Continuing law prohibits a licensed private investigator or security guard provider, or a registered employee thereof, from carrying a firearm in the course of business unless the Director approves and registers that person to do so. Continuing law provides procedures and standards for that approval and

registration. The bill requires that an applicant for licensure or registration who plans to carry a firearm in the course of business also notify the Superintendent of that intent. The bill directs the Superintendent to request information related to that person from the FBI, review the information the FBI provides, and report the findings to the Director of Public Safety. The Director makes the decision regarding approval and registration to carry a firearm in the same manner as under current law.

Renewal of employee registration

Current law does not provide for the renewal of registration as an employee of a licensed private investigator or security guard provider. The bill establishes that the registration of an employee expires on the one-year anniversary of its issuance, specifies an annual renewal process thereafter, and requires an annual renewal fee to be determined by the Director, not to exceed \$35. The bill prohibits the approval of a renewal if the employee no longer meets the requirements for registration. An additional background check is not required for an annual renewal, but the bill requires the employee to report any conviction for a felony to the employer and to the Director.

Changes in fees

The bill changes five fees related to licensure and registration of private investigators and security guard providers and provides for one new fee (registration renewal, discussed above). Whereas current law specifies exact fees, the bill authorizes the Director to establish fees for the activities, not to exceed an amount the bill specifies. The following table summarizes the fee changes and addition.

| Activity for which a fee is charged | Current fee | Proposed fee |
|---|--------------------------|--|
| Examination fee for Class A, B, or C license | \$250 | Director determines fee, not to exceed \$375 |
| Annual renewal of Class A, B, or C license | \$250 | Director determines fee, not to exceed \$275 |
| Registration as an employee | \$18 | Director determines fee, not to exceed \$40 |
| Annual renewal of registration as an employee | no provision for renewal | Director determines fee, not to exceed \$35 |
| Application to carry firearm | \$10 | Director determines fee, not to exceed \$15 |
| Annual requalification certificate to carry firearm | \$5 | Director determines fee, not to exceed \$15 |

Driver education certificate of completion fee

(R.C. 4508.10)

Current law requires each person under 18 who is applying for a driver's license to present satisfactory evidence of having completed an approved driver education course (R.C. 4507.21, not in the bill). The Department of Public Safety administers the law regulating driver training schools, including inspecting the facilities and equipment and licensing the instructors. By rule, the Department currently requires each driver training school to issue a certificate of completion to beginning drivers under 18 who successfully complete the required classroom and behind-the-wheel instruction (Ohio Admin. Code 4501-7-13).

The bill requires a driver training school to issue a certificate of completion to each person who successfully completes a training course necessary to obtain or maintain a driver's license, which is defined by reference to existing law as a license to operate a vehicle other than a commercial motor vehicle (R.C. 4507.01, not in the bill). The Department of Public Safety is required to provide each driver training school with the certificate of completion forms at a fee of \$8 for each certificate of completion. The bill requires the Director of Public Safety to deposit the fees into the State Highway Safety Fund.

Imposition of fines by the Director of Public Safety on driver training schools and instructors

(R.C. 4508.06)

The Director of Public Safety licenses driver training schools and driver training instructors. The Director may refuse to issue, or may suspend or revoke, a license in any case in which the Director finds an applicant or licensee has violated any of the laws or regulations governing driver training schools and instructors. A person whose license has been suspended or revoked for any such violation must return the license to the Director. Failure to do so is a minor misdemeanor, except that on a second or subsequent offense within two years after a first offense, such a violation is a fourth degree misdemeanor.

The bill permits the Director to impose a fine in any case in which the Director finds an applicant or licensee has violated any of the laws governing driver training schools and instructors or any of the applicable rules, and to suspend or revoke a license if the applicant or licensee fails to pay a fine the Director imposes. The bill does not establish a maximum amount for the fine.

Motor vehicle registration information report fee

(R.C. 4503.26)

Under current law, the Registrar of Motor Vehicles, upon application of any person and payment of the proper fee but subject to any restrictions imposed by law, may search the motor vehicle registration records of the Bureau of Motor Vehicles and make reports of the information they contain and photocopies of those records.

The applicable fees are as follows:

(1) For searches of the records and written reports, \$1.50 for each name, number, or fact searched or reported on;

(2) For photocopies of records and attestations of them, under the Registrar's signature and seal, \$2 per copy. Any such copy is prima-facie evidence of the facts it contains.

The bill increases the fee for searches of the motor vehicle registration information records and written reports from \$1.50 to \$2 for each name, number, or fact searched or reported on.

License plate fees

(R.C. 4503.40 and 4503.42)

The bill requires the Registrar of Motor Vehicles to deposit \$30 of the \$35 fee for personalized license plates and \$2.50 of the \$10 fee for initial reserved license plates into the State Highway Safety Fund, rather than the Highway Operating Fund as under current law. The bill does not affect the remaining balance of both fees, which is deposited into the Bureau of Motor Vehicles Fund and used to compensate the Bureau of Motor Vehicles for additional services in issuing the license plates.

Department of Public Safety funds receiving seat belt fine money

(R.C. 4511.191, 4513.263, 4765.07, 4765.11, and 5503.04)

Current law requires all fines for violations of state or local seat belt requirements to be distributed into five separate funds, as follows:

(1) 8% into the Seat Belt Education Fund, to be used by the Department of Public Safety to establish a seat belt education program;



(2) 8% into the Elementary School Program Fund, to be used by the Department of Public Safety to establish and administer elementary school programs that encourage seat safety belt use;

(3) 2% into the Ohio Medical Transportation Trust Fund, to be used solely for the salaries and expenses that the Medical Transportation Board incurs in implementing and enforcing licensing of private ambulance service organizations, private nonemergency medical service organizations, and private air medical service organizations;

(4) 28% into the Trauma and Emergency Medical Services Fund, to be used by the Department of Public Safety for the administration of its Division of Emergency Medical Services and the State Board of Emergency Medical Services;

(5) 54% into the Trauma and Emergency Medical Services Grants Fund, to be used by the State Board of Emergency Medical Services to make grants for the training of personnel, purchase of equipment and vehicles, and specified research programs.

Under the bill, seat belt fine money is distributed into two funds. The bill retains the 2% distribution to the Ohio Medical Transportation Trust Fund (number 3 above) and distributes 98% of the fine money into the Emergency Medical Services Fund by combining the other four funds. Under the bill, the Emergency Medical Services Fund is to be used by the Department of Public Safety for (1) the administration of the Division of Emergency Medical Services and the State Board of Emergency Medical Services, (2) grants by the State Board of Emergency Medical Services, and (3) the establishment of a seat belt education program, which must include elementary school programs that encourage seat belt use.

Department of Public Safety refund funds

(R.C. 4501.12 and 4501.26)

The bill modifies the Unidentified Motor Vehicle Receipts Fund, which is a depository for money that is provisional in nature or for which proper disposition cannot immediately be determined. The bill renames the fund as the Unidentified Public Safety Receipts Fund and provides that it is to be for receipts of the entire Department of Public Safety, not just the Bureau of Motor Vehicles. The bill also repeals the law creating the Highway Patrol Fee Refund Fund, which currently consists of contingent money received by the State Highway Patrol for various services, including license or inspection fees and copies of evidentiary material, and is used to make refunds of such money.

Investment earnings of the Security Deposit Fund

(R.C. 4509.27)

Under current law, the Registrar of Motor Vehicles can require an uninsured motorist who is involved in an accident to make a security deposit to cover the amount for which the motorist may be liable. This money is credited to the Security Deposit Fund and is either paid to the party who suffered a loss in the accident for which the uninsured motorist is liable after a judgment is rendered or is returned to the uninsured motorist if it is not needed to satisfy any such judgment. All investment earnings on the cash balance of the fund are credited to the fund. The bill requires the investment earnings to be credited to the existing state Bureau of Motor Vehicles Fund instead.

Elimination of the Film Production Reimbursement Fund

(R.C. 4501.35)

The bill eliminates the Film Production Reimbursement Fund. The Department of Public Safety deposits into the fund money it receives from other agencies for services and supplies it provides for the production of public service announcements, media materials, and training materials. This money will instead be credited to the existing State Highway Safety Fund.

Increased deduction of local gas tax revenues when fuel use tax is eliminated

(R.C. 5735.23)

Ohio law levies an additional fuel tax on the amount of fuel consumed by commercial trucks in Ohio that was purchased outside of Ohio. The current additional fuel use tax is 2¢ per gallon. (R.C. 5728.06, not in the bill.) Ohio law also provides that this use tax will be completely eliminated as of July 1, 2005. It should be noted, however, that the total elimination of the additional tax may not occur on that date if the fuel tax cancellation trigger goes into effect.¹

In order to deal with the revenue loss that the Department of Transportation would otherwise incur because of the elimination of the tax, the bill provides that

¹ The reduction in the fuel use tax will not occur if both of the following occur: (1) the Director of Transportation determines that the amount of federal motor fuel excise taxes appropriated to this state and available for basic highway programs is equal to or greater than 95% of the amount of federal fuel taxes paid within this state, (2) the Director of Transportation determines that this state no longer receives a net loss of federal fuel tax returns caused by any federal tax reduction, tax rebate, or tax assistance on behalf of ethanol-based or alcohol-based motor fuels. (R.C. 5735.292, not in the bill.)

the following amounts be deducted from current local government shares of the state motor fuel tax beginning in August, 2005:

- \$745,875 each month from the amounts distributed to municipal corporations based on numbers of vehicles registered in the various municipal corporations (increases the amount deducted under current law by \$497,250);
- \$263,250 each month from the amounts distributed equally among all townships (increases the current amount deducted by \$175,500);
- \$745,875 each month from the amounts distributed equally among all counties (increases the current amount deducted by \$497,250).

The money deducted from municipal corporation, township, and county distributions is credited to the Highway Operating Fund. No provision in the bill addresses a scenario in which the fuel tax cancellation trigger goes into effect. If such a scenario would occur, the increased amounts would still be deducted as though the 2¢ additional fuel use tax had been eliminated.

Municipal and county repayment of State Infrastructure Bank obligations with certain motor vehicle related taxes and TIF payments

(R.C. 4501.04, 4503.02, 5531.09, 5531.10, 5735.05, 5735.25, 5735.27, 5735.28, and 5735.29)

Current law provides for the establishment of the State Infrastructure Bank (SIB). The SIB consists of, among other amounts, money received from the federal government in the form of grants, awards and assistance, and proceeds of obligations issued by the Treasurer of State for state infrastructure projects or to provide financial assistance for other types of projects for which the SIB was created.²

The Director of Transportation has authority to use the SIB to:

- Encourage public and private investment in transportation facilities that contribute to the multi-modal and intermodal transportation capabilities of the state;
- Develop a variety of financing techniques designed to expand the availability of funding resources and to reduce direct state costs;

² "State infrastructure project," means any public transportation project undertaken by the state, including all components of such a project.

- Maximize private and local participation in financing projects; and
- Improve the efficiency of the state transportation system by using and developing the particular advantages of each transportation mode to the fullest.

To further these purposes, the Director may use the SIB to provide financial assistance to public and private entities for qualified projects.³ The assistance may be in the form of loans, loan guarantees, letters of credit, leases, lease-purchase agreements, interest rate subsidies, debt service reserves, and other forms of aid the Director determines. If obligations are issued by the Treasurer of State with respect to raising funding for financial assistance for state infrastructure projects or to directly fund such projects, the holders or owners of such obligations have no right to have money raised by taxation by the state of Ohio obligated or pledged for the payment of bond service charges.

Current law also provides formulas for the distribution of revenue from the annual state license tax levied on the operation of motor vehicles on public roads and highways and the motor fuel excise tax to municipal corporations and counties.

The bill provides an exception to the prohibition against pledging or obligating money raised from state taxation for the payment of bond service charges. Under the exception, municipal corporations and counties may pledge and obligate the license and fuel tax money described above that they receive to the payment of amounts payable by those municipal corporations and counties to the SIB, and the bond proceedings for obligations may provide that such payments constitute pledged receipts. The municipal corporations and counties are also permitted by the bill to pledge and obligate any tax increment financing (TIF) service payments they receive in lieu of taxes for the same purposes. However, the bill provides that such tax and TIF money can be so obligated, pledged, and paid only with respect to obligations issued exclusively for public transportation projects.

Transfers from the Highway Operating Fund to the Highway Capital Improvement Bond Service Fund

(R.C. 5735.23)

Current law provides for the disbursement of the receipts from the motor fuel excise tax. A specified portion of those receipts is to be credited or

³ "Qualified projects" are any public or private transportation project as determined by the Director of Transportation.

transferred monthly to the Highway Operating Fund. Beginning on September 1 of each fiscal year, however, the amounts required to be credited or transferred to the Highway Operating Fund are instead to be credited or transferred to the Highway Capital Improvement Bond Service Fund *until* the Office of Budget and Management (OBM) receives certification from the Treasurer of State that sufficient money has been credited or transferred to the Bond Service Fund to meet all payments of debt service and financing costs due during the fiscal year from that fund.

Current law also requires the Treasurer of State to certify to OBM, not later than July 15 of each fiscal year, the total amount of moneys needed during that fiscal year to meet all debt service and any related financing costs payable from the Highway Capital Improvement Bond Service Fund (R.C. 151.01, not in the bill).

The bill revises the amount and timing of these transfers by requiring that *monthly*, from September to February of each fiscal year, an amount equal to *one-sixth* of the amount certified in July of that year by the Treasurer of State is to be credited or transferred to the Highway Capital Improvement Bond Service Fund from the amounts required under current law to be credited or transferred to the Highway Operating Fund. If in any of those months the amount available to be credited or transferred to the Bond Service Fund is less than one-sixth of the amount certified by the Treasurer of State, the shortfall is to be added to the amount due the next succeeding month. Any amount still due at the end of the six-month period is to be credited or transferred as the money becomes available, *until* OBM receives certification from the Treasurer of State that sufficient money has been credited or transferred to the Bond Service Fund to meet all payments of debt service and financing costs due during the fiscal year from that fund.

Confidential cost estimate for ODOT projects

(R.C. 5525.10 and 5525.15)

Under current law, no ODOT contract for any road improvement may be awarded for more than ODOT's estimated cost of the project plus 5%. Current law also allows the Director of Transportation to keep ODOT's cost estimate confidential until after the project bids have been received and establishes that the requirement to award the contract for not more than ODOT's estimate plus 5% applies when the Director keeps ODOT's cost estimate confidential. The bill specifies the requirement to award the contract for not more than ODOT's estimate plus 5% does *not* apply when the Director keeps ODOT's cost estimate confidential.

ODOT bidding requirements

(R.C. 5525.01)

Currently the law governing ODOT bidding procedures requires bidders to furnish detailed information under oath and on printed forms prescribed by the Director about all of the bidder's pending work. The bill eliminates the requirement for the information to be made under oath and on printed forms while retaining the requirement that bidders provide information on all pending work on forms prescribed by the Director.

Agreements between ODOT and the United States, a U.S. department or agency, or the U.S. Department of the Army; advance payments by ODOT

(R.C. 5531.11)

The bill permits the Director of Transportation to enter into the following:

(1) Agreements with the United States or any U.S. department or agency, as provided in the "Intergovernmental Cooperation Act of 1968" or any other federal cooperation act. Such an agreement may include provisions for advance payment by ODOT for labor and all other identifiable costs of providing services by the United States or any U.S. department or agency as may be estimated by the United States or the department or agency.

(2) Project cooperation agreements with the United States Department of the Army for construction projects, as determined necessary by the Director. Such an agreement may include provisions for advance payment by ODOT of its contribution or share of the total project costs and all other identifiable costs of the project as may be estimated by the Department of the Army.

All these advance payments may be made notwithstanding the provision of law that requires the Controlling Board to approve certain nonbid purchases before they are made.

ODOT sale of personal property

(R.C. 5513.04)

Notwithstanding the general procedures for the sale of excess and surplus state property, the Director of Transportation is currently permitted to sell or dispose of various items of personal property when the property is unfit for use or not needed by ODOT. The Director generally must offer to sell or transfer vehicles, structures, machinery, tools, equipment, parts, material, office furniture, and supplies to state agencies or political subdivisions before selling the items at a public sale; under certain conditions, the Director also may transfer structures to

nonprofit corporations. The bill generally revises and reorganizes the law governing the sale of unneeded ODOT personal property and expressly allows the Director to conduct an Internet auction to sell the personal property.

For items valued at more than \$1,000, current law requires the Director to post, for not less than ten days, a written invitation to bidders on an electronic bulletin board or a traditional bulletin board located in ODOT's offices in a place open to the public during normal business. At least ten days before the sale, the Director must publish one notice of the sale in a periodical or newspaper in the region in which the items are located. The Director may receive bids and make the sale on any basis he determines is most advantageous to ODOT, but must make the sale to the highest responsible bidder. The bill requires the Director to post a notice of the sale for at least ten days on ODOT's official web site and on any web site of an ODOT district where the property is located if the district maintains a web site. The bill eliminates the requirement for the sale to be made to the highest responsible bidder and instead allows the sale to be made on any basis determined by the Director to be most advantageous to ODOT. The bill retains the requirement for the Director to publish notice of the sale in a newspaper or periodical.

The current procedures for items valued at \$1,000 or less are the same as described above except that the Director is required only to post notice of the sale, for not less than five working days, on an electronic or a traditional bulletin board. The bill requires the Director to post a notice of the sale for at least five days on ODOT's official web site and eliminates the requirement for the sale to be made to the highest responsible bidder.

The bill additionally allows the Director to do all of the following:

- (1) Accept cash when exchanging personal property, which must be deposited into the Highway Operating Fund;
- (2) In his discretion, transfer any vehicle or other heavy equipment that is unfit for use or not needed by ODOT to any state agency or political subdivision, without advertising for bids and upon mutual terms, without the determination of an emergency situation as is required by current law;
- (3) Transfer structures or materials to a school district, in addition to counties, municipal corporations, or other governmental subdivisions as under current law, without advertising for bids and upon mutual terms;
- (4) Authorize any deputy director to sell unneeded ODOT personal property, not just district deputy directors, as under current law.

Ohio Turnpike Commission annual report date

(R.C. 5537.17)

The bill moves the date for the Ohio Turnpike Commission annual report from on or before April 1 to on or before July 1.

HISTORY

| ACTION | DATE | JOURNAL ENTRY |
|------------|------|---------------|
| Introduced | --- | --- |

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