



Bill Analysis

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Legislative Service Commission

Am. Sub. H.B. 67*
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(As Passed by the House)

Reps. Patton, Webster, Hottinger, Evans, Flowers, Schlichter, Strahorn, Aslanides, Batchelder, Bolon, Brown, Carmichael, Collier, Daniels, DeBose, Dolan, Domenick, Fende, Garrison, Gibbs, J. Hagan, R. Hagan, J. McGregor, Miller, Okey, Otterman, Uecker, B. Williams

BILL SUMMARY

- Makes temporary changes to the motor fuel excise tax shrinkage and evaporation discount and refund amounts.
- Provides that any revenue from the scheduled July 1, 2007, expiration of the motor fuel exemption from the commercial activity tax is to be credited to a new fund and used solely for highway construction and maintenance.
- Permits fuel tax revenues to be used to pay the interest, principal, and charges on Grant Anticipation Revenue Vehicles, which are bonds issued by the Treasurer of State on behalf of the Ohio Department of Transportation for highway construction projects approved by the United States Department of Transportation and currently are secured by federal transportation funds allocated to Ohio.
- Redirects into the Highway Operating Fund the \$0.21 that the Registrar of Motor Vehicles receives for motor vehicle, off-highway motorcycle, and all-purpose vehicle certificates of title that currently are paid into the General Revenue Fund.
- Creates in the Office of the Inspector General the position of Deputy Inspector General for the Department of Transportation.

* This analysis does not address appropriations, fund transfers, and similar provisions. That information will be found in the Redbook and Budget in Detail spreadsheet prepared by LSC for Am. Sub. H.B. 67.

- Permits the Director of Transportation to enter into agreements with an agency of the United States government for the purpose of dedicating staff to the review of environmentally related documents submitted by ODOT that are necessary for the approval of federal permits, and requires the Director to submit a request to the Controlling Board indicating the amount of the agreement, the services to be performed by the federal agency, and the circumstances giving rise to the agreement.
- Generally conforms Ohio law governing advertising devices along interstates and highways on the primary system with Federal Highway Administration provisions by updating definitions to reflect current procedures for determining highway status.
- Requires the Department of Transportation to erect one sign in each direction on Interstate Highway 70 approaching Exit 28 that reads "Sinclair College Englewood Learning Center" and approaching Exit 38 that reads "Sinclair College Huber Learning Center."
- Upon approval of the Director of Transportation, allows a charitable organization operating a qualified attraction (natural wonders, and artistic, scenic, and historical attractions) to participate in the Department of Transportation's business logo program and place a logo on state directional signs within the rights-of-way of divided, multi-lane, limited access highways at no cost or for a nominal fee.
- Requires the Director of Public Safety to use money credited to the Family Violence Prevention Fund, which is currently required to be used to provide grants to family violence shelters in Ohio, to be used to operate the Division of Criminal Justice Services as well.
- Directs the Director of Public Safety to request an extension of time to meet the requirements of the federal REAL ID Act of 2005.
- Makes the Department of Transportation responsible for maintenance and repair of all bridges located on the state highway system within a municipal corporation, rather than a board of county commissioners.
- Establishes that a motor vehicle leasing dealer or motor vehicle renting dealer who receives a ticket for an alleged traffic law violation detected by a traffic law photo-monitoring device is not liable for a ticket issued for a vehicle that was in the care, custody, or control of a lessee or renter.

- Allows the use of a driver's license number or state identification number when applying for a vehicle registration as options that may be provided in lieu of a person's social security number.
- Requires removable windshield placards for persons with a disability that limits the ability to walk to bear the name of the person with the disability.
- Effective in 2007, establishes an annual license tax of \$750 for commercial cargo aircraft (rather than \$15 per seat) and allows a taxpayer who has already filed in 2007 to obtain a refund if the change in the tax structure results in a reduction of the aircraft license tax due in 2007.
- Authorizes projects between transportation improvement districts (TIDs) and governmental agencies (including local governments) for the financing of a street, highway, interchange, or other transportation project pursuant to an agreement entered into on or before December 31, 2007, and, in connection with those joint projects, authorizes a TID to purchase securities issued by the governmental agency under certain conditions.
- Removes language, enacted when the Division of Homeland Security was created in 2003, declaring the intent of the General Assembly that the creation of the Division "not result in an increase of funding appropriated to the department."
- Creates the Federal Justice Grants Fund, to consist of money from federal grants that is received by the Division of Criminal Justice Services for criminal justice programs and that is not required to be credited to an interest-bearing fund or account.
- Creates the Justice Program Services Fund, to consist of money collected by the Division of Criminal Justice Services for nonfederal purposes that is not required to be credited to some other fund and to be used to pay costs of administering the operations of the Division.
- Prohibits school bus or motor van owners from permitting any person to drive the bus or van for seven years following any six-point traffic violation.
- Requires each school bus or motor van owner (1) within 30 days after the bill's effective date, to obtain the seven-year driving record for each of



their bus or van drivers, (2) to obtain a person's seven-year driving record before allowing him or her to operate a bus or van for the first time, and (3) to obtain annual driving records thereafter.

- Permits community schools to transport their students with or without entering into an agreement with the students' native school district.
- Specifies that the transportation that a community school provides or arranges for must be comparable to the transportation that the school district provides or arranges for students of the same grade level and distance from the school.
- Requires the Ohio Department of Education to pay community schools that transport their students without entering into an agreement with the district the per pupil amount that would otherwise be paid to the student's native school district for transportation.
- Permits a county engineer to create a school zone at the location of a special elementary school.
- Requires the Ohio Turnpike Commission to investigate and remedy noise, standing water, and other problems caused by the Ohio Turnpike that are experienced by land owners whose property is contiguous to the turnpike.
- Creates the Community Resolution Fund and specifies that money in the Fund is to be used by the Commission for payment of the costs it incurs to resolve the landowners' problems.
- Allows the Turnpike Commission to adopt rules governing the use of special engine brakes on the Ohio Turnpike.
- Authorizes municipal corporations to enter into contracts with port authorities to obtain or share police resources and permits municipal police departments to provide police protection to port authorities without a contract.
- Authorizes the South Point Board of Education to convey specified real estate in Lawrence County to the State Highway Patrol.



TABLE OF CONTENTS

Motor fuel excise tax: evaporation and shrinkage discount and refund	6
Disposition of contingent CAT revenue from motor fuel sales.....	7
Distribution of a portion of the fee charged for a certificate of title	7
Creation of the position of Inspector General for the Department of Transportation	8
Use of fuel tax proceeds to pay Grant Anticipation Revenue Vehicles (GARVEE bonds).....	9
Agreements by ODOT with the federal government concerning the review of environmentally related documents.....	9
Advertising on interstate highways	10
Background.....	10
Highway status.....	10
Business logo signs	10
Signs on Interstate 70 for the Sinclair Community College Englewood Learning Center and Huber Learning Center.....	11
Uses of the Family Violence Prevention Fund.....	11
REAL ID Act extension.....	12
Maintenance of bridges on the state highway system in municipal corporations ..	12
Leased or rented vehicle traffic law violations detected by photo-monitoring devices.....	13
Identification verification number for vehicle registration.....	13
Removable windshield placards for persons with disabilities.....	14
General aviation license tax	14
Transportation improvement district projects.....	15
Maximum lengths for vehicles being operated on public highways	15
Appropriations for the Division of Homeland Security	16
Creation of the Federal Justice Grants Fund	16
Creation of the Justice Program Services Fund.....	16
School bus and motor van driver driving record checks	17
Background and current law	17
The bill.....	17
Pupil transportation to community schools.....	18
Background and current law	18
The bill.....	19
School zone at the location of a special elementary school	20
Resolution of noise, water, and other problems caused by the Ohio Turnpike System.....	22
Rules for engine brakes on the Ohio Turnpike	22
Port authority law enforcement.....	22
Lawrence County land conveyance.....	23



CONTENT AND OPERATION

Motor fuel excise tax: evaporation and shrinkage discount and refund

(Section 557.10)

Under current law, a motor fuel excise tax of 28¢ per gallon is imposed on motor fuel dealers.¹ The permanent, codified law governing the motor fuel excise tax (R.C. 5735.06) provides that a motor fuel dealer filing a complete and timely monthly tax report with payment is entitled to deduct a discount equal to 3% of the fuel gallonage the dealer received minus 1% of the fuel gallonage sold to retail dealers (to cover the costs of filing the report and to account for evaporation, shrinkage, and other losses).² Pursuant to the main operating budget for the current fiscal biennium enacted by Am. Sub. H.B. 66 of the 126th General Assembly, the discount was reduced to 2.5% (minus 0.83% of gallonage sold to retail dealers) during fiscal year 2006 and to 1.95% (minus 0.65% of gallonage sold to retail dealers) during fiscal year 2007.

The bill proposes to reduce the discount for fiscal years 2008 and 2009 to 1.0% (minus 0.50% of gallonage sold to retail dealers).

Under the permanent, codified motor fuel excise tax law, retail dealers of motor fuel who have purchased fuel on which the motor fuel excise tax has been paid are granted a refund under that law for evaporation and shrinkage equal to 1.0% of the taxes paid on the fuel each semiannual period (R.C. 5735.141). Am. Sub. H.B. 66 reduced the refund to 0.83% for the semiannual periods ending in fiscal year 2006 and 0.65% for the semiannual periods ending in fiscal year 2007.

The bill reduces the retail shrinkage refund percentage to 0.50% for all four semiannual periods of fiscal years 2008 and 2009.

¹ A "motor fuel dealer" is defined under the Revised Code to mean any person who (1) imports from another state or foreign country or acquires motor fuel by any means into a terminal in Ohio, (2) imports motor fuel from another state or foreign country in bulk lot vehicles for subsequent sale and distribution in Ohio from bulk lot vehicles, (3) refines motor fuel in Ohio, (4) acquires motor fuel from a motor fuel dealer for subsequent sale and distribution by that person in Ohio from bulk lot vehicles, or (5) possesses an unrevoked permissive motor fuel dealer's license. Any person who obtains dyed diesel fuel for use other than for the operation of motor vehicles on the public highways or on waters within Ohio, but later so uses it, will also be considered a motor fuel dealer regarding any unpaid taxes on the motor fuel so used (R.C. 5735.01).

² "Retail dealer" is defined under the Revised Code to mean any person that sells or distributes motor fuel at a retail service station located in Ohio (R.C. 5735.01).

The bill also permits retail dealers to claim a vendor discount for motor fuel they purchase during the FY 2008-2009 biennium. The discount equals 0.90% of the fuel tax paid on the motor fuel purchased. Retail dealers may claim the discount as a refund for fuel purchased during each of the four semiannual periods during the biennium. Refund applications must be filed with the Tax Commissioner within 120 days after the end of the semiannual period.

Disposition of contingent CAT revenue from motor fuel sales

(R.C. 5751.032 and 5751.20)

Under current law in effect until July 1, 2007, gross receipts from selling motor fuel are exempted from the commercial activity tax (CAT) base. The bill specifies that if the exemption expires as scheduled, any revenue arising from application of the CAT to motor fuel gross receipts is to be credited to a special highway infrastructure fund created by the bill, to be named the Economic Development and Highway Construction Fund. Money in the new fund would be used solely for construction and maintenance of the state's highway infrastructure with the objective of promoting economic development throughout Ohio.

The bill specifies that any revenue arising from expiration of the temporary CAT exemption for motor fuel gross receipts is not to be considered in determining whether an adjustment in the CAT rate is required under the rate adjustment mechanism. That mechanism requires the CAT rate to be adjusted if CAT revenue falls more than 10% above or below projections during three "test" periods.

Distribution of a portion of the fee charged for a certificate of title

(R.C. 4505.09 and 4519.59)

Currently, the clerk of a court of common pleas collects a fee of \$5 for every motor vehicle, off-highway motorcycle, and all-purpose vehicle certificate of title the clerk issues. The clerk retains \$2.25 and forwards the remaining \$2.75 to the Registrar of Motor Vehicles. The \$2.75 is allocated as follows: \$2 to the Automated Title Processing Fund, \$0.25 to the State Bureau of Motor Vehicles Fund, \$0.25 to the Motor Vehicle Sales Audit Fund, \$0.21 to the General Revenue Fund, and \$0.04 to the Motor Vehicle Dealers Board Fund.

The bill redirects into the Highway Operating Fund the \$0.21 that is paid into the General Revenue Fund.

Creation of the position of Inspector General for the Department of Transportation

(R.C. 121.51)

The bill creates in the Office of the Inspector General the position of Deputy Inspector General for the Department of Transportation (ODOT). Like the Inspector General, the Deputy Inspector General must be an attorney or CPA or must have at least five years of experience as a law enforcement officer or comptroller (chief accounting officer). The Deputy Inspector General is to be hired by and serve at the pleasure of the Inspector General.

The Inspector General is directed to provide professional and clerical assistance to the Deputy Inspector General and to certify to the Director of Budget and Management the costs incurred by the Deputy Inspector General, including the salaries of the professional and clerical employees providing the assistance. The Director of Budget and Management is required to transfer from ODOT's appropriation for general administrative purposes the amount certified. The bill does not designate a fund to which the money is to be transferred.

The bill requires the Deputy Inspector General to investigate all claims or cases of criminal violations, abuse of office, or misconduct on the part of officers or employees of ODOT and to conduct a program of random review of the processing of contracts associated with building and maintaining the state's infrastructure. The random review program is to be designed, and may be altered at any time, by the Inspector General. The program is required to be "confidential," as are certain investigative reports of the Inspector General under existing law if the designation appears reasonably necessary to protect the safety of a witness or to avoid disclosure of investigative techniques that would enable wrongdoers to avoid detection.

All officers and employees of ODOT are directed to cooperate with and provide assistance to the Deputy Inspector General in the performance of any investigation conducted by the Deputy Inspector General. At the same time the Deputy Inspector General is instructed to avoid interfering with the ongoing operations of the Department more than reasonably necessary.

The bill requires the Deputy Inspector General to maintain a public record of "its" activities to the extent permitted under the bill, ensuring that the rights of the parties involved are protected. Moreover, every six months the Deputy Inspector General must report to the Governor, the General Assembly, and the Director of Transportation the findings of, and the corrective actions subsequently taken in cases considered by, the Deputy Inspector General. Any case for which remedial action is necessary is to be delivered to the Director and the Governor.

Use of fuel tax proceeds to pay Grant Anticipation Revenue Vehicles (GARVEE bonds)

(R.C. 5735.05)

Federal law permits states to issue Grant Anticipation Revenue Vehicles, which are known as GARVEE bonds. This term refers to any financing instrument for which principal or interest is repaid with future federal-aid highway funds. The state debt instruments are issued in anticipation of the receipt of those funds in subsequent years. A state may use future obligations of its federal-aid funds not only for the retirement of principal but also for the payment of interest and of issuance, insurance, and other costs incidental to the sale of an eligible debt financing instrument.

The current Ohio motor fuel tax, which is levied on wholesalers and refiners that distribute fuel in Ohio, is composed of five components and totals 28¢ per gallon. The use of fuel tax revenue is limited by Section 5a of Article XII, Ohio Constitution, and permissible uses include payment of highway obligations, costs for the construction, reconstruction, maintenance, and repair of public highways and bridges and other statutory highway purposes, and the expense of state enforcement of traffic laws.

The bill permits one component of the fuel tax to be used to pay the interest, principal, and charges on GARVEE bonds.

Agreements by ODOT with the federal government concerning the review of environmentally related documents

(Section 555.15)

The bill allows the Director of Transportation to enter into agreements with the United States or any U.S. department or agency solely for the purpose of dedicating staff to the expeditious and timely review of environmentally related documents submitted by ODOT, as necessary for the approval of federal permits. The bill specifically includes the U.S. Army Corps of Engineers, the U.S. Forest Service, the U.S. Environmental Protection Agency, and the U.S. Fish and Wildlife Service as federal agencies with which the Director may enter into agreements, but does not limit the Director's authority to those agencies. The Director must submit a request to the Controlling Board indicating the amount of the agreement, the services to be performed by the United States or the U.S. department or agency, and the circumstances giving rise to the agreement.

Advertising on interstate highways

(R.C. 5516.01)

Background

Under current law, the Department of Transportation regulates the placement of outdoor advertising devices along interstate and state primary system highways pursuant to the federal Highway Beautification Act of 1965. Whether a sign is prohibited, regulated by a permit system, or unregulated depends on a number of factors, including the type of highway near which the sign is located, the nature of the surrounding area (whether it is within an urban area, outside an urban area, or within a municipal corporation), whether the land is zoned commercial or industrial or is unzoned, and the distance from the sign to the highway. Under federal law, federal-aid highway funds may be reduced if the Secretary of Transportation determines that a state has not made provision for effective control of the erection and maintenance along the interstate system and the primary system of outdoor advertising signs, displays, and devices (23 U.S.C.A. § 131).

Highway status

The bill generally conforms Ohio law governing advertising devices along interstates, and highways on the primary system, with Federal Highway Administration provisions by (1) removing references to interstate highways, and highways on the national highway system, "as designated" by the Director of Transportation and "approved" by the Secretary of Transportation and (2) updating the definitions to reflect current federal procedures for determining highway status. Specifically, the bill defines "interstate system" as "that portion of the interstate system, or the national highway system, located within this state" and defines "primary system" as "the federal-aid primary system in existence on June 1, 1991, and any highway that is not on such system but that is on the national highway system." Under federal law, the federal-aid systems are the interstate system and the national highway system; the national highway system consists of the routes and connections depicted on the map submitted by the Secretary of Transportation to Congress (23 U.S.C.A. § 103).

Business logo signs

(R.C. 4511.101)

Current law requires the Director of Transportation to establish a program for the placement of business logos on state directional signs within the rights-of-way of divided, multi-lane, limited access highways. The businesses participating

in the program must pay all direct and indirect costs of the program, with the costs for a particular sign being divided equally among the businesses with logos on that sign.

The bill specifies that the Director must adopt rules to implement the entire business logo program and further authorizes the Director to approve the participation of a charitable organization operating a qualified attraction in the business logo sign program if the Director determines that promotion or protection of the qualified attraction serves a legitimate state interest. The Director may approve such participation at no cost or at a nominal fee.

The bill defines "charitable organization" by reference to existing charitable organization law, which generally includes any organization determined by the Internal Revenue Service to be a tax-exempt organization and also any organization established for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other eleemosynary purpose (R.C. 1716.01, not in the bill). The bill also defines "qualified attraction" as including natural wonders and artistic, scenic, and historical attractions.

Signs on Interstate 70 for the Sinclair Community College Englewood Learning Center and Huber Learning Center

(Section 555.20)

The bill requires the Department of Transportation to erect and maintain the following signs:

(1) One sign next to each eastbound and westbound roadway of Interstate Highway 70 approaching Exit 28 that reads "Sinclair College Englewood Learning Center";

(2) One sign next to each eastbound and westbound roadway of Interstate 70 approaching Exit 38 that reads "Sinclair College Huber Learning Center."

The signs must conform to the Ohio Manual of Uniform Traffic Control Devices regarding the size, coloring, lettering, and installation locations of the signs.

Uses of the Family Violence Prevention Fund

(R.C. 3705.242)

Under existing law, an additional fee of \$1.50 is charged for each certified copy of a birth record, certification of birth, and copy of a death record, and an

additional fee of \$5.50 is charged for the filing of a divorce decree or decree of dissolution. Up to 3% of any such fee revenue may be retained by any local commissioner of health, local registrar of vital statistics, or court of common pleas that collects it to pay costs directly related to the collection of the fee and forward it to the Treasurer of State. The rest of the fee revenue must be forwarded to the Treasurer of State for deposit into the state treasury to the credit of the Family Violence Prevention Fund.

Existing law requires the Director of Public Safety to use money credited to the Family Violence Prevention Fund to provide grants to family violence shelters in Ohio. The bill requires that the Director also use the money to operate the Division of Criminal Justice Services in the Department of Public Safety.

REAL ID Act extension

(Section 555.05)

The bill directs the Director of Public Safety to request an extension of time to meet the requirements of the federal REAL ID Act of 2005. Absent an extension, which is permitted under federal law, states generally must comply with the REAL ID Act by May 11, 2008, or the federal government will be prohibited from accepting state-issued drivers' licenses and identification cards for official federal purposes such as boarding an airplane or entering a federal building. The request must comply with requirements of the Department of Homeland Security and must notify the Department of the necessity for additional time to enable Ohio to implement the rules of the Department. The Director is required to make the request as soon as practicable, but not later than October 1, 2007.

Maintenance of bridges on the state highway system in municipal corporations

(R.C. 5501.31, 5501.49, and 5591.02)

Under current law, county commissioners generally are responsible for the construction and repair of all necessary bridges on state highways and county roads and improved roads that are of general and public utility and that run into or through municipal corporations. The Department of Transportation has a duty to perform maintenance on bridges on state highways within municipal corporations only in regard to lift bridges. The Department also is responsible for inspection of all bridges on the state highway system inside and outside municipalities (R.C. 5501.47, not in the bill).

The bill establishes that the Department is responsible for the construction, reconstruction, and major and routine maintenance and repair of all bridges located on the state highway system within a municipal corporation. County

commissioners continue to be responsible for bridges on county and improved roads within a municipal corporation that are not state highways.

Leased or rented vehicle traffic law violations detected by photo-monitoring devices

(R.C. 4511.092)

Under the bill, a motor vehicle leasing dealer or motor vehicle renting dealer (defined by reference to existing law) who receives a ticket for an alleged traffic law violation detected by a traffic law photo-monitoring device (known generally as a red-light camera) is not liable for a ticket issued for a vehicle that was in the care, custody, or control of a lessee or renter at the time of the alleged violation. A dealer who receives a ticket for such a violation is required to notify whoever issued the ticket of the vehicle lessee's or renter's name and address. However, the bill establishes that "in no case shall the dealer pay such a ticket and then attempt to collect a fee or assess the lessee or renter a charge for any payment of such a ticket made on behalf of the lessee or renter."

The bill defines "ticket" as "any traffic ticket, citation, summons, or other notice of liability issued in response to an alleged traffic law violation detected by a traffic law photo-monitoring device" and defines "traffic law photo-monitoring device" as "an electronic system consisting of a photographic, video, or electronic camera and a means of sensing the presence of a motor vehicle that automatically produces photographs, videotape, or digital images of the vehicle or its license plate."

Identification verification number for vehicle registration

(R.C. 4503.10)

Under current law, an application for vehicle registration must contain the vehicle owner's social security number, if assigned (except that businesses use the owner's federal taxpayer identification number). The Bureau of Motor Vehicles is required to retain the social security number in its records but is prohibited from placing the number on registration certificates.

The bill allows the application to contain the owner's driver's license number, state identification number, or social security number.

Removable windshield placards for persons with disabilities

(R.C. 4503.44)

Under current law, a person with a disability that limits or impairs the ability to walk may apply to the Registrar for a removable windshield placard. The application must be accompanied by a prescription from the applicant's physician or chiropractor. The person receives a permanent placard if the disabling condition is expected to last more than six months; a permanent placard generally must be renewed every five years, if the disability continues. If the disabling condition is expected to last six months or less, a temporary placard is issued; a temporary placard cannot be renewed. Under current law, the placards must bear the date of expiration on both sides and the date must be indicated by means of a hole in the placard.

Current law prohibits any person from stopping, standing, or parking any motor vehicle at specially designated parking locations provided for persons with disabilities that limit or impair the ability to walk unless the motor vehicle is being operated by or for the transport of a person with such a disability and the vehicle is displaying a valid removable windshield placard or special license plates. Any motor vehicle that is illegally parked in a specially marked parking location may be towed by the local law enforcement agency, and the person who violated the prohibition generally is subject to a fine of not less than \$250 nor more than \$500 (R.C. 4511.69, not in the bill).

The bill requires both permanent and temporary placards to bear the name of the person with the disability that limits the ability to walk.

General aviation license tax

(R.C. 4561.18; Section 545.03)

Under current law, the annual registration tax for all general aviation aircraft based in Ohio is \$15 per seat and the annual tax for a glider or a balloon is \$15. All such tax revenue is deposited into the Airport Assistance Fund.

The bill creates an exception to the \$15 per seat registration tax for general aviation aircraft. Under the bill, the annual license tax for commercial cargo aircraft is \$750 per aircraft. The bill defines "commercial cargo aircraft" as any aircraft used in connection with an all-cargo operation, as defined in federal law. The bill establishes that this rate first applies to the 2007 registration form and associated license tax. A taxpayer is entitled to a refund if the taxpayer has filed the registration for 2007 and paid the tax due for 2007, and the change in the rate under the bill results in a reduction of the aircraft license tax due in 2007. The

Department of Transportation is required to establish refund procedures. Any person claiming a refund must file with the Department of Transportation on or before December 31, 2007, and the refund must be paid within 90 days.

Transportation improvement district projects

(Section 555.10)

The bill authorizes transportation improvement districts (TIDs) and at least two other governmental agencies (including local governments) to enter into an agreement on or before December 31, 2007, providing for the joint financing of any street, highway, interchange, or other transportation project. The agreement must be approved by resolution or ordinance passed by the legislative authority of each of the parties to the agreement, and the resolution or ordinance must authorize the execution of the agreement by a designated official or officials of each of the parties to the agreement. The agreement, when so approved and executed, is in full force and effect.

Any party to the agreement may issue securities to finance the project, and the TID is authorized to purchase those securities as an investment. When a TID purchases securities under this authority, more than half of the property necessary for the joint project must be located within the territory of the TID. The securities represent the governmental agency's obligation to the TID to pay the agency's portion of the joint project's cost.

Maximum lengths for vehicles being operated on public highways

(R.C. 5577.05)

Current law establishes the maximum lengths for various types and combinations of vehicles being operated on public highways. The bill revises the maximum length permitted for a type of vehicle known as a "saddlemount." A "saddlemount vehicle transporter combination" is defined as "any combination of vehicles in which a straight truck or commercial tractor tows one or more straight trucks or commercial tractors, each connected by a saddle to the frame or fifth wheel of the straight truck or commercial tractor in front of it" (R.C. 5577.01, not in the bill). Under current law drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations may not exceed 75 feet in length. Under the bill, such vehicles may not exceed 75 feet when operated on any roadway not designated as an interstate, United States route, or state route. The bill establishes 97 feet as the maximum allowable length for such vehicles when operated on any interstate, United States route, or state route, including reasonable access travel on all other roadways for a

distance not to exceed one road mile from any interstate, United States route, or state route.

Appropriations for the Division of Homeland Security

(R.C. 5502.03)

In 2003, Am. Sub. H.B. 95, the main operating appropriations act of the 125th General Assembly, created Division of Homeland Security within the Department of Public Safety. The creation of the Division was accompanied by a permanent law statement of intent of the General Assembly that the creation of the Division "does not result in an increase of funding appropriated to the department." The bill removes this statement of intent. (The bill also contains a separate line-item appropriation for the Division of Homeland Security.)

Creation of the Federal Justice Grants Fund

(R.C. 5502.62; Section 550.10)

One of the duties of the Division of Criminal Justice Services is to apply for grants that are made available pursuant to federal criminal justice acts, or from other federal sources, to improve the criminal justice system in Ohio. If the terms of such a grant require that the money be credited to an interest-bearing fund or account, existing law requires it to be credited to a federal justice programs fund.

The bill creates in the state treasury the Federal Justice Grants Fund. It is to be used to receive federal money that is not required to be credited to an interest-bearing fund or account. The money must be used or distributed pursuant to the federal grant programs under which the money is received.

Creation of the Justice Program Services Fund

(R.C. 5502.67; Section 550.20)

The bill creates in codified law the Justice Program Services Fund, a fund from which appropriations were made in Am. Sub. H.B. 66 of the 126th General Assembly but which has never explicitly been created. Unless otherwise provided, money collected by the Division of Criminal Justice Services for "nonfederal purposes" is to be credited to the fund; such money includes, both at present and under the bill, subscription fees for participating in the Ohio Incident-Based Reporting System. The system is a voluntary crime reporting program in which Ohio law enforcement agencies can submit crime statistics directly to the state and federal governments in an automated format and can, in turn, query the database and obtain crime mapping and other reports from it. Money credited to

the Justice Program Services Fund is to be used to pay costs of administering the operations of the Division of Criminal Justice Services.

School bus and motor van driver driving record checks

Background and current law

Ohio law establishes a point system for traffic violations. One of the features of this system is that if a licensed driver collects 12 or more points for violations committed within any two-year period, that driver's license is suspended for six months. The system assigns two points, four points, or six points to the various traffic violations. Speeding violations are an example of the two-point variety. Operating a motor vehicle in willful or wanton disregard of the safety of persons or property is an example of a four-point violation. Some examples of six-point violations include aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, fleeing an officer, OVI (operating a vehicle while under the influence), and any offense that is a felony.

Administrative rules adopted by the Ohio Department of Education (ODE) governing pupil transportation operation and safety establish school bus driver or other school transportation driver qualifications that utilize the driver point system.³ Under the regulations, an annual driver record check must reveal no more than eight points or no six-point convictions within the last 24 months (as verified by an abstract driver record obtained through the Ohio Bureau of Motor Vehicles) in order for a driver to remain qualified and therefore able to drive a school bus or motor van.⁴

The bill

The bill establishes various new provisions regarding school bus drivers or other school transportation drivers with six-point traffic violations.

School bus or motor van owner duties (R.C. 3327.10(F)(1) and (2)). The bill requires that, not later than 30 days after the bill's effective date, each school bus or motor van owner must obtain from the Ohio Bureau of Motor Vehicles (BMV) the driving record of each of their school bus or motor van drivers for at

³ "Other school transportation drivers" refers to drivers of school board owned or operated, or contracted, vehicles other than school buses. O.A.C. §3301-83-06(F).

⁴ The Ohio Bureau of Motor Vehicles maintains records of abstracts of convictions from the various courts with jurisdiction in Ohio relating to the operation of motor vehicles. It is from these abstracts that the annual driver check is made. R.C. 4510.036--not in the bill.

least the prior seven-year period. An owner is prohibited from allowing a person to operate a school bus or motor van for the first time before obtaining the seven-year driving record. Each year after obtaining a person's seven-year driving record, the owner must obtain from the BMV the person's driving record for at least the prior year if the person remains employed or otherwise authorized to drive the school bus or motor van. If a person has an interruption in driving either kind of vehicle for a year or longer, an owner cannot permit the person to resume operating a school bus or motor van before obtaining from the BMV the person's driving record for at least the period since the owner last obtained the person's driving record or, if the owner had never obtained a seven-year driving record for the person, for at least the prior seven-year period.

The bill also prohibits an owner from permitting a person to operate a school bus or motor van for seven years after the date of a violation for which six points are assessed under the traffic violation point system.

Voluntary imposition of more stringent standards (R.C. 3327.10(G)). The bill provides that a person, school district, educational service center, community school, nonpublic school, or other public or nonpublic entity that owns a school bus or motor van, or that contracts with another entity to operate a school bus or motor van, may impose more stringent restrictions on drivers than those prescribed above, in any other section of the Revised Code, and in any ODE rules.

Superseding ODE rules (R.C. 3327.10(F)(3)). The bill provides that its provisions governing the seven-year driving record check and the prohibition regarding driving less than seven years after a six-point traffic violation supersede only the requirements of the ODE driver qualification rules described above that school bus drivers have no six-point violations during the prior 24 months. All other rules adopted by ODE prescribing qualifications of drivers of school buses and other student transportation, including the requirement that drivers not have been assessed eight points within the previous 24 months, remain in effect until amended or rescinded by ODE.

Pupil transportation to community schools

Background and current law

The board of education of each city, local, or exempted village school district must provide transportation to and from school for its native students in accordance with Ohio law.⁵ The law requires school districts to provide

⁵ "Native student" means a student entitled to attend school in the school district under Ohio law. R.C. 3314.09 (not in the bill).

transportation to and from school for pupils in kindergarten through eighth grade who live more than two miles from the school they are assigned to attend or to and from the nonpublic or community school they attend. For high school students, districts may provide transportation to and from their assigned schools or the nonpublic or community schools they attend. A district is not required to transport pupils to and from the nonpublic or community schools they attend if the transportation would require more than 30 minutes of direct travel time as measured by school bus from the public school building to which the pupils would be assigned if attending the school designated by the district.⁶ And where it is impractical to transport a pupil by school transportation, a board of education may offer payment in lieu of providing transportation to the parents or, in certain circumstances, to the community school attended. The community school may disburse such payments to the parent directly or may use them to provide acceptable transportation.

Current law also provides that a school district is not required to provide transportation for any native student enrolled in a community school if the district board of education has entered into an agreement with the community school's governing authority designating the community school as being responsible for the transportation to and from the community school. The community school must provide or arrange for the transportation under such an agreement free of charge to each of its enrolled students eligible for transportation under Ohio law. If such an agreement is made, the Ohio Department of Education (ODE) must annually pay the community school for each of the enrolled students for whom the community school provides or arranges transportation in accordance with the agreement. The payment is taken from the school district's state aid payments. Payment will only be made under an agreement for eligible students for whom transportation to and from school is actually provided or arranged or for whom a payment in lieu of transportation is made by the community school. Payments made to the community school must be used only for providing or arranging for transportation of eligible students.

The bill

(R.C. 3314.091)

In addition to permitting school districts to make agreements that arrange for community schools to be responsible for transporting the district's native students to and from the community school, the bill permits the community school to decide unilaterally to accept responsibility for providing or arranging for the transportation of the district's native students to and from the community school.

⁶ R.C. 3327.01 (not in the bill).

Under this new option, the governing authority of the community school must submit written notification to the school district board of education stating the acceptance of the transportation responsibility by a date prescribed by ODE. The acceptance must cover an entire school year and must remain in effect for subsequent school years unless the governing authority submits written notification to the district board relinquishing the responsibility. A governing authority, however, cannot relinquish the transportation responsibility before the end of a school year and must submit the notice of relinquishment by a date prescribed by ODE to allow the school district reasonable time to prepare transportation for its native students enrolled in the community school. Additionally, if the governing authority of a community school unilaterally accepts the transportation responsibility, it must provide or arrange for transportation in a manner that is comparable to the transportation that the school district provides or arranges for its native students of the same grade level and distance from school who are enrolled in the district's schools.

The bill also provides a new method for determining the payments to be made to a community school that accepts the transportation responsibility. The bill requires ODE to make payments to the community school for each student actually transported (1) calculated pursuant to existing law governing the calculation of transportation payments to school districts from the state and any ODE implementing rules for those payment calculations and that (2) otherwise would be paid to the school district the student is entitled to attend. Like existing law governing transportation agreements, the payment made to the community school must be deducted from the school district's state aid payments.

As mentioned above, current law requires a community school that enters into a transportation agreement with a district to provide it free of charge to its students who are eligible for free transportation under the law. The bill instead requires a community school that enters into such an agreement or unilaterally accepts responsibility for transportation to provide it free not only to each of its students who must be transported by law, but also to its students who would otherwise be transported by the school district under the district's transportation policy. The bill also provides that a community school must be paid only for students who actually utilize transportation arranged, in addition to those whose transportation is actually provided or for whom a payment in lieu of transportation is made by the community school.

School zone at the location of a special elementary school

(R.C. 4511.21)

Current law prescribes a speed limit of 20 m.p.h. in a school zone during school recess and while children are going to or leaving school during the opening

or closing hours and when 20 m.p.h. school speed limit signs are erected.⁷ "School zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway, and also includes that portion of a state highway. The end of every school zone may be marked by a sign, but a school zone is not required to be indicated by signs equipped with flashing or other lights or signs that give special notice of the hours during which the 20 m.p.h. speed limit applies. A school that wishes to have a school zone created at its location must request the jurisdiction in which it is located to do so.⁸ The Director of Transportation, upon request from local authorities for streets and highways under their jurisdiction, may extend the traditional school zone boundaries.

Under the bill, a special elementary school may submit a written request to the county engineer of the county in which the special elementary school is located for the creation of a school zone at the school's location. Upon receipt of the request, the county engineer must create a school zone at that location by erecting the appropriate signs. The bill permits a county engineer to request the Director for extended school zone boundaries for any such school zone.

The bill defines a "special elementary school" as a school that meets all of the following criteria:

- (1) It is not chartered and does not receive tax revenue from any source;
- (2) It does not educate children beyond the eighth grade;
- (3) It is located outside the limits of a municipal corporation;
- (4) A majority of total number of students enrolled at the school are not related by blood;

⁷ This reduced speed limit does not apply to schools located on controlled-access highways and expressways if the right-of-way line fence does not have an opening for pedestrians.

⁸ "School" means any school chartered by the State Board of Education and any nonchartered school that during the preceding year filed with the Department of Education a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone. This report is required by section 3301-35-08 of the Ohio Administrative Code.

(5) The principal or other person in charge of the special elementary school annually sends a report to the superintendent of the school district in which the special elementary school is located indicating the total number of students enrolled at the school, but otherwise the principal or other person in charge does not report any other information or data to the superintendent.

Resolution of noise, water, and other problems caused by the Ohio Turnpike System

(R.C. 5537.31 and 5537.32; Section 203.40)

The bill directs the Ohio Turnpike Commission to establish a procedure by which to receive and investigate complaints of noise, standing water, water run-off, or any other problem from land owners whose property is contiguous to any section of the turnpike system. If the Commission finds that the problem is caused by that turnpike project, it is required to make repairs or take whatever other action is necessary to resolve the problem.

Costs incurred by the Commission in fulfilling these duties are to be paid from money in the Community Resolution Fund, which is created by the bill as a custodial fund of the Treasurer of State. The Community Resolution Fund consists of all money appropriated or transferred to it.

Rules for engine brakes on the Ohio Turnpike

(R.C. 5537.16)

Current law allows the Ohio Turnpike Commission to adopt rules as it considers advisable for the control and regulation of traffic on any turnpike project. The rules of the Commission with respect to speed, axle loads, vehicle loads, and vehicle dimensions apply notwithstanding such violations established under general traffic law provisions. Violations of Commission rules are a minor misdemeanor on a first offense, and subsequent offenses are a fourth degree misdemeanor.

The bill authorizes the Commission to adopt traffic rules on the turnpike with respect to the use of special engine brakes (commonly known by the trade name "Jake" brakes).

Port authority law enforcement

(R.C. 737.04 and 737.041)

The legislative authority of any municipal corporation may enter into contracts with one or more municipal corporations, townships, township police

districts, county sheriffs, or park districts, or with a contiguous municipal corporation in an adjoining state, for police services and equipment or for the interchange of police services and equipment. The bill adds port authorities to the list of entities with which municipal corporations are permitted to have these contracts.

Inversely, the police department of any municipal corporation may provide police protection without a contract to any county, municipal corporation, township, township police district, or park district, or to a governmental entity of an adjoining state, so long as the extension of police protection is approved by the legislative authority of the municipal corporation and by an officer or employee of the police department. The bill adds port authorities to the list of entities to which a municipal police department may provide police protection without a contract subject to the described conditions.

Lawrence County land conveyance

(Section 571.10)

The bill authorizes the South Point Board of Education to execute a deed conveying to the Superintendent of the State Highway Patrol all of the Board's right, title, and interest in certain real estate located in Lawrence County. The consideration for the conveyance is the mutual benefit accruing to the state and the South Point Board of Education from the State Highway Patrol's construction of a new patrol post on the real estate.

The bill specifies the procedures for the preparation, execution, and recording of the deed to the real estate. The deed must state the consideration mentioned above. Authority for the sale expires five years after its effective date.

HISTORY

ACTION	DATE
Introduced	02-22-07
Reported, H. Finance & Appropriations	03-12-07
Passed House (98-0)	03-13-07

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