



Bill Analysis

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Legislative Service Commission

Sub. H.B. 68*

126th General Assembly
(As Reported by S. Highways & Transportation)

Reps. T. Patton, Calvert, Flowers, Martin, S. Patton, Buehrer, Cassell, Collier, Daniels, DeBose, Domenick, C. Evans, Garrison, Gibbs, Hagan, Hartnett, Hughes, Kearns, Key, Latta, Law, Mason, Redfern, Reidelbach, Schlichter, Setzer, S. Smith, Williams, Yuko

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.

** This analysis does not address appropriations, fund transfers, and similar provisions. See the Legislative Service Commission's Budget in Detail spreadsheet and Comparison Document for Sub. H.B. 68 for an analysis of such provisions.*

This analysis was prepared before the report of the Senate Highways and Transportation Committee appeared in the Senate Journal. Note that the list of cosponsors and the legislative history may be incomplete.

- Changes five fees related to the licensure of private investigators and security guard providers and the registration of employees.
- Revises the Commercial Driver's License Law as follows:
 - Establishes new prohibited alcohol concentrations for blood plasma and serum and urine that apply to the operator of a commercial motor vehicle (.048 of 1% or more per 100 milliliters of blood serum or blood plasma, and .056 of 1% or more per 100 milliliters of urine).
 - Modifies some of the current CDL law definitions, including "commercial motor vehicle," "conviction," "disqualification," "hazardous materials," "motor vehicle," "out-of-service order," and "serious traffic violation," and defines "fatality" and "imminent hazard."
 - Provides that current exceptions to the CDL chapter are exceptions to the current general CDL prohibitions.
 - Provides that a "serious traffic violation" includes a single charge of any speed in excess of 15 miles per hour over the speed limit; a charge of operating a commercial motor vehicle without having the proper class or endorsement on one's commercial driver's license (CDL); and a charge of operating a commercial motor vehicle without having one's CDL in one's possession unless the person shows proof of having such a license.
 - Eliminates the existing provision that provides that there is no fee for the annual issuance of a waiver for farm-related service industries, and imposes a \$25 fee for such issuance.
 - Requires a CDL applicant who schedules an appointment to take one or more, but not all, portions of the skills test to pay an appointment fee.
 - Permits a CDL medical examination to be given by a doctor of chiropractic.
 - Modifies some of the CDL classes and endorsements.
 - Enacts new prohibitions relating to actions that CDL holders are not permitted to perform.

--Modifies the disqualification and implied consent provisions.

--Requires an applicant for employment as a commercial motor vehicle driver to submit certain specified information to the prospective employer.

- Allows a commercial driver's license (CDL) with a hazardous materials endorsement to be issued for a period of less than four years if the applicant has undergone a required federal security threat assessment to obtain the endorsement and the assessment expires less than four years after the application date, and prorates the \$25 CDL fee based on the number of years for which the license is issued.
- Establishes a \$4 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 who successfully completes a training course necessary to obtain or maintain a driver's license.
- Permits the Director of Public Safety to impose fines of not more than \$10,000 per occurrence on holders of, and applicants for, driver training school licenses and driver training instructor licenses for certain violations.
- Extends until the earlier of December 31, 2005, or the full implementation of the Automated Title Processing System, the 50% reimbursement made from the Automated Title Processing Fund to a clerk of a court of common pleas who certifies revenue loss during 2004 resulting from the implementation of cross-county titling.
- 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.
- Authorizes the issuance of "Fish Lake Erie" license plates, limits the issuance of those plates to persons who have made a \$15 contribution and paid a \$10 processing fee for them, and requires the contribution to be used by the Ohio Sea Grant College Program for Lake Erie area research projects.



- Specifies that a county or township must conduct two public hearings prior to adopting any resolution concerning the levy of a local motor vehicle license tax.
- Allows a minor's parent or guardian to appear before a clerk of courts or notary public and sign a form authorizing the minor to conduct a motor vehicle transaction.
- Permits an electronic motor vehicle dealer to buy or sell a motor vehicle for which an electronic certificate of title has been issued without first obtaining a physical certificate to the vehicle.
- Provides that in the case of a title application that is submitted to a clerk of court electronically, the clerk must issue an electronic certificate of title instead of a physical certificate of title unless the applicant requests a physical certificate.
- Requires the Registrar of Motor Vehicles to adopt rules to permit any person or lessee who owns or leases two or more commercial trailers or semitrailers to register them for up to five years.
- Provides that when a driver's license applicant surrenders a license from another jurisdiction, the Registrar of Motor Vehicles must report to the other issuing authority the surrender of the license and the issuance of an Ohio license and must destroy the surrendered license if it is not returned to the other issuing authority.
- 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.
- Provides that where the boundary between two local authorities rests on the centerline of a highway, the speed limit for the shared part of the highway is to be either of the speed limits permitted by law as agreed by the two authorities.
- 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 Roadwork Development Fund.
- Eliminates the Film Production Reimbursement Fund.
- Establishes procedures for the debarment of applicants for special hauling permits, and establishes grounds for debarment.
- 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.
- Requires ODOT to develop and maintain a pavement management system.
- 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.
- Establishes not more than five years as the warranty period for ODOT bridge painting projects that are bid requiring a warranty.



- Permits the Director of Transportation, with the approval of the Director of Budget and Management, to enter into agreements with an agency of the United States government for costs of providing services, or into project cooperation agreements with the U.S. Army for construction projects, which may include provisions for advance payment by the state.
- 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.
- Extends through June 30, 2007 an uncodified law allowing the Director of Transportation or a local authority to issue special permits for transporting three or fewer steel coils in a single load on a state or local highway so long as the gross vehicle weight of the transport vehicle, including the coils, does not exceed 92,000 pounds.
- Specifically allows the Ohio Turnpike Commission to issue a special permit to allow the operation of a motor vehicle transporting two or fewer steel coils on any turnpike project.
- Allows a law enforcement officer who orders an abandoned vehicle into storage to "relinquish jurisdiction over the vehicle" to the owner of the storage facility.
- Moves the date for the Ohio Turnpike Commission annual report from on or before April 1 to on or before July 1.
- Provides that the county engineer is not required to perform any of the duties of the county building inspector or any duties relating to the county building code, but permits the engineer to perform any of these duties pursuant to an agreement between the engineer and the board of county commissioners.
- Permits a county engineer to dispose of scrap construction materials that remain from a road or bridge improvement if the total value of the scrap does not exceed \$25,000, and requires the engineer to keep records of all such dispositions.
- Authorizes, rather than requires, a county engineer to survey lands sold for taxes.

- Changes the deadline for the county engineer's annual road reports to the board of county commissioners and boards of township trustees from April 1 to June 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, requires that an annual renewal be made pursuant to procedures the Director establishes by rule, 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

The bill requires the Director to implement electronic licensing and registration procedures not later than December 31, 2006. Until then, existing application procedures are to continue.

Changes to the commercial driver's license law

(R.C. Chapter 4506.)

The bill makes a number of changes to the commercial driver's license (CDL) law, some of which are to conform Ohio law to federal requirements and some of which do not relate to federal law (R.C. Chapter 4506.).

Prohibited alcohol concentrations

(R.C. 4506.15)

Current law prohibits any person from driving a commercial motor vehicle while having an alcohol concentration of .04 of 1% or more per 100 milliliters of whole blood or per 210 liters of breath. The bill retains this prohibition, but adds two new prohibitions: it prohibits any person from driving a commercial motor vehicle while having an alcohol concentration of (1) .048 of 1% or more per 100 milliliters of blood plasma or blood serum, or (2) .056 of 1% or more per 100 milliliters of urine.

CDL definitions

(R.C. 4506.01)

The bill amends a number of the CDL definitions. Under the bill:

(1) One type of commercial motor vehicle is any single vehicle or combination of vehicles that is not a Class A or B vehicle but is designed to transport 16 or more passengers including the driver. (Current law includes such a vehicle that is placarded for hazardous materials.)

(2) "Conviction" includes a plea of guilty or *nolo contendere* accepted by a court.

(3) "Disqualification" means any of the following:

(a) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;

(b) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;

(c) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under federal law.

(4) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than 365 days prior to the date of death.

(5) "Hazardous materials" means any material that has been designated as hazardous under federal law and that federal law requires to be placarded, or any quantity of a material listed under federal law as a select agent or toxin.

(6) "Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

(7) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except for a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.



(8) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, local, Canadian, or Mexican jurisdiction declaring that a driver, commercial motor vehicle, or commercial motor carrier is out of service as defined in federal law.

(9) "Serious traffic violation" means a conviction arising from a single charge of operating a commercial motor vehicle in violation of the current general CDL prohibitions or a conviction arising from the operation of any motor vehicle that involves any of the following new or current provisions that are amended as follows:

(a) A single charge of any speed in excess of the posted speed limit by 15 miles per hour or more;

(b) A reckless operation offense, but not the offense of operating a vehicle without reasonable control;

(c) Violation of the Revised Code section that contains the current general CDL prohibitions or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license with the proper class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported;

(d) Violation of the Revised Code section that contains the current general CDL prohibitions, a substantially similar municipal ordinance or county or township resolution, or any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license being in the person's possession;

(e) A violation of the Revised Code sections that prescribe the rules for driving in marked lanes or the proper space between moving vehicles, or any municipal ordinance or county or township resolution substantially similar to either of those sections, or any substantially similar law of another state or political subdivision of another state.

Exceptions to the CDL provisions

(R.C. 4506.02 and 4506.03)

Current law provides that the CDL law does not apply to persons who operate certain vehicles, such as a farm truck, fire equipment, a public safety vehicle, a recreational vehicle, and a vehicle owned by the Department of Defense and operated by any member or uniformed employee of the United States armed

forces or their reserve components, including the National Guard, except for United States reserve technicians. (R.C. 4506.02.)

The bill moves these exceptions substantially intact from R.C. 4506.02 to R.C. 4506.03 and repeals outright R.C. 4506.02. The general CDL prohibitions are contained in R.C. 4506.03. The result is that under the bill the exceptions of current R.C. 4506.02 are exceptions not to the entire CDL chapter but to the general CDL prohibitions of R.C. 4506.03.

The first prohibition of R.C. 4506.03 provides that generally no person may drive a commercial motor vehicle on a highway in this state unless the person holds a valid CDL with proper endorsements for the motor vehicle being driven. The bill requires the holder of a CDL to have it in the person's possession when operating a commercial motor vehicle.

Conditions for driving a commercial motor vehicle

(R.C. 4506.05)

One condition a person must meet in order to drive a commercial motor vehicle within this state is that the person has a valid CDL issued by any state in accordance with the applicable minimum federal standards. The bill permits a CDL to be issued by any state or jurisdiction.

CDL application fees

(R.C. 4506.08)

Currently there is no fee for the annual issuance of a waiver for farm-related service industries. The bill establishes a \$25 fee for the annual issuance of this waiver, the same amount that is charged for a CDL.

CDL testing

(R.C. 4506.09)

The CDL skills test consists of pre-trip inspection, off-road maneuvering, and on-road driving. The Director of Public Safety may authorize the waiver of the CDL skills test if an applicant meets certain criteria dating back two years. The bill adds one new criterion: within the preceding two years, the person seeking the waiver has taken and passed an equivalent skills test given by a state with a classified licensing and testing system in which the test was behind-the-wheel in a representative vehicle for the applicant's CDL classification.

A person who makes a CDL license skills test appointment must pay an appointment fee, which serves as the skills test fee if the person appears and takes all elements of the test. The bill provides that the appointment fee is not refunded if the person makes an appointment to take all portions of the skills test and appears to take the test, but then declines or is unable to take all portions of the test.

Current law also permits a person to schedule an appointment to take one or more, but not all, portions of the skills test, but no appointment fee is required. Under the bill, such a person is required to pay an appointment fee equal to the costs of each test when scheduling such an appointment. If the applicant appears at the time and location specified for the appointment and takes all the portions of the skills test that the applicant was scheduled to take, the appointment fee serves as the skills test fee. If the applicant schedules an appointment to take one or more, but not all, portions of the skills test and fails to appear at the time and location specified for the appointment, no portion of the appointment fee will be refunded. If the applicant schedules an appointment to take one or more, but not all, portions of the skills test and appears at the time and location specified for the appointment, but declines or is unable to take all portions of the skills test that the applicant was scheduled to take, no portion of the appointment fee will be refunded. If the applicant cancels a scheduled appointment 48 hours or more prior to the time of the appointment time, none of the applicant's fee is forfeited.

CDL physical qualifications

(R.C. 4506.10)

Current law provides that a person is qualified to drive a Class B commercial motor vehicle with a school bus endorsement if the person has been certified as medically qualified in accordance with Department of Education rules. The bill modifies this by providing that a person is qualified to drive a school bus if the person holds a valid CDL along with the proper endorsements and if the person has been certified as medically qualified in accordance with Department of Education rules.

The medical examination that is required of all CDL applicants may be performed by a physician, a physician assistant authorized by a supervising physician, or a certified nurse practitioner, clinical nurse specialist, or certified nurse-midwife. The bill permits a doctor of chiropractic also to perform the required exam.

The commercial driver's license

(R.C. 4506.11)

A CDL must bear a color photograph of the licensee. The bill requires the color photograph to show the licensee's uncovered face.

CDL classes and endorsements

(R.C. 4506.12)

Under the bill, a "Class C" commercial motor vehicle is any single vehicle or combination of vehicles that is not a Class A or B vehicle but that is designed to transport 16 or more passengers including the driver, or for transporting hazardous materials in an amount that requires placarding, or any school bus with a gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than 16 passengers, including the driver.

The bill affects a number of the CDL endorsements and restrictions. Under the bill:

(1) "H" authorizes the driver to drive a vehicle transporting hazardous materials in an amount requiring placarding.

(2) "T" authorizes the driver to drive a vehicle configured with double or triple trailers that create more than one articulation point for the combination.

(3) "P" authorizes the driver to drive vehicles designed to transport 16 or more passengers, including the driver.

(4) "P1" authorizes the driver to drive Class A vehicles designed for fewer than 16 passengers, including the driver, and all lesser classes of vehicles without restriction as to the designed passenger capacity of the vehicle.

(5) "P2" authorizes the driver to drive Class A or B vehicles designed for fewer than 16 passengers, including the driver, and all lesser classes of vehicles without restriction as to the designed passenger capacity of the vehicle.

(6) "S" authorizes the driver to drive school buses transporting children.

(7) "X" authorizes the driver to drive tank vehicles transporting hazardous materials in a quantity requiring placarding.

The bill eliminates the current "P3" restriction, which restricts the driver to driving Class B school buses.

CDL expiration provisions

(R.C. 4506.14)

A CDL generally expires on the licensee's birthday in the fourth year after the date of issuance. The bill permits the Registrar or a deputy registrar to issue a license that expires on a date earlier than that date if the licensee has undergone a security threat assessment required by federal law to obtain a hazardous materials endorsement and the assessment will expire before that date.

Currently, a CDL is renewable 90 days before its expiration date; the bill extends this time period to 180 days. The bill also provides that each person applying for a renewal or transfer of a CDL must complete the application form and provide all required certifications.

Specific prohibitions

(R.C. 4506.15)

The bill amends several of the existing specific CDL prohibitions and enacts two new prohibitions. Under the bill, no person may do any of the following:

(1) Drive a motor vehicle while under the influence of a controlled substance. (Current law limits this prohibition to commercial motor vehicles.)

(2) Use a motor vehicle in the commission of a felony. (Current law limits this prohibition to commercial motor vehicles.)

(3) Operate a commercial motor vehicle while the person's commercial driving privileges are revoked, suspended, canceled, or disqualified;

(4) Cause a fatality through the negligent operation of a commercial motor vehicle, including the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter;

(5) Drive a commercial motor vehicle in the commission of a felony involving the possession with intent to manufacture, distribute, or dispense a controlled substance;

(6) Violate any of the prohibitions while transporting hazardous materials.

The bill eliminates existing provisions that (1) prohibit any person from knowingly leaving the scene of an accident involving a commercial motor vehicle

driven by the person, and (2) prohibit any person from violating an out-of-service order.

Out-of-service and disqualification

(R.C. 4506.16 and 4506.26)

The bill relocates, without substantive change, the existing out-of-service provisions of R.C. 4506.26 to divisions (A) and (B) of R.C. 4506.16. The bill then amends several of the existing disqualification provisions and enacts several new such provisions. The bill requires the Registrar to disqualify any holder of a commercial driver's license, or any operator of a commercial motor vehicle for which a commercial driver's license is required, from operating a commercial motor vehicle as follows:

(1) Upon a first conviction for a violation of any of the specific CDL prohibitions contained in R.C. 4506.15(A)(2) to (9), or a state OVI violation, a state violation relating to leaving the scene of an accident, or a similar law of another state or a foreign jurisdiction, one year;

(2) Upon a second conviction for a violation of any of the specific CDL prohibitions contained in R.C. 4506.15(A)(2) to (9), or a state OVI violation, a state violation relating to leaving the scene of an accident, or any combination of such violations arising from two or more separate incidents, disqualification for life or for any other period of time as determined by the United States Secretary of Transportation and designated by the Director of Public Safety by rule;

(3) Upon a first conviction for a violation of any of the specific CDL prohibitions contained in R.C. 4506.15(A)(2) to (11) while transporting hazardous materials or a similar law of another state or a foreign jurisdiction, three years;

(4) Upon conviction for using a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance or the possession with intent to manufacture, distribute, or dispense a controlled substance, or a similar law of another state or a foreign jurisdiction, disqualification for life;

(5) Upon conviction of two serious traffic violations involving the operation of a motor vehicle by the person and arising from separate incidents occurring in a three-year period, disqualification for 60 days if the conviction results in the suspension, cancellation, or revocation of the holder's commercial driver's license or noncommercial motor vehicle driving privileges (current law limits this prohibition to the operation of a commercial motor vehicle);



(6) Upon conviction of three serious traffic violations involving the operation of a motor vehicle by the person and arising from separate incidents occurring in a three-year period, disqualification for 120 days if the conviction results in the suspension, cancellation, or revocation of the holder's commercial driver's license or noncommercial motor vehicle driving privileges (current law limits this prohibition to the operation of a commercial motor vehicle);

(7) Upon a first conviction involving the operation of a commercial motor vehicle without stopping at a highway railroad grade crossing or a similar law of another state or foreign jurisdiction, not less than 60 days;

(8) Upon a second conviction involving the operation of a commercial motor vehicle without stopping at a highway railroad grade crossing or a similar law of another state or foreign jurisdiction within three years of the first such conviction, not less than 120 days;

(9) Upon a third or subsequent conviction involving the operation of a commercial motor vehicle without stopping at a highway railroad grade crossing or a similar law of another state or foreign jurisdiction within three years of the first such conviction, not less than one year;

(10) Upon receiving notification from the Federal Motor Carrier Safety Administration, disqualification of any commercial motor vehicle driver whose driving is determined to constitute an imminent hazard as defined under federal motor carrier safety regulations.

For purposes of these provisions, conviction of disqualifying offenses committed in a noncommercial motor vehicle are included if either of the following applies:

(1) The offense occurred after the person obtained the person's commercial driver's license.

(2) The offense occurs on or after September 30, 2005.

The bill provides that if a person commits a serious traffic violation by operating a commercial motor vehicle without having the person's CDL in the person's possession and the person then submits proof to either the enforcement agency that issued the citation for the violation or to the court with jurisdiction over the case before the date of the person's initial appearance that shows that the person held a valid commercial driver's license at the time of the violation, the violation is a serious traffic violation.

CDL implied consent law

(R.C. 4506.17)

Current law provides that any person who drives a commercial motor vehicle within this state is deemed to have given consent to a test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the person's alcohol concentration or the presence of any controlled substance. The bill modifies this provision to provide that any person who holds a commercial driver's license or operates a commercial motor vehicle requiring a commercial driver's license within this state is deemed to have given consent to a test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the person's alcohol concentration or the presence of any controlled substance.

For purposes of the CDL implied consent provisions, the applicable prohibited alcohol concentration level is .04 of 1% or more per 100 milliliters of whole blood or breath. The bill retains this concentration level, but adds two new prohibited alcohol concentration levels: (1) .048 of 1% or more per 100 milliliters of blood plasma or blood serum, and (2) .056 of 1% or more per 100 milliliters of urine.

Employer duties

(R.C. 4506.20)

Current law requires each employer to require every applicant for employment as a driver of a commercial motor vehicle to provide certain information. The bill specifies that each such employer must require every such applicant to provide the applicant's employment history for the ten years preceding the date the employment application is submitted to the prospective employer. The required information includes the following:

- (1) A list of the names and addresses of the applicant's previous employers for which the applicant was the operator of a commercial motor vehicle;
- (2) The dates the applicant was employed by these employers;
- (3) The reason the applicant left these employers.

An employer is prohibited from knowingly permitting or authorizing any driver in the employer's employ from driving a commercial motor vehicle if certain circumstances apply. The bill enacts a new circumstance: the commercial motor vehicle the driver is driving or the motor carrier operation is subject to an out-of-service order in any state or jurisdiction.

Authority of a peace officer

(R.C. 4506.20)

Under current law, a peace officer, within the jurisdictional limits of the officer's appointing authority, must stop and detain any person found violating any of the specific CDL prohibitions contained in R.C. 4506.15 without obtaining a warrant. When there is reasonable ground to believe that such a violation has been committed and a test or tests of the person's blood, breath, or urine is necessary, the peace officer is required to take the person to an appropriate place for testing. If the person submits to the chemical test and it discloses the presence of a controlled substance or an alcohol concentration of .04 of 1% or more per 100 milliliters of blood or breath, the peace officer must require that the person immediately surrender the person's commercial driver's license to the peace officer.

The bill retains these provisions, but adds two additional prohibited alcohol concentration levels: .048 of 1% or more per 100 milliliters of blood serum or blood plasma, and .056 of 1% or more per 100 milliliters of urine.

Commercial driver's license with a hazardous materials endorsement

(R.C. 4506.08 and 4506.14)

Generally, a commercial driver's license (CDL) expires on the licensee's birthday in the fourth year after it is issued and costs \$25, plus other fees. The bill allows the Registrar or a deputy registrar to issue a license that expires in less than four years if the licensee has undergone a security threat assessment required by federal law to obtain a hazardous materials endorsement and the assessment expires in less than four years. The bill prorates the cost of a CDL with a hazardous materials endorsement at \$18.75 for a three-year license, \$12.50 for a two-year license, and \$6.25 for a one-year license.

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 \$4 for each certificate of completion. The bill requires the Director of Public Safety to deposit the fees collected into the State Highway Safety Fund.

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

(R.C. 4501.06 and 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 of not more than \$10,000 per occurrence 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 Director must deposit the revenue from all these fines into the state treasury to the credit of the existing State Highway Safety Fund.

Clerk of a court of common pleas revenue loss reimbursement from Automated Title Processing Fund

(Sections 403.05, 403.06, and 615.06)

Section 5 of Sub. S.B. 59 of the 124th General Assembly established a three-year schedule to pay common pleas clerks of courts for any revenue loss certified as being attributable to the implementation of that act (primarily from the implementation of cross-county titling and other electronic titling provisions). During the first year, the payments were 100% of the certified revenue loss; during the second year, the payments were 75% of the loss; and, during the third year, the payments were 50% of the loss. The payments are made from the Automated Title Processing Fund and are scheduled to end March 31, 2005.



The bill extends the 50% payments until the earlier of December 31, 2005, or the full implementation of the Automated Title Processing System, to any clerk of a court of common pleas who certifies revenue loss during 2004 resulting from the implementation of cross-county titling.

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.

"Fish Lake Erie" license plates

(R.C. 4501.21 and 4503.85)

Under the bill, the owner or lessee of any passenger car, noncommercial motor vehicle, motor home, or other vehicle of a class approved by the Registrar of Motor Vehicles, when registering the vehicle, may apply to the Registrar for the issuance of "Fish Lake Erie" license plates. The application for those license plates may be combined with a request for a special reserved license plate provided under current law. Upon compliance with the bill's requirements (see below), the Registrar must issue to the applicant the appropriate vehicle registration, a set of "Fish Lake Erie" license plates, and a validation sticker, or a validation sticker alone in the case of renewal of the plates.

In addition to the letters and numbers ordinarily inscribed on the license plates, "Fish Lake Erie" license plates must be inscribed with identifying words or markings designed by the Ohio Sea Grant College Program and approved by the Registrar. "Fish Lake Erie" license plates must bear county identification stickers that identify the county of registration by name or number.

Under the bill, "Fish Lake Erie" license plates and a validation sticker or, when applicable, a validation sticker alone must be issued upon receipt of an application for registration of a motor vehicle submitted under the bill and a \$15 contribution (see below), payment of the regular license tax prescribed in current law, any applicable motor vehicle license tax, and an additional \$10 fee, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for "Fish Lake Erie" license plates is combined with a request for a special reserved license plate provided under current law, the license plates and validation sticker or validation sticker alone must be issued upon payment of the fees and taxes referred to or established by the bill plus the additional fee prescribed in current law regarding a special reserved license plate.

The bill requires the Registrar, for each application for registration and registration renewal that the Registrar receives under the bill, to collect a contribution of \$15. He must deposit this contribution into the state treasury to the credit of the existing License Plate Contribution Fund. The contribution then must be paid to the Ohio Sea Grant College Program to be used for Lake Erie area research projects.

The additional \$10 fee must be for the purpose of compensating the Bureau of Motor Vehicles for additional services required in issuing "Fish Lake Erie" license plates. The Registrar must deposit that fee into the state treasury to the credit of the existing State Bureau of Motor Vehicles Fund.



Levy of local motor vehicle license tax

(R.C. 4504.02, 4504.15, 4504.16, and 4504.18)

Current law authorizes counties and townships to levy permissive motor vehicle license taxes by resolution adopted by the respective governing board. In considering a local motor vehicle license tax, a board of county commissioners or board of township trustees may do any of the following: (1) adopt a resolution levying a tax, which cannot take effect sooner than 30 days following its adoption and is subject to the referendum, (2) adopt such a resolution as an emergency measure, which goes into immediate effect but requires the affirmative vote of all board members, and (3) adopt a resolution directing the board of elections to submit the question of levying the permissive motor vehicle license tax to the electors. Current law specifies that the respective boards must conduct two public hearings "prior to the adoption of any resolution levying" a county or township tax. The bill specifies that the respective boards must conduct two public hearings prior to the adoption of any resolution concerning a local motor vehicle license tax; in so doing, it requires two public hearings regardless of whether the board levies the tax directly, as an emergency measure, or by submitting the question to the electors. No resolution other than an emergency resolution becomes effective sooner than 30 days after its adoption.

Minor's application for a certificate of title

(R.C. 4505.031)

Under current law, no person under 18 may acquire or dispose of a motor vehicle unless the application for a certificate of title is accompanied by a prescribed form signed by one of the minor's parents, a guardian, or other person having custody of the minor, authorizing the transaction. The adult who signed the form also must be present when the certificate of title application is submitted and must provide acceptable identification establishing that the adult is the individual whose signature appears on the form. If the adult does not provide such identification, the application must be refused.

The bill requires the form authorizing the minor's motor vehicle transaction to be signed by the adult in the presence of a common pleas clerk or deputy clerk or any notary public. The adult must provide identification when signing the form but is not required to be present when the application for the certificate of title is submitted. As under current law, no interest in a motor vehicle may be acquired by or from a minor unless the required form accompanies the application for a certificate of title. The bill eliminates a requirement for the Registrar to prescribe the acceptable forms of identification.

Transfer of an electronic certificate of title when an electronic motor vehicle dealer is involved

(R.C. 4505.032)

Current law provides that if a person who is not an electronic motor vehicle dealer owns and sells to a licensed motor vehicle dealer a motor vehicle for which a physical certificate of title has not been issued, the person is not required to obtain a physical certificate of title in order to transfer ownership to the dealer. The person instead may present the dealer with sufficient proof of the person's identity and complete and sign a prescribed form attesting to the person's identity and assigning the motor vehicle to the dealer. The motor vehicle dealer must present the assignment form to any clerk of a court of common pleas together with an application for a certificate of title and payment of the required fees.

However, if the motor vehicle dealer is an electronic motor vehicle dealer (not all dealers are), the dealer, instead of submitting the assignment form to a clerk of court, may inform the clerk via electronic means of the sale of the motor vehicle and assignment of ownership of the vehicle to the dealer. The clerk must enter the information relating to the assignment into the Automated Title Processing System (ATPS), and when this occurs ownership of the vehicle passes to the dealer. The dealer is not required to obtain a certificate of title to the vehicle in the dealer's name. A clerk charges and collects a \$5 fee from the dealer for each motor vehicle so assigned to the dealer.

Under the bill, in a case in which an electronic certificate of title has been issued for a motor vehicle and either the buyer *or seller* is an electronic motor vehicle dealer, the dealer, instead of submitting the assignment form to a clerk, may inform the clerk via electronic means of the sale of the motor vehicle and assignment of ownership of the vehicle. The clerk still must enter the assignment information into the ATPS and charge and collect a \$5 fee from the dealer for each assignment sent by the dealer to the clerk. The dealer is not required to obtain a physical certificate of title to the vehicle in the dealer's name.

Electronic certificate of title when applied for electronically

(R.C. 4505.021, 4505.06, 4505.08, and 4519.58)

An application for a certificate of title for a motor vehicle, off-highway motorcycle, or all-purpose vehicle may be submitted in person at the office of a clerk of a court of common pleas or electronically to a clerk. Currently only motor vehicle dealers submit such applications electronically. Ownership may be evidenced by a physical (paper) certificate of title or be in electronic form (an electronic certificate of title) within the Automated Title Processing System; in

neither case is ownership affected. In all cases, the clerk must issue a physical certificate of title unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate.

The bill establishes an exception by providing that in the case of a title application that is submitted to a clerk electronically, the clerk must issue an electronic certificate of title unless the applicant requests a physical certificate.

Five-year registration for commercial trailers and semitrailers

Current law permits the Registrar of Motor Vehicles to adopt rules to permit any person or lessee, other than a person who receives an apportioned license plate under the International Registration Plan, who owns or leases one or more motor vehicles to file a written application for registration for no more than five succeeding registration years. The rules may designate the classes of motor vehicles that are eligible for the multi-year registration. At the time of application, the person must pay all annual taxes and fees for each year for which the person is registering.

The bill requires the Registrar to adopt rules to permit any person or lessee who owns or leases two or more commercial trailers or semitrailers to file a written application for registration for no more than five succeeding registration years. At the time of application, the person must pay all annual taxes and fees for each year for which the person is registering.

Surrendered drivers' licenses

(R.C. 4506.03 and 4507.02)

No person is permitted to have more than one valid driver's license at a time. Therefore, existing law provides that if a person receives a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, the person must first surrender to the Registrar of Motor Vehicles all valid licenses that have been issued to the person by another issuing authority recognized by Ohio. The Registrar returns the surrendered license to the other issuing authority and notifies it that an Ohio license has now been issued. Under the bill, the Registrar must instead report to the other issuing authority that the license has been surrendered and that an Ohio license has been issued and, in addition, must destroy the surrendered license if it is not returned to the other issuing authority.

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.

Speed limits on roads with centerline boundaries

(R.C. 4511.21)

The bill provides that if the boundary of two local authorities lies on the centerline of a highway and both local authorities have jurisdiction over the highway, the speed limit along the shared part of the highway is to be either of the speed limits permitted by existing law as agreed to by the two authorities. For example, the speed limit on a state route within a municipality outside a business district is 35 miles per hour, and the speed limit for a state route outside a municipality is 55 miles per hour. If a municipality and a township sharing a highway cannot agree on which of the two speed limits should be adopted for the shared part of the highway, then the speed limit will be as provided in existing law. Thus, the speed limit for traffic traveling in one direction could be 35 miles per hour and the speed limit for traffic traveling in the other direction could be 55 miles per hour if the local authorities cannot agree on either speed limit. The bill prohibits either local authority from altering the speed limit on its shared portion of the highway unless both authorities agree, on the basis of an engineering and traffic investigation, that the speed limit is greater than is reasonable or safe under the conditions that exist there and unless the altered speed limit is not more than 55 nor less than 25 miles per hour.

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 Roadwork Development 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.

Debarring of special hauling permit applicant

(R.C. 4513.34)

The bill allows the Director of Transportation to debar an applicant from applying for a special permit to operate oversize or overweight vehicles "upon a finding based on a reasonable belief" that the applicant has done any of the following:

- (1) Abused the process by repeatedly submitting false information or false travel plans or by using another name, insurance, or escrow account without proper authorization;
- (2) Failed to comply with the terms and conditions of a previously issued special permit;
- (3) Refused to provide required information or documents;
- (4) Accumulated repeated performance complaints under a previously issued special permit or failed to obtain a special permit when required;
- (5) Attempted to influence a public employee to breach ethical conduct standards;
- (6) Been convicted of a specified criminal offense related to the application or the applicant's integrity or commercial driver's license;
- (7) Been convicted under a state or federal law governing commercial motor vehicles;

- (8) Been convicted under a traffic law;
- (9) Failed to pay any special permit fees;
- (10) Deliberately or willfully submitted false or misleading information in connection with the special permit;
- (11) Been debarred or sanctioned in any manner by an agency or department of the state, another state, or the federal government;
- (12) Violated any other responsible business practice or performed in an unsatisfactory manner as determined by the Director.

If the Director debar an applicant who is a partnership, association, or corporation, the Director also may debar any partner of the partnership, or the officers, directors, or employees of the association or corporation being debarred.

The bill establishes notice and hearing requirements for a proposed debarment, which must be in accordance with the Administrative Procedure Act. The debarment period may be of any length of time determined by the Director, and the Director may modify or rescind the debarment at any time. During the period of debarment, the Director is prohibited from issuing a special permit to any partnership, association, or corporation that is affiliated with a debarred person. After the debarment period expires, the person, and any partnership, association, or corporation affiliated with the person, may reapply for a special permit.

The bill allows the Director to adopt rules governing the debarment of an applicant in accordance with the Administrative Procedure Act.

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

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*

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 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:

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.)

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

- 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;
- 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.

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

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 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.

Pavement management system

(R.C. 5501.11)

Current law establishes the functions of ODOT with respect to highways, including the establishment, maintenance, and repair of the state highway system. To fulfill its functions and ensure that a disproportionate percentage of the roads and bridges on the state highway system are not due for replacement or major

repair at the same time, the bill requires ODOT to develop and maintain a pavement management system. The pavement management system must inventory and evaluate basic road and bridge conditions throughout the state highway system. It also must develop strategies to improve the road and bridge conditions and to minimize annual maintenance of the state highway system.

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.

ODOT bridge paint warranty period

(R.C. 5525.25)

Under existing law, not more than 20% of the Department of Transportation's capital construction projects are required to be bid including a warranty. The specific terms of each warranty are set forth in the bidding documents for the particular contract, but the law sets forth maximum warranty periods. For bridge painting, the current warranty period is not more than two years; the bill increases this maximum warranty period to not more than five years. The warranty periods specified in statute do not apply to contracts that the Director of Transportation makes on behalf of a political subdivision.

Advance payments by ODOT to the federal government

(R.C. 127.16 and 5531.11)

The bill permits the Director of Transportation, with the approval of the Director of Budget and Management, 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.

The bill specifically exempts all such agreements from the requirement of existing law that a state agency's purchases amounting to \$50,000 or more that are made with appropriated money from a particular supplier during a fiscal year be made by competitive selection unless approved by the Controlling Board.

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, which the bill defines as "any structure or structural material, machinery, tools, equipment, parts, material, office furniture, supplies, passenger vehicle, van, truck, trailer, or other heavy equipment."

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 continues the authority of the Director to reject any offer or bid for an item and the separate authority for the Director to remove an item from a sale if a public authority has a use for the item. Additionally, it 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.

Transportation of loads or two or three steel coils

(R.C. 5537.16; Section 503.03)

Current law establishes limits on the gross weight of vehicles that may travel over the improved streets, alleys, highways, bridges, and culverts of the state. At the same time, it allows the Director of Transportation and local authorities to issue special permits for the movement or operation of a vehicle or combination of vehicles on state and local highways that are in excess of the statutory maximum weight or size limits. Axle loads and vehicle loads carried over the Ohio Turnpike are governed by rule of the Ohio Turnpike Commission.

Currently an uncodified law effective through June 30, 2005 specifies that three or fewer steel coils transported by vehicle are deemed to be a nondivisible load for purposes of the special permits granted by the Director of Transportation or a local authority so long as a vehicle and its load does not exceed 92,000 pounds. The bill extends this uncodified law through June 30, 2007. The bill also specifically allows the Ohio Turnpike Commission to issue a special permit to allow the operation of a motor vehicle transporting two or fewer steel coils on any turnpike project.

Towing and storage of abandoned vehicles

(R.C. 4513.61)

Under existing law, a sheriff, chief of police, or, upon giving notification to the local sheriff or chief of police, state highway patrol trooper is authorized to order a motor vehicle, including an abandoned junk motor vehicle, into storage in specified circumstances if it has been left on a street or other property open to the public for vehicular travel or on the right-of-way of a road or highway. The bill authorizes the sheriff, chief of police, or state highway patrol trooper, at the time the motor vehicle is ordered into storage, to "relinquish jurisdiction over the vehicle" to the owner of the storage facility.

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.

Duties of the county engineer

(R.C. 315.08 and 315.14)

Duties, generally

Current law generally requires the county engineer to perform for the county all duties authorized or declared by law to be done by a registered professional engineer or registered surveyor. Exceptions to this requirement include those duties described in R.C. Chapter 343. (which relates to solid waste management districts) and Chapters 6103. and 6117. (which relate to the county water supply system and to county sewer districts, respectively, both of which generally are overseen by the county sanitary engineer). The county engineer performs these particular duties only pursuant to an agreement between the county engineer and the board of county commissioners. If the board and the county engineer reach such an agreement, the board determines the appropriate compensation for the performance of the additional duties.

County building inspector, county building code and effects of new construction on drainage, and the county engineer

Current law permits a board of county commissioners to create and fill the position of county building inspector to administer and enforce building regulations. In lieu of creating this position, the board may assign the duties of county building inspector to an existing county officer.

Current law also permits a board of county commissioners to adopt and enforce a county building code. The code may include regulations that provide for a review of the specific effects of a proposed new construction on existing surface or subsurface drainage. The regulations may require reasonable drainage mitigation and reasonable alteration of a proposed new construction before a building permit is issued. The regulations also may authorize the board, after obtaining the advice of the county engineer, to enter into an agreement with the county engineer or another qualified person or entity to carry out any necessary inspections and make evaluations about what, if any, alterations are necessary to prevent or correct any adverse effects that a proposed new construction may have on existing surface or subsurface drainage.

Changes made by the bill

The bill provides that the county engineer is not required to perform any of the duties of the county building inspector or any duties relating to the county building code, but the bill permits the engineer to perform any of these duties pursuant to an agreement between the engineer and the board of county

commissioners in the same manner as the engineer may perform duties relating to solid waste management districts, county water supply systems, and county sewer districts pursuant to the same type of agreement. If the board and the county engineer reach an agreement whereby the engineer will perform any of the duties of the county building inspector or any duties relating to the county building code, the board must determine the appropriate compensation.

Disposal of scrap construction material by the county engineer

(R.C. 307.12)

While current law contains provisions for the disposal by a board of county commissioners of unneeded, obsolete, or unfit personal property, such as motor vehicles, road machinery, equipment, tools, and supplies, there are no provisions that specifically address the disposal of scrap construction materials that remain from a road or bridge improvement. Under the bill, a county engineer, in the engineer's discretion, may dispose of scrap construction materials on terms that the engineer determines reasonable, including disposal without recovery of costs, if the total value of the materials does not exceed \$25,000. The engineer must maintain records of all such dispositions, including identification of the origin of the materials, the final disposition, and copies of all receipts resulting from the dispositions. For purposes of this provision, "scrap construction materials" means construction materials that result from a road or bridge improvement, remain after the improvement is completed, and are not reusable. Construction material that is metal, results from a road or bridge improvement, and remains after the improvement is completed is scrap construction material only if it cannot be used in any other road or bridge improvement or other project in its current state.

County engineers and certain surveys

(R.C. 315.18)

Background

The county engineer performs for the county all surveys required by law, all services authorized or required by law to be done by a registered professional engineer or registered surveyor in connection with certain public improvements, and other duties required by the board of county commissioners, except for duties related to solid waste management, county sewers, and county water supply. The county engineer performs those excepted duties only when the engineer and the board of county commissioners agree to their performance.

One of the county engineer's duties involves land surveys. Current law requires the county engineer to survey any land or lot in the county that has been

sold for taxes if (1) the land or lot is set off to another county by the erection of a new county or a change of county lines or (2) a person asks for the survey and produces a "certificate from the proper officer." (Presumably, this refers to proof that the person bought the land when it was sold for taxes and has a certificate from the official's office that sold the land; the official often is the county sheriff.) This survey can be considered as evidence of the property's boundaries.

Changes made by the bill

The bill authorizes, rather than requires, the county engineer to make land surveys under the conditions described in items (1) and (2) above.

Deadline for the county engineer's annual road reports

(R.C. 5543.02)

Current law requires the county engineer to submit an annual report to the board of county commissioners on the condition of the county roads, bridges, and culverts and an estimate of the probable amount of money required to maintain and repair, or to construct any new roads, bridges, or culverts. The engineer annually also must submit an estimate to each board of township trustees within the county of the amount required by each township for the construction, reconstruction, resurfacing, or improvement of their township roads. In both cases the estimates are for the year beginning the following March 1, and the deadline for all these reports is April 1 of each year. The bill changes the deadline for all these reports to June 1 of each year.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-15-05	p. 210
Reported, H. Finance & Financial Appropriations	03-01-05	p. 242
Passed House (92-1)	03-02-05	pp. 280-291
Reported, S. Highways & Transportation	---	---

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