CORRECTED VERSION*

Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 2**

128th General Assembly
(As Reported by H. Finance & Appropriations)

Rep. Ujvagi

TABLE OF CONTENTS

* Removes "motor carrier enforcement" provisions (R.C. 311.32 and 737.39) erroneously included.

** This analysis was prepared before the report of the House Finance and Appropriations Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete. In addition, this analysis does not address, in detail, appropriations, fund transfers, and similar provisions. See the Legislative Service Commission's Comparison Document and Budget in Detail for Sub. H.B. 2 for an analysis of such provisions.

DEPARTMENT OF TRANSPORTATION

- Permits the Director of Transportation to enter into a contract with a transportation innovation authority (TIA) or any corporation organized under the laws of this state to perform certain functions relative to projects the Ohio Department of Transportation (ODOT) administers, and permits the Director to execute a lease or lease-purchase with a TIA of all or part of a transportation facility.

- Permits the Director to grant a lease, easement, or license in a transportation facility to a utility service provider for the construction, placement, or operation of an alternative energy generating facility.

- Permits the Director to issue a permit to any individual, firm, or corporation for any use of a road or highway on the state highway system that is consistent with applicable federal law or federal regulations.

- Provides that goods or services may be sold within interstate highway rest areas as may be authorized by applicable federal law or federal regulations.

- Removes from codified law the requirement that OBM make periodic transfers to the Deputy Inspector General for ODOT Fund from ODOT's appropriation for general administrative purposes in favor of a general statement that the fund is to consist of money credited to the fund for the payment of costs incurred by the Deputy Inspector General for ODOT in performing the Deputy Director's duties.

- Permits the Director of Transportation to provide an incentive to bidders who have adopted business practices that reduce harmful air emissions and other threats to the environment.

- As a pilot project, authorizes the Director of Transportation to approve the creation of no more than four TIAs by specified governmental agencies for the purpose of encouraging the investment of public and private resources in the planning and implementation of innovative transportation projects to enhance the efficiency of the state's transportation system.

- Establishes the powers of a TIA, which include the authority to acquire and dispose of property but not the authority to appropriate property, the authority to issue bonds but not the authority to levy taxes, and the authority to develop toll projects under proposed new authority being given to ODOT.

- Allows ODOT to construct and operate tolled new capacity projects, requires the Director of Transportation to adopt a plan for tolls in accordance with the

Administrative Procedure Act, creates the Ohio Toll Fund in the state treasury, allows toll revenue to be pledged for the repayment of bonds, allows the Director to adopt rules for the control of traffic on tolled projects, requires the State Highway Patrol to police tolled projects and enforce the rules of the Director that are punishable as criminal offenses, requires the Director to establish a procedure for a TIA (new) to request the Department to construct and operate a tolled project, and grants other authority necessary for the operation of tolled projects.

- Exempts the acquisition of materials necessary for snow and ice removal by ODOT from the requirements of the "Buy Ohio" program deeming that two or more qualified bids offering products produced or mined in Ohio is sufficient competition to prevent an excessive price for the product or the acquiring of a disproportionately inferior product.

- Provides that the exemption for the acquisition of snow and ice removal materials may not be deemed to conflict with other elements of the Buy Ohio program.

- Replaces a requirement that ODOT's confidential cost estimate for a construction project be publicly read prior to the opening of the bids with a requirement that the total amount of such an estimate be published after all bids have been received.

- Through June 30, 2011, replaces the provision of law limiting the total dollar value of ODOT design-build contracts to $250 million per biennium with an overall limit of one billion dollars for such contracts.

- Creates the New Generation Infrastructure Bank Funds within the State Infrastructure Bank, consisting of assistance received by the state as may be provided by law, for the purpose of providing financial assistance to transportation innovation authorities (a newly proposed entity that may be formed by certain governmental agencies).

- Removes authority to use the Highway and Transit Infrastructure Bank Fund, the Aviation Infrastructure Bank Fund, and the Rail Infrastructure Bank Fund (all within the State Infrastructure Bank) to pay debt service on obligations whose proceeds have been deposited into the Infrastructure Bank Obligations Fund (federal GARVEE bonds).

- Permits the Director of Transportation to accept a survey or appraisal of a surplus parcel of real property that ODOT owns and wishes to sell that was commissioned by an interested party, but prohibits ODOT from reimbursing the party for the cost of the survey or appraisal.

- Increases from $2,000 to $5,000 the maximum value a surplus parcel of ODOT real property that can be sold at public auction to the highest bidder without regard to the appraised value if an abutting landowner chooses not to buy the parcel.

- Provides that the Director of Transportation may grant leases, easements, and licenses for lands under ODOT control independent of any lease or lease-purchase the Director may execute for all or part of a transportation facility.

- Requires ODOT to compile and produce a report on the financial and policy implications of the Department assuming primary responsibility for all state routes throughout Ohio regardless of local government jurisdiction.

- Requires aircraft registration fines to be deposited into the airport assistance fund.

- Removes from the listing of aircraft exempt from the annual aircraft license tax, a reference to aircraft "operated under a certificate of convenience and necessity issued by the civil aeronautics board" or its successor.

- Changes the annual aircraft license tax imposed on commercial cargo aircraft.

- Requires the Director of Transportation to establish a traffic generator sign program.

- Adds an additional member to the 14-member Rail Development Commission.

Certain duties and powers of the Ohio Department of Transportation (ODOT)

(R.C. 5501.03 and 5501.311)

Current law permits the Director of Transportation to enter into contracts with public agencies, including political subdivisions, other state agencies, boards, commissions, regional transit authorities, county transit boards, and port authorities, to administer the design, qualification of bidders, competitive bid letting, construction inspection, and acceptance of any projects administered by the Ohio Department of Transportation (ODOT). The administration of such projects must be performed in accordance with all applicable state and federal laws and regulations with oversight by ODOT.

The bill adds a transportation innovation authority (TIA) and any corporation organized under the laws of this state, which includes private corporations, to the list of public entities with which the Director may enter into contracts related to ODOT projects.

Existing law permits the Director to lease or lease-purchase all or any part of a transportation facility to or from one or more persons, one or more governmental agencies, a transportation improvement district, or any combination of these entities, and, in conjunction with such a lease or lease-purchase, to grant leases, easements, or licenses for lands under the control of ODOT. The bill adds a TIA as an entity with which the Director may execute a lease or lease-purchase of all or any part of a transportation facility.

ODOT and alternative energy facility service providers

(R.C. 5501.03 and 5501.311)

The bill requires ODOT to cooperate with and assist the Ohio Power Siting Board in the administration of the Board's duties relative to the issuance of construction certificates for construction of major utility facilities in this state. Also, in accordance with ODOT's statutory duty to take certain steps to conserve energy and to further efforts to promote energy conservation and energy efficiency, the bill authorizes the Director to grant a lease, easement, or license in a transportation facility to a utility service provider that has received its certificate from the Ohio Power Siting Board or appropriate local entity for construction, placement, or operation of an alternative energy generating facility. Such an interest is subject to all of the following conditions:

(1) The transportation facility is owned in fee simple or easement by this state at the time the lease, easement, or license is granted to the utility service provider.

(2) The lease, easement, or license must be granted on a competitive basis in accordance with policies and procedures to be determined by the Director. The policies and procedures may include provisions for master leases for multiple sites.

(3) The alternative energy generating facility must be designed to provide energy for ODOT's transportation facilities with the potential for selling excess power on the power grid, as the Director may determine is necessary for highway or other departmental purposes.

(4) The Director must require indemnity agreements in favor of ODOT as a condition of any such lease, easement, or license. Each indemnity agreement must secure this state and its agents from liability for damages arising out of safety hazards, zoning, and any other matter of public interest the Director considers necessary.

(5) The alternative energy service provider fully complies with any permit issued by the Ohio Power Siting Board and complies with existing law pertaining to use of ODOT land that is the subject of the lease, easement, or license.

(6) All plans and specifications must meet with the Director's approval.

(7) Any other conditions the Director determines necessary.

Money ODOT receives under these alternative energy provisions must be deposited into the state treasury to the credit of the existing Highway Operating Fund.

Under existing law, a lease, easement, or license in a transportation facility granted by the Director to a telecommunications service provider is deemed to further the essential highway purpose of building and maintaining a safe, efficient, and accessible transportation system. The bill deems a lease, easement, or license granted by the Director to an alternative energy service provider to further the same purpose but changes "efficient" to "energy-efficient" with respect to both telecommunications facilities and alternative energy generating facilities.

Issuance by ODOT of permits to use or occupy state roads

(R.C. 5515.01)

Under current law, an individual, firm, or corporation may submit an application to the Director for a permit to use or occupy a portion of a road or highway that is part of the state highway system, so long as the use or occupation will not inconvenience the traveling public. A number of conditions apply to such permits, including the requirement that the occupancy of the road or highway be in the location that the Director prescribes. The bill eliminates this condition and provides that the Director may issue a permit to any individual, firm, or corporation for any use of a road or highway on the state highway system that is consistent with applicable federal law or federal regulations.

Current law also provides that as a condition precedent to the issuance of a permit to a telecommunications service provider, the Director must require the applicant to provide proof that it is a party to a lease, easement, or license for the construction, placement, or operation of a telecommunications facility in or on a transportation facility. The bill modifies this provision by providing that as a condition precedent to the issuance of any permit, including for telecommunications or carbon dioxide infrastructure, the Director must require the applicant to provide proof that it is a party to a lease, easement, or license for the construction, placement, or operation of a facility in or on a transportation facility.

Commerce at interstate highway rest areas

(R.C. 5515.07)

The Director of Transportation has adopted rules consistent with the safety of the traveling public and consistent with the national policy governing the use and control of rest areas within the rights of way of interstate highways and other state highways and in other areas within the rights of way of interstate highways. Generally, no person may sell, offer for sale, or exhibit for purposes of sale, goods, products, merchandise, or services within the bounds of rest areas within the rights of way of interstate highways and other state highways, or in other areas within the rights of way of interstate highways, unless the Director has issued the person the proper permit. The one exception to this provision is vending machines, which may be placed within each rest area that is able to accommodate the machines.

The bill provides that goods, products, merchandise, or services may be sold within the bounds of rest areas within the rights of way of interstate highways and other state highways, or in other areas within the rights of way of interstate highways, as may be authorized by applicable federal law or federal regulations; this could include sales by local authorities and private entities.

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

(Section 755.10)

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. 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. 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.

Financing the operations of the Deputy Inspector General for ODOT

(R.C. 121.51; Section 512.40)

The Deputy Inspector General for ODOT investigates wrongful acts or omissions by employees of ODOT and conducts a program of random review of the processing of contracts associated with building and maintaining the state's infrastructure.

Currently the Inspector General is required to certify to the Director of Budget and Management the costs that the Inspector General expects the Deputy Inspector General to incur during the fiscal year or such lesser period for which the certification is made. The Director of Budget and Management is required then to transfer the certified amount into the Deputy Inspector General for ODOT Fund from the appropriation made to ODOT from which expenditures for general administrative purposes are made. The bill replaces these codified provisions for getting money into the fund with a general statement that the Deputy Inspector General for ODOT Fund is to consist of money credited to it for the payment of costs incurred by the Deputy Inspector General in performing the Deputy Inspector General's duties. (An uncodified section of the bill provides that, beginning October 1, 2009, money is to be transferred to the Deputy Inspector General for ODOT Fund, from the fund used by ODOT to pay the Department's administrative expenses, pursuant to quarterly bills submitted to ODOT by the Inspector General that reflect costs incurred by the Deputy Inspector General during the preceding quarter.)

Incentive to certain bidders for ODOT contracts

(R.C. 5525.012)

The bill permits the Director of Transportation to provide an incentive to bidders who have adopted business practices that reduce harmful air emissions and other threats to the environment. The incentive is in the form of a percentage reduction in such a bidder's lowest competent and responsible bid, not to exceed 5%.

Transportation innovation authority (TIA)

(R.C. Chapter 5539.)

Overview

As a pilot project, the bill authorizes the Director of Transportation to approve no more than four TIAs. A TIA may be created by specified governmental agencies for the purpose of encouraging the investment of public and private resources in the planning and implementation of innovative transportation projects to enhance the efficiency of the state's transportation system. A TIA is a body corporate and politic, and the

exercise by it of its powers is considered to be an essential governmental function. As described in detail below, the bill establishes the powers of a TIA, including the authority to acquire and dispose of property, the authority to issue bonds, and the authority to develop toll projects under proposed new authority being given to ODOT. TIAs expressly are denied the authority to appropriate property and authority to levy taxes.

Purpose of a TIA

(R.C. 5539.02)

The bill authorizes the Director of Transportation to establish a TIA pilot project and specifies that the Director may approve not more than four transportation innovation authorities.

The bill states that the purpose of a TIA is "to foster and encourage the investment of public and private resources in the planning and implementation of innovative transportation projects to enhance the efficiency of the state's transportation system, enhance intermodal and multimodal systems to streamline the transportation of goods and persons, and encourage the improvement and development of public transit systems and intercity passenger rail service throughout the state." A TIA must assist governmental agencies in the identification of transportation needs that will foster growth and economic development in the region conducive to the transportation projects and must assist in funding priority projects through cooperative arrangements involving public and private partnerships.

Creation and organization

(R.C. 5539.01, 5539.03(A), (B), and (C), 5539.031, 5539.04(A), 5539.06, and 5539.07(B))

Under the bill, any "governmental agency," by resolution, ordinance, or other formal action by the appropriate legislative authority of the governmental agency, as applicable, may enter into an agreement with one or more other governmental agencies proposing to form a TIA. Those governmental agencies that may form a TIA include a county, township, or municipal corporation, and any agency thereof; any other political subdivision; any county transit system, regional transit authority, or regional transit commission; any new community authority; one or more municipal corporations and one or more townships acting pursuant to a cooperative economic development agreement; any joint economic development zone or joint economic development district; any metropolitan planning organization; any port authority; any transportation improvement district; the Ohio Rail Development Commission; or any other public corporation, agency, or commission established pursuant to state law; and any combination of the above.

The agreement is subject to approval by the Director of Transportation but must do all of the following:

(1) Identify all members of the TIA;

(2) Designate the geographical area to be included in the jurisdiction of the TIA;

(3) Identify the transportation needs of the region covered by the TIA and define the transportation projects necessary to meet such needs;

(4) Provide for the planning, construction, operation, and maintenance of transportation projects proposed to be undertaken by the TIA;

(5) Establish the dates for the existence and operation of the TIA, which must include a date of creation, the means for determining when the TIA ceases to exist, how the authority may expand its membership, and how a member may end its membership;

(6) Allow for and establish the terms of funding arrangements for the identified projects through any combination of authorized funding sources;

(7) Subject to the proposed land use plan (see below) require all political subdivisions participating as members of the TIA to agree, in a time and manner specified in the agreement, to adopt zoning and land use policies and laws that are consistent with and that complement the TIA priorities, objectives, and identified projects.

In regard to land use policies, the bill requires a TIA, as soon as practicable after approval of an agreement by the Director and before engaging in any transportation project development, to develop a proposed land use plan for the area within the authority. The plan must include recommended changes to current land use and zoning policies and other measures that promote land use consistent with the authority's proposed transportation projects. The proposed land use plan must be submitted to each member governmental agency and ODOT. Additionally, the plan must include a document that specifically details the changes required of each such governmental agency to that agency's current land use and zoning policies. When a legislative authority of the governmental agency receives the plan, it must, in the time and manner specified in the TIA agreement, express its intent to take action to change its land use policies and regulations.

Under the bill, a "transportation project" of a TIA may include the construction, reconstruction, alteration, repair, improvement, operation, or management of any road, highway, bridge, or other transportation facility (defined by reference to existing law as

"all publicly owned modes and means of transporting people and goods, including the physical facilities, garages, district offices, and other related buildings, and including highways, rights-of-way, roads and bridges, parking facilities, aviation facilities, port facilities, rail facilities, public transportation facilities, rest areas, and roadside parks"); any multimodal and intermodal systems; any public transit system; and any freight or intercity passenger rail system. The bill further defines (1) "multimodal and intermodal transportation system" as a system of roads and highways, rail lines, water ports, airports, bicycle paths, pedestrian walkways, or public transit systems, including connections between them, and related facilities, (2) "passenger rail service" as passenger railroad service that connects two or more urbanized areas, and (3) "public transit system" as a system of local transportation of passengers and their incidental baggage on scheduled routes by means of a conveyance on an individual passenger fare-paying basis, and excluding transportation by a sightseeing bus, taxi, or any vehicle not operated on a scheduled route basis.

Upon entering into an agreement, a proposed TIA must provide a copy of the agreement to the Director of Transportation. The Director must approve or disapprove the agreement or suggest modifications to ensure consistency with the general purposes of the law governing TIAs. In addition to approving TIA agreements, the bill authorizes the Director to adopt rules in accordance with the Administrative Procedure Act to assist in the creation and operation of TIAs. The rules must be consistent with the purposes of bill as described above.

Under the bill, a TIA is deemed to be created upon the adoption by each participating governmental agency, acting by resolution, ordinance, or other formal action, as applicable, of an agreement approved by the Director. A TIA is governed by a board of directors. The membership of the board of directors must be established by the governmental agencies comprising the TIA, but there must be an equal number of board members representing each governmental agency comprising the TIA. Each member of the board serves at the pleasure of the member's appointing authority, and the appointing authority may remove an appointee the appointing authority has appointed at any time and for any reason. Members of the board receive no compensation but may be reimbursed for their necessary and actual expenses incurred in the course of duties as board members. The affirmative vote of a majority of the board is necessary to transact business.

The board and members of a TIA must encourage the participation of all political subdivisions within the geographic jurisdiction of the TIA. The bill requires a TIA to invite the participation of any new community authority, county transit system, regional transit authority, regional transit commission, joint economic development zone or joint economic development district, transportation improvement district, port

authority, or metropolitan planning organization whose jurisdiction is within or substantially within the jurisdiction identified by a TIA.

Powers and duties

(R.C. 5539.04(B), 5539.05, and 5539.08)

A TIA must adopt bylaws for the regulation of its affairs and the conduct of its business and must provide for public notice and opportunity for public comment on the identification of transportation projects and plans for funding the construction, operation, and maintenance of such projects. Under the bill, a TIA may do all of the following:

(1) Sue and be sued in its own name, plead, and be impleaded;

(2) Purchase, construct, maintain, repair, sell, exchange, police, operate, or lease a project;

(3) Make and enter into all contracts and agreements necessary or incidental to the performance of its functions in designing, planning, and implementing a project and the execution of its powers;

(4) Employ, retain, or contract for the services of consultants, engineers, construction and accounting experts, financial advisers, trustees, attorneys, or other employees, independent contractors, or agents as are necessary in its judgment for the exercise of its powers and performance of its duties;

(5) Acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties;

(6) Direct its agents or employees, when properly identified in writing and after reasonable notice, to enter upon lands within its jurisdiction to make surveys and examinations preliminary to the location and construction of projects for the TIA, without liability of the TIA or its agents or employees except for actual damages arising solely out of such entry;

(7) Enter into contracts, agreements, or any other partnerships with private entities, where appropriate, to streamline and enhance the planning and implementation and funding of identified projects;

(8) Do all acts necessary and proper to carry out the powers expressly granted.

The bill specifies that any actions against a TIA must be brought in the court of common pleas in the county in which the TIA is headquartered or in the court of

common pleas of the county in which the cause of action arose, and all summonses and notices of any kind must be served on a TIA by leaving a copy of the document at its headquarters.

The bill establishes general requirements for funds of a TIA. A TIA is required to hold and apply such funds as it considers necessary to carry out its powers and duties as conferred by law and as set forth in the governing agreement. A TIA must adopt an operating budget to hire employees, contract for services, and conduct normal business functions. All funding for its operating budget must be paid from contributions from each governmental agency constituting the TIA. The bill specifies that no state funds may be used for a TIA operating budget. Additionally, a TIA must submit an annual audited financial report to the General Assembly and the Director of Transportation setting forth all sources and uses of funds obtained or otherwise generated by the TIA and a detailed breakdown of the different classes of expenditures made by the TIA during each calendar year of operation. The annual report must contain two-year budget projections for the TIA operating expenses and specific transportation project funding.

Acquiring and disposing of property

(R.C. 5539.09(A), (B), (C), and (D) and 5539.10)

The bill authorizes a TIA to acquire public or private property by purchase, lease, lease-purchase, lease with option to purchase, or otherwise, and in such manner and for such consideration as it considers proper, if the property is necessary, convenient, or proper for the construction, maintenance, repair, or operation of a transportation project. Title to real and personal property must be held in the name of the TIA. Except as otherwise agreed to by the owner, full compensation must be paid for public property taken.

The bill allows a governmental agency to exercise the power of eminent domain to acquire property necessary for or in connection with a transportation project but specifies that eminent domain may be used only to the extent such power is granted to the governmental agency individually. Proceedings for appropriation must be in accordance with the general law governing appropriations (R.C. 163.01 to 163.22, not in the bill) or as otherwise provided by law for the governmental agency's exercise of the power of eminent domain. The bill expressly provides that nothing in the governing law may be construed as permitting a TIA to exercise the power of eminent domain as a collective entity to acquire property for a transportation project.

The bill additionally specifies that it does not authorize a TIA to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in

interstate commerce if the property or facilities are required for the proper and convenient operation of the public utility or common carrier unless provision is made for the restoration, relocation, replication, or duplication of the property or facilities elsewhere at the sole cost of the TIA.

As a general matter, disposition of real property by a TIA must be by sale, lease-purchase agreement, lease with option to purchase, or otherwise in such manner and for such consideration as the TIA determines if to a governmental agency or to a private entity involved in the transportation project funding, and otherwise in the manner provided for the disposition of property by the Director of Transportation. Disposition of personal property must be in such manner and for such consideration as the TIA determines.

The bill authorizes a TIA board of directors to acquire excess real property in fee simple by any method other than appropriation and hold the property for such period of time as the board determines. All right, title, and interest of the TIA in the property may be sold at public auction or otherwise, as the board considers in the best interests of the TIA; however, the property may not be sold for less than two-thirds of its appraised value. Sale at public auction may be undertaken only after the board advertises the sale in a newspaper of general circulation in the area of the jurisdiction of the TIA for at least two weeks prior to the date set for the sale.

Project funding

(R.C. 5539.07(A) and (C) and 5539.11(A) and (B))

The bill allows a governmental agency to fund or assist in funding a transportation project using the authority granted to any governmental agency participating as a member of a TIA, but only to the extent such power is granted to the governmental agency individually. Additionally, nothing in the bill is to be construed as permitting or granting authority to a TIA to levy any fee, assessment, payment, or tax as a collective entity.

Projects identified by a TIA may be funded through any combination of revenue generated under the authority granted to the TIA under the bill or under the authority granted to any governmental agency participating as a member of a TIA. TIA funding sources may include special fees and assessments levied by a governmental agency, fair share payments, payments in lieu of property tax on improvements, cash payments by private participants, dedicated portions of local sales tax and local income tax receipts, loans or grants from local, state, or federal sources, implementation of tolling arrangements or other charges as authorized by new ODOT authority (see "**Tolling authority**"), or any other revenue raising or tax incentive authority available to a TIA or

any governmental agency acting as a member of a TIA. The bill establishes the following conditions for TIA funding sources:

(1) A TIA may participate in the levy of special assessments by a governmental agency to assist in the payment of costs for the construction, reconstruction, alteration, repair, improvement, operation, or management of an identified transportation project if the TIA determines that the project will benefit the geographic area where the project will be constructed, reconstructed, altered, repaired, improved, operated, or maintained.

(2) When it is determined that a project will benefit both a single political subdivision and the jurisdiction covered by a TIA as a whole, any governmental agency participating as a member of a TIA may exercise its taxing authority on income, sales, or property, or provide for payments in lieu of property tax on improvements, to benefit the entire jurisdiction covered by the TIA.

(3) A TIA may obtain loans or grants from local, state, or federal sources. Loans or grants from federal or state sources may be used for funding transportation projects and may not be applied to TIA operating expenses.

(4) A TIA may issue bonds to pay for all or part of the cost of an identified project.

(5) When it is determined that a project will benefit both a single political subdivision and the jurisdiction covered by a TIA as a whole, each governmental agency participating as a TIA member may issue bonds for a portion of the cost of any project if the Uniform Bond Law would authorize the issuance of those bonds as if the governmental agency alone were undertaking the project, subject to the same conditions and restrictions.

(6) Any governmental agency participating as a TIA member may appropriate money available to the agency to pay TIA costs incurred in the exercise of its powers and duties.

(7) A TIA may enter into agreements with private entities to assist with the construction, improvement, operation, or management of transportation projects. Such agreements may include fair share payments to be made by the private entities to fund the projects.

(8) A TIA may charge tolls or fees for the use of its transportation projects or facilities pursuant to new ODOT authority (see "**Tolling authority**"). In accordance with the new ODOT tolling authority, revenues must be deposited in the Ohio Toll Fund. Revenues must be utilized to support construction, improvement, repair,

maintenance, administration, and operation for transportation projects within the geographical jurisdiction of the authority. All projects for which a toll or fee is proposed to be charged are subject to the review and approval of the Transportation Review Advisory Council.

The bill authorizes the Director of Transportation to provide grants for planning and project development, funding from the State Infrastructure Bank, and support for the transportation priority projects identified by a TIA. The Director must issue an annual report to the General Assembly summarizing the effectiveness of TIAs in identifying and funding the transportation needs of the state.

Tolling authority

(R.C. 5531.11 to 5531.18 and 5531.99)

Overview

The bill allows ODOT to construct and operate tolled new capacity projects, based upon a plan for tolls that the Director of Transportation must adopt in accordance with the Administrative Procedure Act. To the extent permitted by federal law,[1] the bill allows the Director to fix, revise, charge, and collect tolls for each tolled project. Money received from tolls must be deposited into the Ohio Toll Fund, which the bill creates in the state treasury. The bill allows the Director to adopt rules for the control of traffic on tolled projects and requires the State Highway Patrol to police tolled projects and enforce the toll-related rules of the Director that are punishable as criminal offenses. The bill requires ODOT to make an annual report of its tolled project activities for the preceding calendar year to the Governor and the General Assembly. As described below, the bill also grants other authority necessary for the operation of tolled projects.

Guidelines

(R.C. 5531.11 and 5531.12)

In order to remove handicaps and hazards on the state's highways, to facilitate vehicular traffic, to promote the state's agricultural, commercial, recreational, tourism, and industrial development, and to provide for the general welfare by the construction, improvement, and maintenance of modern express highways embodying safety devices, the bill authorizes ODOT to construct, improve, maintain, repair, administer,

[1] 29 U.S.C.A. § 129 establishes the guidelines for federal participation in toll highways, which, in general, relate to highways other than highways on the Interstate System.

and operate a system of tolled new capacity projects that are approved by the Director. The tolled projects expressly are designated as part of the Ohio transportation system.

The bill defines a "new capacity project" as any tolled project constructed pursuant to the new tolling authority granted in the bill, including construction on existing public freeways if the construction increases the total number of lanes, including tolled and nontolled lanes, and does not decrease the total number of nontolled lanes at each mile. A "tolled project," by definition in the bill, includes any express or limited access highway, motorway, interchange, service road, bridge, tunnel, bypass, general purpose lane addition, high occupancy lane, smart lane, intermodal facility, parking lot, airport, runway, canal, port, waterway, rail line, railroad interchange, railway spur, or highway project established, constructed, reconstructed, maintained, repaired, administered, operated, or improved, under ODOT's jurisdiction, at locations determined by the Director. Additionally, a tolled project includes all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, those portions of connecting public roads that serve interchanges and are determined by the Director to be necessary for the safe merging of traffic between the tolled project and those nontolled public roads, toll booths, service facilities, and administration, storage, and other buildings, property, and facilities that ODOT considers necessary for the operation or policing of the tolled project, together with all property and rights that may be acquired by ODOT for a tolled project and any sections or extensions of a tolled project designated by ODOT. Each tolled project may be separately designated and may be constructed, improved, or extended in such sections as ODOT may determine. A tolled project, whether publicly or privately owned, is a state infrastructure project for all purposes of the State Infrastructure Bank and also is a transportation facility under existing ODOT law.

Tolled projects

(R.C. 5531.11, 5531.13(A), (B), and (C), 5531.16(A), (B), (C), and (D), 5531.17, and 5531.18)

The bill authorizes the Director to do all of the following as determined to be necessary, convenient, or proper for tolled projects: (1) acquire and dispose of any public or private property or property interests, (2) enter into contracts for the construction, improvement, repair, maintenance, administration, or operation of tolled projects, and (3) enter into any professional contracts. In each case, the bill requires the Director to act in the same manner as under specified existing law provisions governing similar actions by the Director.

Under the bill, each tolled project must (1) be maintained and kept in good condition and repair by ODOT, (2) be operated by toll collectors and other employees

and agents that ODOT employs or contracts for, and (3) be policed by the State Highway Patrol, including enforcement of all ODOT rules that relate to the operation and use of vehicles on a tolled project and that are punishable as criminal offenses.

The bill requires the Director to establish a procedure for a political subdivision or other governmental agency or agencies to submit a written application to the Director in accordance with a provision of the bill governing transportation innovation authorities (see "**Transportation innovation authority (TIA)**") requesting ODOT to construct and operate a tolled project within the boundaries of the subdivision, agency, or agencies making the request. The procedure must include a requirement that the Director send a written reply to the subdivision, agency, or agencies explaining the disposition of the request.

ODOT expressly is not required to pay any state or local taxes or assessments upon any tolled project, or upon revenues or any property acquired or used by ODOT or upon the related income. The bill requires that an action for damages against the state for any public or private property damaged or destroyed in carrying out the toll-related powers must be filed in the Court of Claims.

All governmental agencies (defined as any state or federal agency, political subdivision, or other local, interstate, or regional governmental agency, and any combination of those agencies) are authorized by the bill to lease, lend, grant, or convey to ODOT at its request, any property, including public roads and other property already devoted to public use, that is necessary or convenient to effectuate the tolling purposes of the bill. The terms may be any that the proper authorities of the governmental agencies consider reasonable and fair, without the necessity for an advertisement, order of court, or other action or formality, other than the regular and formal action of the authorities concerned.

The bill establishes that each bridge constituting part of a tolled project is considered a bridge on the state highway system for purposes of existing law provisions governing inspection and maintenance responsibilities.

Collection and use of tolls

(R.C. 5531.11, 5531.13(D), and 5531.14(A), (B), (C), and (D))

To the extent permitted by federal law, the bill allows the Director to fix, revise, charge, and collect tolls for each tolled project. The bill defines "tolls" as tolls, special fees or permit fees, or other charges by ODOT to the owners, lessors, lessees, operators of motor vehicles, or other users of a tolled project for the operation or use of or the right to operate on a tolled project. In accordance with the Administrative Procedure Act, the bill requires the Director to establish a plan, schedule, or system of tolls or

charges and to declare the purpose, amount, and duration of the tolls or charges. Any proposal to implement a toll or other charge may include a plan, schedule, or system of tolls or charges that is subject to adjustment by the Director within and in accordance with that plan, schedule, or system.

The bill requires tolls to be so fixed and adjusted as to provide funds at least sufficient with other revenues of the Ohio transportation system, if any, to pay: (1) any bond service charges on obligations issued to pay costs of one or more tolled projects as the charges become due and payable, and (2) the cost of maintaining, improving, repairing, constructing, and operating tolled projects within the Ohio transportation system and its different parts and sections, and to create and maintain any reserves for those purposes. The "Ohio transportation system" is broadly defined to include all existing and future transportation projects constructed, operated, repaired, maintained, administered, and operated under ODOT's jurisdiction, including tolled projects and highway projects. "Highway project" means any project intended for the highway purposes of supporting the state highway system.

Tolls may be pledged to the repayment of obligations in the bond proceedings for those obligations and must be a pledged receipt for those obligations to the extent pledged in those bond proceedings. Tolls also may be used for the acquisition of property or pursuant to contracts to the same extent permitted with respect to obligations.

The bill authorizes ODOT to use a system for toll collection that is capable of charging an account holder the appropriate toll or charge by transmission of information from an electronic device on a motor vehicle to the toll lane, which information is used to charge the account holder the appropriate toll or charge.

Ohio Toll Fund

(R.C. 5531.13(D) and 5531.14(E) and (F))

Money received by ODOT from tolls must be deposited to the credit of the Ohio Toll Fund, which the bill creates in the state treasury. The bill permits the Treasurer of State to establish separate subaccounts within the Ohio Toll Fund as determined to be necessary or convenient to pay costs of constructing, improving, repairing, maintaining, administering, and operating a tolled project within the Ohio transportation system. Any remaining money deposited into the Ohio Toll Fund must be used at the discretion of the Director to support construction, improvement, repair, maintenance, administration, and operation costs for approved tolled projects and highway projects within one mile of a tolled project. All investment earnings of the fund are to be credited to the fund. Accounts within the Ohio Toll Fund may be used for the

acquisition of property or pursuant to contracts to the same extent permitted with respect to obligations.

The issuing authority for the bonds must certify or cause to be certified to ODOT and the Office of Budget and Management the amounts required during the current fiscal year to meet all bond service charges, costs of credit enhancement facilities, other financing costs, and any other amounts required under the bond proceedings, and each such amount is to be set forth separately. The certification must be made by July 15 each year, and supplemental certifications must be made for each bond service payment date and at any other times provided in the bond proceedings or required by ODOT or the Office of Budget and Management. Money received from tolls and other pledged receipts must be deposited to the credit of the bond service fund at such times and in such amounts as are necessary to satisfy the payment requirements of the bond proceedings.

Authority related to toll projects

(R.C. 5531.11, 5531.14(A), 5531.15(A), (B), (C), and (D), and 5531.99)

The bill authorizes the Director to contract with any person or governmental agency to use any part of the tolled project for telephone, electric light, or power lines, service facilities (service stations, restaurants, and other facilities for food service, roadside parks and rest areas, parking, camping, tenting, rest, and sleeping facilities, hotels or motels, and all similar and other facilities providing services to the traveling public in connection with the use of a tolled project and owned, leased, licensed, or operated by ODOT), or for any other purpose. The bill specifies, however, that no toll, charge, or rental may be made for placing equipment or public utility facilities that are necessary to serve service facilities or to interconnect any public utility facilities.

The bill authorizes the Director, in accordance with the Administrative Procedure Act, to adopt such rules as the Director considers advisable for the control and regulation of traffic on any tolled project, for the protection and preservation of property under the jurisdiction and control of ODOT, for the maintenance and preservation of good order within the property under its control, and for the purpose of establishing owner or operator liability for failure to comply with toll collection rules. The rules must provide that public police officers must be afforded ready access to all property under ODOT's jurisdiction, without the payment of tolls, while the officers are in the performance of their official duties.

The bill prohibits any person from violating any ODOT rule described above and establishes penalties for violations of the rules. In general, whoever violates such a rule is guilty of a minor misdemeanor on a first offense; on each subsequent offense such

person is guilty of a misdemeanor of the fourth degree. When the violation is a civil violation for failure to comply with toll collection rules, the person is subject to a fee or charge established by ODOT by rule. All fines collected for the violation of applicable laws of the state and the rules of ODOT or money arising from bonds forfeited for such violation must be disposed of in accordance with existing law governing the disposition of fines from persons apprehended or arrested by the State Highway Patrol, with a portion credited to the General Revenue Fund (after sufficient revenue is credited to the Security, Investigations, and Policing Fund to support specific activities of the Patrol), a small portion credited to the Trauma and Emergency Medical Services Grants Fund, and the remainder distributed based on the court that imposes the fine (R.C. 4501.11 and 5503.04, not in the bill). All fees or charges assessed by ODOT against an owner or operator of a vehicle as a civil violation for failure to comply with toll collection rules are declared to be revenues of ODOT.

New Generation State Infrastructure Bank

(R.C. 5531.09)

Current law creates the State Infrastructure Bank (SIB) and authorizes the Director of Transportation to use the resources of the SIB for both financing state projects and providing financial assistance to local and private projects. The SIB consists of several funds: (1) the Highway and Transit Infrastructure Bank Fund, (2) the Aviation Infrastructure Bank Fund, (3) the Rail Infrastructure Bank Fund, and (4) the Infrastructure Bank Obligations Fund. These various funds within the SIB consist of federal grants and awards or other federal assistance received by the state, payments received by ODOT in connection with providing financial assistance for qualifying projects, and the proceeds of obligations issued by the Treasurer of State.

Current law requires the Director to use the SIB to encourage public and private investment in transportation facilities that (1) contribute to the multi-modal and intermodal transportation capabilities of the state, (2) develop a variety of financing techniques designed to expand the availability of funding resources and to reduce direct state costs, (3) maximize transportation innovation authorities' participation in financing projects, and (4) improve the efficiency of the state transportation system by using and developing the particular advantages of each transportation mode to the fullest extent. Financial assistance provided by the Director for qualified projects may be in the form of loans, loan guarantees, letters of credit, leases, lease-purchase agreements, interest rate subsidies, debt service reserves, and such other forms as the Director determines to be appropriate.

The bill creates the New Generation Infrastructure Bank Funds within the SIB, to consist of assistance received by the state as may be provided by law. Unlike other

funds in the SIB, the New Generation Infrastructure Bank Funds are not created to encourage public and private investment in transportation facilities, but rather are created for the purpose of providing financial assistance to transportation innovation authorities (see "**Transportation innovation authority (TIA)**"). The bill requires the Director to use the New Generation Infrastructure Bank Funds to encourage transportation innovation authorities to invest in transportation facilities for the same purposes described in (1) to (4), above, and specifies that the types of assistance for qualified projects be in the same forms as listed above (that is, loans, loan guarantees, letters of credit, leases, lease-purchase agreements, interest rate subsidies, debt service reserves, and such other forms of assistance as the Director determines to be appropriate). All fees, charges, rates of interest, payment schedules, security for, and other terms and conditions relating to such assistance must be determined by the Director.

The bill also removes from current law the authority to use the Highway and Transit Infrastructure Bank Fund, the Aviation Infrastructure Bank Fund, and the Rail Infrastructure Bank Fund to pay debt service on obligations whose proceeds have been deposited into the Infrastructure Bank Obligations Fund (federal GARVEE bonds).

Snow and ice removal material contracts exempt from "Buy Ohio"

(R.C. 125.11; Section 812.30)

Under current law, when a state agency seeks to contract for goods, the agency must determine whether the goods must be obtained from an entity producing or mining goods in Ohio (known as the "Buy Ohio" program). Among other factors, if sufficient competition exists among Ohio bids, it is presumed that the agency will not be forced to pay an excessive price or obtain a disproportionately inferior product and therefore, must obtain the goods from an Ohio entity. Current law deems that sufficient competition exists if there are two or more qualified bids offering products that have been produced or mined in Ohio.

The bill exempts the acquisition of materials necessary for snow and ice removal by ODOT from the requirements of the Buy Ohio program deeming that two or more qualified bids offering products produced or mined in Ohio constitutes sufficient competition. The bill also provides that the exemption for the acquisition of these materials may not be deemed to conflict with other elements of the Buy Ohio program established in Ohio law. Finally, the bill requires that these provisions take immediate effect when the act becomes law.

Publishing ODOT's confidential construction cost estimates

(R.C. 5525.15)

Existing law allows the Director of Transportation to keep ODOT's cost estimate for a construction project confidential until after project bids have been received; once the bids have been received, ODOT's cost estimate must be publicly read prior to the opening of the bids. The bill replaces the requirement that the cost estimate be publicly read prior to the opening of the bids with a requirement that the total amount of such an estimate be published after all bids have been received.

Design-build authority of ODOT

(R.C. 5517.011)

Current law authorizes the Director of Transportation to combine the design and construction elements of a highway or bridge project into a single contract in order to expedite the sale and construction of special projects. The director prepares and distributes a scope of work document upon which the bidders base their bids. Except in regard to those requirements relating to providing plans, the director must award these design-build contracts in accordance with ODOT's general competitive bidding law. For each biennium, the total dollar value of contracts made cannot exceed $250 million.

Through June 30, 2011, the bill replaces the limit on the total dollar value of ODOT design-build contracts of $250 million per biennium with one billion dollar total limit on such contracts. After that date, the $250 million per biennium limit is restored unless the General Assembly authorizes a different limit.

Sale of excess ODOT real property

(R.C. 5501.39)

Surveys and appraisals of ODOT property that is for sale

Under current law, if the Director of Transportation determines that real property that ODOT acquired for a highway project is not required for highway purposes, the Director, in the name of the state, may sell all right, title, and interest of the state in any of the real property. The Director must have the parcel appraised by an ODOT prequalified appraiser. Under the bill, the Director may accept a survey or appraisal from an interested party in order to facilitate the disposal of the excess real property. Acceptance by the Director of such a survey or appraisal from an interested party does not convey upon that interested party any special right or standing relative to any other abutting landowner or member of the general public where the prospective sale of the real property is concerned.

Current law requires ODOT to pay all expenses it incurs in the sale of a parcel of real property out of the sale proceeds; the balance of the sale proceeds must be deposited in the highway fund that was used to acquire that parcel. The bill prohibits ODOT from reimbursing any interested party for the cost of a survey or appraisal that the interested party commissions and the Director accepts.

Sale of ODOT real property having a low market value

Under current law, if ODOT real property that is not needed for highway purposes is appraised or reappraised as having a fair market value of $2,000 or less and ODOT is unable to sell the real property to the abutting owner or owners, the Director may advertise the sale of the real property in accordance with existing sale advertising procedures. The Director may sell the land at public auction to the highest bidder without regard to its appraised value, but the Director may reject all bids that are less than the full appraised value of the real property.

The bill increases the maximum fair market amount of this provision from $2,000 to $5,000.

Granting of leases, easements, and licenses for lands under ODOT control

(R.C. 5501.311)

Current law permits the Director of Transportation to lease or lease-purchase all or any part of a transportation facility to or from one or more persons, one or more governmental agencies, a transportation improvement district, or any combination of one or more persons and these entities, and, in conjunction with such a lease or lease-purchase, to grant leases, easements, or licenses for lands under the control of ODOT.

The bill eliminates the phrase "in conjunction therewith" so that the Director may grant leases, easements, or licenses for lands under the control of ODOT independent of any lease or lease-purchase the Director may execute relative to all or part of a transportation facility.

ODOT report on state route responsibility

(Section 755.50)

The bill requires ODOT to compile and produce a report on the financial and policy implications of ODOT assuming primary responsibility for all state routes throughout Ohio regardless of local government jurisdiction, such as those portions of state routes that are located within municipal corporations (which under current law are the responsibility of the respective municipal corporations). The report must review the range of possible participation in the paving and maintenance of these routes by

ODOT. ODOT must submit the report to the Speaker of the House of Representatives, the President of the Senate, and the Governor not later than December 15, 2009.

Disposition of fine imposed for failure to register aircraft

(R.C. 4561.21; R.C. 113.08, 113.09, 4561.18, and 4561.22, not in the bill)

An owner of an aircraft that is based in this state generally must register that aircraft with ODOT. An owner that fails to do so is subject to a fine of not more than $500 for each violation. Any such fines collected must, under current law, be deposited into the General Revenue Fund. The bill requires the Director of Transportation to instead deposit fines into the state treasury to the credit of the Airport Assistance Fund to be used for maintenance and capital improvements to publicly owned airports.

Aircraft exempt from annual license tax

(R.C. 4561.17 and 4561.18)

With specified exceptions, current law imposes an annual registration tax on all general aviation aircraft based in Ohio of $15 per seat, $15 for a glider or a balloon, and $750 per aircraft for commercial cargo aircraft; the tax revenue is deposited into the Airport Assistance Fund. One of the exceptions under existing law is for "[a]ircraft operated under a certificate of convenience and necessity issued by the civil aeronautics board or any successor to that board." The Civil Aeronautics Board no longer exists and its successor, the Federal Aviation Administration, does not issue certificates of convenience and necessity; rather, the United States Secretary of Transportation (who is not the successor to the Civil Aeronautics Board) presently issues a certificate of convenience and necessity to a citizen to provide air transportation based on a finding that the citizen is "fit, willing, and able to provide the transportation" and that "the transportation is consistent with the public convenience and necessity" (49 U.S.C.A. § 41102). The bill eliminates the annual license tax exception for "[a]ircraft operated under a certificate of convenience and necessity issued by the civil aeronautics board" or its successor.

Commercial cargo aircraft license tax

(R.C. 4561.18)

Under current law, the owner of any aircraft that is based in this state, unless otherwise exempted, must register the aircraft with ODOT. Each registration must be accompanied by the proper license tax. The annual license tax imposed on a commercial cargo aircraft is $750. The bill changes the amount of the tax to an amount equal to $15 per seat, based on the manufacturer's maximum listed seating capacity.

Traffic generator sign program

(R.C. 4511.108)

The bill requires the Director of Transportation to establish a traffic generator sign program and sets forth the specifications for a uniform system of traffic generator signs and the criteria for participation in the program in its traffic engineering manual, requires ODOT to operate, construct, and maintain the program. The bill allows the Director to establish an annual fee to be charged for a qualifying private business to participate in the traffic generator sign program. Money from the fees must be deposited into the Highway Operating Fund.

Rail study

(R.C. 4981.40)

In regard to passenger rail service, the bill requires ODOT and the Rail Development Commission to do all of the following: (1) include all federally designated Ohio high-speed rail corridors and all passenger rail corridors in the Ohio Hub Study in any overall programmatic environmental impact study or other comprehensive high-speed rail project development study, (2) work with Amtrak to improve existing service between Toledo and Cleveland with a goal of creating optimum service to connect with the planned Cleveland, Columbus, Dayton, and Cincinnati service, and (3) examine the financial and economic feasibility of developing a passenger rail system between Toledo and Columbus, including necessary characteristics of a viable connection between the cities.

Ohio Rail Development Commission membership

(R.C. 4981.02)

Current law creates the Ohio Rail Development Commission, consisting of six members appointed by the Governor, four members of the General Assembly appointed by the leadership of each house, and two members of the public, one appointed by the Speaker of the House and one appointed by the President of the Senate. The Directors of Transportation and Development (or their designees) serve ex officio and the members from the General Assembly are nonvoting members. The bill adds an additional member to the Commission. The new member is to be appointed by the Governor, must represent the interests of manufacturers, and must have contracting responsibility for rail and nonrail freight transportation. The bill makes a corresponding change in the voting requirements so that an affirmative vote of six, rather than five, members is necessary to take action.

- Removes all the secondary enforcement limitations that apply to seat belt requirements, whereby a law enforcement officer cannot stop a vehicle in which the officer has observed a person in the vehicle violating a seat belt use requirement unless the officer observes another separate motor vehicle violation for which the officer can legally stop the vehicle.

- Prohibits any person from operating an automobile on any street or highway unless each child occupying a seating position in the front seat area of the automobile is secured in a child restraint device, secured in a booster seat, or restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device, and establishes a minimum fine of $25 on a first offense.

- Creates a two-year pilot project under which a state speeding violation that occurs within a construction zone that is located on an interstate highway and is detected by an automated speed enforcement system constitutes a civil offense for which a civil penalty not exceeding $250 is assessed against the owner of the motor vehicle that was involved in the offense.

- Requires the Department of Public Safety to enter into an agreement with an outside entity to conduct a study regarding the primary enforcement of the seat belt use law in this state as permitted by the bill.

- Increases a total of seven driver, motor vehicle, and certificate of title abstract fees from $2 to $8.

- Of each $6 increase, requires $1.25 to be credited to the existing Trauma and Emergency Medical Services Fund, $1.25 to be credited to the new Homeland Security Fund, $0.75 to be credited to the new Investigations Fund, $2.25 to be credited to the existing Emergency Management Agency Service and Reimbursement Fund, and $0.50 to be credited to the existing Justice Program Services Fund.

- Permits the Director of Budget and Management, upon the request of the Director of Public Safety, to transfer excess money from the above five funds to the existing State Highway Safety Fund.

- Increases or establishes the following fees and directs that the fees be deposited into the State Highway Safety Fund: (1) new late fee for vehicle registrations and driver's license applications, $10, (2) additional passenger vehicle registration fee, $5.75, (3)

additional in-state commercial vehicle registration fee, $19, (4) increased out-of-state apportioned registration tax for commercial cars and buses, ranging from $2 to $33.50, depending on the vehicle weight, (5) additional temporary registration tag fee, $5, and (6) additional vision screening fee, $1.

- One year after the bill's effective date, generally increases the fees charged by the Clerk of the Court of Common Pleas for services related to certificates of title from $5 to $15.

- Requires a person shipping certain radioactive material within or through this state to provide the Emergency Management Agency with notice of the shipment and pay the Department of Public Safety a fee for each shipment ($2,500 for each shipment by motor carrier and $4,500 per cask plus $3,000 for each additional cask shipped by rail by the same entity in the same shipment), establishes civil penalties for violating the notice and fee requirements, and establishes the Radiation Response Fund, consisting of the fees and fines and used by the Director of Public Safety for purposes related to the safe shipment of such material.

- Requires the Registrar of Motor Vehicles or a deputy registrar to ask an individual who is conducting a driver's license or identification card transaction if the individual is a veteran or is currently serving in the armed forces of the United States or any reserve component of the armed forces of the United States or the Ohio National Guard, and provides that if the individual is such a person, the Registrar or deputy registrar must provide the individual's name, address, and military status to the Department of Veterans Services for official government purposes regarding benefits and services.

- Permits a person who is a veteran, active duty, or reservist of the United States armed forces to have the person's driver's license, commercial driver's license, or state-issued identification card indicate that fact by a military designation on the license or card.

- Requires all-purpose vehicles to be registered except those that are used primarily on a farm as a farm implement.

- Increases the three-year snowmobile, off-highway motorcycle, and all-purpose vehicle registration fee from $5 to $31.25, increases the length of time a temporary operating permit for these vehicles is valid from 15 days to one year, and increases the cost of such a temporary operating permit from $5 to $11.25.

- Requires the Registrar of Motor Vehicles, not later than October 1, 2009, to adopt rules to permit commercial trailers and semitrailers to be registered for not more than five years.

Enforcement of the seat belt use requirements

(R.C. 4507.05, 4507.071, 4511.093, and 4513.263; Sections 755.20, 755.21, and 815.10)

Current law

Current law contains four general prohibitions related to seat belt use. First, current law prohibits a person from operating an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operating a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, properly adjusted. A violation of this prohibition is punishable by a $30 fine. Postal service employees or newspaper delivery persons who are delivering mail or newspapers are not required to comply with this requirement. Also, this requirement does not apply to a person who has an affidavit signed by a physician or chiropractor that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

Second, current law prohibits a person from operating an automobile on any street or highway unless each front-seat passenger in the automobile is wearing all of the available elements of a properly adjusted occupant restraining device. There is no penalty for a violation of this prohibition.

Third, current law prohibits a person from occupying, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device. A violation of this prohibition is punishable by a fine of $20. This requirement does not apply to a person who has an affidavit signed by a physician or chiropractor that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical or to a person who is required to be secured in a child restraint device or booster seat.

Fourth, current law prohibits a person from operating a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form. A violation of this prohibition is a minor misdemeanor for a first offense and a misdemeanor of the third degree for subsequent offenses.

Under current law, a law enforcement officer is prohibited from causing the operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of the seat belt requirements has been or is being committed. Also, a law enforcement officer is prohibited under current law from stopping an automobile operator for the sole purpose of issuing a ticket, citation, or summons for a seat belt violation or from viewing the interior or visually inspecting any automobile being operated on any street or highway for the sole purpose of determining whether a seat belt violation has been or is being committed. This limitation on the enforcement of the seat belt law is known as "secondary enforcement": the law enforcement officer cannot stop a vehicle in which the officer has observed a person in the vehicle violating the seat belt law unless the officer observes another separate motor vehicle violation for which the officer can legally stop the vehicle.

Current law also contains specific provisions regarding seat belt use by occupants of an automobile that is being operated by a temporary instruction permit holder or a probationary license holder. One such restriction is that the total number of occupants cannot exceed the total number of seat belts originally installed in the automobile by its manufacturer, and each occupant must wear all available seat belt elements, properly adjusted. These requirements also are limited to secondary enforcement by law enforcement officers.

Operation of the bill

The bill removes the secondary enforcement limitations that apply to seat belt use requirements. Regarding the general seat belt use requirements, the bill provides that a law enforcement officer may cause the operator of any automobile being operated on any street or highway to stop the automobile solely because the officer observes that a seat belt violation has been or is being committed in the same manner as any other motor vehicle traffic violation. The bill specifies that a stop of an automobile by a law enforcement officer for a violation of any of the general seat belt use requirements does not by itself constitute probable cause to conduct a search of the automobile. For the other seat belt use requirements, the bill removes all the applicable secondary enforcement language.

The bill provides that as a result of the enactment of its provisions providing for the primary enforcement of seat belt use violations in this state, ODOT is required to apply for a one-time federal grant from the National Highway Traffic Safety Administration offered in the Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003 – A Legacy for Users (SAFETEA-LU). Of the grant money ODOT receives, $1 million must be transferred to the Ohio Department of Public Safety and expended on safety activities in accordance with applicable federal law and also to pay

the costs the Department of Public Safety incurs in developing a cultural competency training program for law enforcement agencies to eliminate practices of differential enforcement. ODOT must expend all the remaining grant money on eligible transportation safety issues.

Study on primary enforcement of the state seat belt use law

(Section 755.21)

Under the bill, for the period commencing on the effective date of the new seat belt use enforcement provision of the bill, until 15 months after that date, whenever a law enforcement officer stops a motor vehicle because the officer has witnessed a violation of a seat belt use law of this state or seat belt use ordinance of a municipal corporation of this state, the officer is required to document the stop on a form prescribed by the Department of Public Safety. The officer must indicate on the form the age, sex, and race of the operator of the motor vehicle involved in the stop, the date, time, and location of the stop, and whether a ticket, citation, or summons was issued to any person in the motor vehicle for the seat belt use violation. The officer also is required to include on the form any other information that the Director of Public Safety may require, but in no case is the form to include the name of any person who was in the motor vehicle at the time the vehicle was stopped. The law enforcement agency that employs the law enforcement officer is required to retain all these forms and make them available to the Department upon request.

The bill requires the Department to enter into an agreement with an outside entity whereby the entity will conduct a study regarding the primary enforcement of the seat belt use law in this state as permitted by the bill. The study must include the collection and review of information regarding any differential enforcement that occurs as the result of that change. In conducting its study, the entity is required to review all the motor vehicle stop data forms that were completed by law enforcement officers and analyze and summarize the information they contain. The Department must provide a report of the study to the General Assembly and the Governor not later than 18 months after the new seat belt use enforcement provision of the bill takes effect.

Seat Belt Law prohibitions and penalties

(R.C. 4513.263)

As stated in the preceding portion of this analysis, current law contains four general prohibitions related to seat belt use. The bill changes two of the prohibitions, adds a new prohibition, and changes some of the penalties. Under the bill, no person may do any of the following:

(1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted seat belt or operate a school bus that has a seat belt installed for use in its operator's seat unless that person is wearing all of the available elements of the seat belt, as properly adjusted. This prohibition remains unchanged from current law, as does the penalty: a $30 fine.

(2) Operate an automobile on any street or highway unless each passenger in the automobile occupying a seating position in the front seat area of the automobile is wearing all of the available elements of a properly adjusted seat belt. While current law does not prescribe a penalty for the existing version of this prohibition, under the bill the penalty for violating the prohibition is $30. For purposes of the bill, "seating position" means any motor vehicle interior space.

(3) Operate an automobile on any street or highway unless each child occupying a seating position in the front seat area of an automobile is secured in a child restraint device, secured in a booster seat, or restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device. This prohibition is new, and the bill specifies that it applies to any child occupying a seating position in the front seat area of an automobile, notwithstanding any law to the contrary, including the state car seat and booster seat law. For purposes of the seat belt law, the bill defines "child" as "any person under the age of 16 years who is occupying a seating position." Under the bill, whoever violates this prohibition is guilty of a minor misdemeanor and must be fined not less than $25. If the offender previously has been convicted of or pleaded guilty to a violation of this prohibition, the state car seat and booster seat law, or a municipal ordinance that is substantially similar to this new prohibition or the state car seat or booster seat law, the offender is guilty of a fourth-degree misdemeanor. The punishment for a fourth-degree misdemeanor is a fine of not more than $250, a jail term of not more than 30 days, or both.

(4) Occupy, as a passenger, a seating position *in* the front seat *area* of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted seat belt. The current prohibition reads ". . . seating position *on* the front seat of an automobile . . . ." Under the bill, whoever violates this prohibition must be fined $30, a $10 increase over the current fine.

(5) Operate a taxicab on any street or highway unless all factory-equipped seat belts in the taxicab are maintained in usable form. Whoever violates this prohibition is guilty of a minor misdemeanor, which is punishable by a fine of not more than $150; no jail term is possible. If the offender previously has been convicted of or pleaded guilty to a violation of this particular prohibition, the offender is guilty of a misdemeanor of the third degree, which is punishable by a fine of not more than $500, a jail term of not

more than 60 days, or both. Under the bill, both this prohibition and its applicable penalties remain unchanged from current law.

The Construction Zone Automated Speed Enforcement System Pilot Project

(Section 755.30)

Creation of the Construction Zone Automated Speed Enforcement System Pilot Project

The bill creates the Construction Zone Automated Speed Enforcement System Pilot Project. An "automated speed enforcement system" is a device that has one or more sensors and, as a motor vehicle proceeds through an area on a road or highway, is capable of determining the speed of the motor vehicle and producing a photographic or digitally recorded image of the motor vehicle, including an image of the vehicle's front or rear license plate. Under the Pilot Project, a state speeding violation that occurs within a construction zone that is located on an interstate highway and is detected by an automated speed enforcement system constitutes a civil offense for which a civil penalty is assessed against the operator of the motor vehicle that was involved in the offense. There is a rebuttable presumption that the owner, lessee, or renter of the motor vehicle is the operator. This presumption may be rebutted by providing evidence that another person was operating the vehicle at the time of the alleged violation. The Pilot Project affects only properly marked construction zones that are located on interstate highways and no other locations. The Department of Public Safety is to administer the Pilot Project with the advice and assistance of ODOT.

Issuance of a citation under the Pilot Project

Under the Pilot Project, if an automated speed enforcement system determines that a motor vehicle has committed a state speeding violation while traveling within a construction zone that is located on an interstate highway, a State Highway Patrol trooper is required to view the motor vehicle image and its speed as recorded by the automated speed enforcement system to determine if the speeding violation did in fact occur. If the trooper determines that the violation did occur, the trooper must inform the Department of Public Safety or the Department's designee of that fact. The Department or the Department's designee is required to issue to the motor vehicle owner a citation for the offense, which must include at a minimum the date, time, and location that the alleged violation occurred, the fact that the violation is being processed under the Pilot Project not as a criminal offense but as a civil offense, and the amount of the civil penalty. The citation also must state clearly the manners in which the motor vehicle owner is able to challenge the citation.

Choices available to a person who is issued a citation under the Pilot Project

Under the bill, a motor vehicle owner who is issued a citation under the Pilot Project is liable for the violation and for payment of the resulting civil penalty unless the owner does either of the following in a timely manner:

(1) Files an objection to the citation and any resulting civil penalty and appears in person at a nonjudicial, administrative hearing to challenge the citation;

(2) Submits sufficient reliable, credible evidence that shows that, more likely than not, at the time of the violation the motor vehicle was in the care, custody, or control of another person. Any such evidence must be submitted by the motor vehicle owner to the Department of Public Safety or the Department's designee not later than 30 days after the date the owner is notified of the violation in order for the evidence to be considered submitted in a timely manner. The Department is required to adopt rules specifying what evidence is sufficiently reliable and credible. Upon determination that the owner of the motor vehicle has presented reliable and credible evidence that the motor vehicle was in the care, custody, or control of another person at the time of the offense, the Department or the Department's designee may issue a citation to the operator.

A motor vehicle leasing dealer or motor vehicle renting dealer who receives a citation under the Pilot Project is not liable if the citation was issued for a motor 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 such a citation is required to notify the Department of Public Safety or the Department's designee of the motor vehicle lessee's or renter's name and address, and the Department or the Department's designee may issue a citation to the lessee or renter. In no case is the dealer permitted to pay such a citation and then attempt to collect a fee or assess the lessee or renter a charge for any payment of the citation made on behalf of the lessee or renter.

Department of Public Safety administrative hearing and appeal

The bill requires the Department of Public Safety to establish a nonjudicial, administrative hearing procedure at which a motor vehicle owner or operator who receives a citation under the Pilot Project is able to appear in person to challenge the citation. At the hearing, the owner or operator may view all the evidence that served as the basis for issuance of the citation against the owner or operator, to introduce evidence on the owner's or operator's behalf, and to produce, examine, and cross-examine witnesses.

An owner or operator of a motor vehicle that is involved in a state speeding violation that is processed under the Pilot Project who challenges the citation may

appeal a decision of the Department of Public Safety or the Department's designee that imposes liability on the owner or operator and the civil penalty, within 30 days of the date of the decision, to the municipal court or county court within whose territorial jurisdiction the violation occurred. The municipal court or county court is required to affirm the decision of the Department or the Department's designee if the court finds that the decision is supported by sufficient reliable, credible evidence and is in accordance with the law.

Provisions relating to motor vehicle owners and operators under the Pilot Project

The bill provides that no owner or operator of a motor vehicle that is involved in a state speeding violation that is processed under the Pilot Project is liable for the violation and payment of the civil penalty if notification of the violation is given to the motor vehicle owner more than 90 days after the date of the violation.

The bill also provides that no motor vehicle owner or operator who is issued a ticket, citation, or summons by a law enforcement officer for a state or local speeding violation that occurs within a construction zone on an interstate highway and is a criminal offense is liable for the same violation and payment of a civil penalty under the Pilot Project if the violation also is detected by an automated speed enforcement system.

If the owner or operator of a motor vehicle that is involved in a state speeding violation that is processed under the Pilot Project fails to pay the civil penalty or to respond to the citation within the time period specified in the citation, the owner or operator is deemed to have waived any right to contest liability for the violation and payment of the civil penalty by law.

Civil nature of violations processed under the Pilot Project

The bill specifies that a state speeding violation that is detected by an automated speed enforcement system and is processed under the Pilot Project is a civil violation for which a maximum civil penalty of $250 must be assessed. The Department of Public Safety is required to establish the amount of the civil penalty.

Distribution of the civil penalties collected under the Pilot Project

Under the bill, of each civil penalty collected under the Pilot Project:

(1) Fifty per cent must be paid into the treasury of the municipal corporation in which the violation occurred, or if the violation occurred outside the territorial jurisdiction of a municipal corporation, into the treasury of the county in which the violation occurred;

(2) Forty-five per cent must be deposited into the state treasury to the credit of the General Revenue Fund; and

(3) Five per cent must be deposited into the state treasury to the credit of the existing Trauma and Emergency Medical Services Fund.

Additional administrative fee

The bill provides that, in addition to the civil penalty that is imposed for a state speeding violation that is processed under the Pilot Project, the Department also must impose an administrative fee in every such case. The Department must determine the amount of the fee by rule, and all such fees must be deposited into the state treasury to the credit of the Automated Speed Enforcement System Fund, which the bill creates.

Adoption of administrative rules by the Department of Public Safety

Under the bill, the Department of Public Safety, in consultation with ODOT and in accordance with the Administrative Procedure Act, is required to adopt all rules necessary and proper for the establishment, implementation, and administration of the Pilot Project. The rules also must establish procedures for collection of civil penalties imposed upon persons under the Pilot Project. The rules may provide that, in the event of nonpayment of a civil penalty or administrative fee by a person, the Registrar of Motor Vehicles may suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege until all outstanding penalties and fees have been paid.

The bill requires each citation issued under the Pilot Project to indicate clearly the amount of the civil penalty and the amount of the administrative fee that will be paid to the private entity that operates the Pilot Project, if any.

Points not assessed against a violator's driver's license under the Pilot Project

The bill provides that an owner or operator of a motor vehicle that is involved in a state speeding violation that is detected by an automated speed enforcement system and is processed under the Pilot Project does not have any points assessed against that person's driver's or commercial driver's license or permit for the violation.

Prohibited action of municipal corporations, counties, and townships

The bill prohibits any municipal corporation, county, or township from enacting an ordinance or adopting a resolution authorizing the use of an automated speed enforcement system on any interstate highway within its boundaries. This provision is not to be construed as prohibiting a municipal corporation, county, or township from enacting an ordinance or adopting a resolution authorizing the use of an automated

speed enforcement system on any street or highway within its boundaries that is not an interstate highway if the municipal corporation, county, or township otherwise has the power to do so.

The Department of Public Safety and a designee

The bill permits the Department of Public Safety to enter into a contract with a private entity for the establishment and operation of the automated speed enforcement system. For purposes of the bill, if the Department enters into such a contract, the private entity is the Department's designee.

The Department of Public Safety and ODOT are required to enter into an agreement whereby the ODOT must grant to the Department of Public Safety or the Department's designee access to any ODOT property and any permits as may be necessary for the Department of Public Safety or its designee to implement the Pilot Project.

Signs required under the Pilot Project

Under the bill, the Department of Public Safety cannot use an automated speed enforcement system at any construction zone location unless it erects signs that inform traffic approaching the construction zone that the construction zone contains an automated speed enforcement system to enforce the speed limit. The Department must erect the signs not less than 1,000 but not more than 5,300 feet before the boundary of the construction zone. The signs must be so erected in each direction of travel on the interstate highway. The Department is responsible for all costs associated with the erection, maintenance, and replacement, if necessary, of the signs. All such signs erected under the Pilot Project must conform in size, color, location, and content to standards contained in the Ohio Manual of Uniform Traffic Control Devices and must remain in place for as long as the Department of Public Safety utilizes the automated speed enforcement system to enforce the speed limit within the construction zone. Any citation issued by or on behalf of the Department for a state speeding violation based upon evidence gathered by an automated speed enforcement system device after the effective date of the Pilot Project provisions but before the signs have been erected is invalid. No such citation is invalid, however, if the Department is in substantial compliance with the Pilot Project sign requirements.

The Department is deemed to be in substantial compliance with the Pilot Project sign requirements if the Department does both of the following:

(1) Erects all the required signs and subsequently maintains and replaces the signs as needed so that at all times at least 90% of the required signs are in place and functional; and

(2) Annually documents and upon request certifies its compliance with the Pilot Project's sign requirements.

Automated Speed Enforcement System Fund

The bill creates in the state treasury the Automated Speed Enforcement System Fund, consisting of the administrative fees collected under the Pilot Project. The Department of Public Safety may use the money in the Fund only to pay expenses associated with the Pilot Project, including paying a private entity to establish, operate, and administer the Pilot Project.

Termination of the Pilot Project

The Pilot Project terminates on July 1, 2011, and no citations may be issued under the Pilot Project on or after that date. Citations that are issued under the Pilot Project before that date may be processed after that date, and citation processing and administrative hearings regarding those citations may continue after that date until all citations issued under the Pilot Project have reached final resolution. Upon certification by the Director of Public Safety to the Director of Budget and Management that all citations issued under the Pilot Project have reached final resolution and all payments that are due the Department's designee have been paid, the Director of Budget and Management is required to transfer all remaining money in the Automated Speed Enforcement System Fund to the General Revenue Fund.

Increase in driver, motor vehicle, and certificate of title abstract fees

(R.C. 1548.14, 4501.34, 4503.26, 4505.14, 4506.08, 4509.05, and 4519.63)

The bill increases seven abstract fees from $2 to $8. The four fee increases that relate to abstracts containing driver and vehicle information become effective on the bill's normal effective date for permanent law amendments and enactments, while the three fee increases that relate to abstracts containing certificate of title information become effective October 1, 2009. The bill specifies the distribution of all the fees, including to two funds that the bill creates: the Homeland Security Fund and the Investigations Fund.

Fee subject and abstract provider	Current amount and distribution	New amount and distribution
Watercraft certificate of title information, Chief of the Division of Watercraft (R.C. 1548.14)	$2, Waterways Safety Fund	$8 effective October 1, 2009: $2, Waterways Safety Fund $1.25, Trauma and Emergency Medical Services Fund (existing) $1.25, Homeland Security Fund (new) $0.75, Investigations Fund (new) $2.25, Emergency Management Agency Service and Reimbursement Fund (existing) $0.50, Justice Program Services Fund (existing)
Watercraft certificate of title information, Registrar of Motor Vehicles (R.C. 1548.14)	$2, State Bureau of Motor Vehicles Fund	$8 effective October 1, 2009: $2, State Bureau of Motor Vehicles Fund Remaining $6 is distributed in the same manner as specified under the entry "Watercraft certificate of title information, Chief of the Division of Watercraft"
Watercraft certificate of title information, Clerk of the Court of Common Pleas (R.C. 1548.14)	$2, Certificate of Title Administration Fund	$8 effective October 1, 2009: $2, Certificate of Title Administration Fund Remaining $6 is distributed in the same manner as specified under the entry "Watercraft certificate of title information, Chief of the Division of Watercraft"

Fee subject and abstract provider	Current amount and distribution	New amount and distribution
Driver's license application information, name and address only, Registrar of Motor Vehicles (R.C. 4501.34)	$2, State Bureau of Motor Vehicles Fund	$8: $2, State Bureau of Motor Vehicles Fund Remaining $6 is distributed in the same manner as specified under the entry "Watercraft certificate of title information, Chief of the Division of Watercraft"
Motor vehicle registration information, Registrar of Motor Vehicles (R.C. 4503.26)	$2, State Bureau of Motor Vehicles Fund	$8: $2, State Bureau of Motor Vehicles Fund Remaining $6 is distributed in the same manner as specified under the entry "Watercraft certificate of title information, Chief of the Division of Watercraft"
Motor vehicle certificate of title information, Registrar of Motor Vehicles (R.C. 4505.14)	$2, State Bureau of Motor Vehicles Fund	$8 effective October 1, 2009: $2, State Bureau of Motor Vehicles Fund Remaining $6 is distributed in the same manner as specified under the entry "Watercraft certificate of title information, Chief of the Division of Watercraft"
Motor vehicle certificate of title information, Clerk of the Court of Common Pleas (R.C. 4505.14)	$2, Certificate of Title Administration Fund	$8 effective October 1, 2009: $2, Certificate of Title Administration Fund Remaining $6 is distributed in the same manner as specified under the entry "Watercraft certificate of title information, Chief of the Division of Watercraft"

Fee subject and abstract provider	Current amount and distribution	New amount and distribution
Driving record of a commercial driver's license holder (R.C. 4506.08)	$2, State Bureau of Motor Vehicles Fund	$8: $2, State Bureau of Motor Vehicles Fund Remaining $6 is distributed in the same manner as specified under the entry "Watercraft certificate of title information, Chief of the Division of Watercraft"
Driving record of a driver's license holder (R.C. 4509.05)	$2, State Bureau of Motor Vehicles Fund	$8: $2, State Bureau of Motor Vehicles Fund Remaining $6 is distributed in the same manner as specified under the entry "Watercraft certificate of title information, Chief of the Division of Watercraft"
Off-highway motorcycle and all-purpose vehicle certificate of title information, Registrar of Motor Vehicles (R.C. 4519.63)	$2, State Bureau of Motor Vehicles Fund	$8 effective October 1, 2009: $2, State Bureau of Motor Vehicles Fund Remaining $6 is distributed in the same manner as specified under the entry "Watercraft certificate of title information, Chief of the Division of Watercraft"
Off-highway motorcycle and all-purpose vehicle certificate of title information, Clerk of the Court of Common Pleas (R.C. 4519.63)	$2, Certificate of Title Administration Fund	$8 effective October 1, 2009: $2, Certificate of Title Administration Fund Remaining $6 is distributed in the same manner as specified under the entry "Watercraft certificate of title information, Chief of the Division of Watercraft"

Creation of new funds

(R.C. 5502.03 and 5502.131)

Homeland Security Fund

The bill creates in the state treasury the Homeland Security Fund, consisting of $1.25 of each of the driver, vehicle, and certificate of title abstract fee increases contained in the bill. Money in the Fund must be used to pay the expenses of administering the law relative to the powers and duties of the executive director of the Division of Homeland Security.

Investigations Fund

The bill creates in the state treasury the Investigations Fund, consisting of $0.75 of each of the driver, vehicle, and certificate of title abstract fee increases contained in the bill. The Director of Public Safety must use the money in the Fund to pay the operating expenses of investigations.

Transfer of excess money from certain funds to the State Highway Safety Fund

(R.C. 4513.263, 5502.03, 5502.131, 5502.39, and 5502.67)

The bill permits the Director of Budget and Management to transfer excess money from the Homeland Security Fund, Investigations Fund, Trauma and Emergency Medical Services Fund, Emergency Management Agency Service and Reimbursement Fund, or Justice Program Services Fund if the Director of Public Safety determines that the amount of money in any of these funds exceeds the amount required to cover the costs payable from the fund.

Fee increases to State Highway Safety Fund

(R.C. 4501.01, 4501.03, 4501.044, 4501.06, 4503.04, 4503.042, 4503.07, 4503.10, 4503.182, 4503.65, 4506.08, 4507.23, and 4507.24)

Effective October 1, 2009, the bill increases or establishes the following fees and directs that the additional amounts be deposited into the State Highway Safety Fund which, after certifying sufficient money to meet certain bond-related payments, generally is used to enforce and pay the expenses of administering the law governing motor vehicle registration and operation on the public roads:

Revised Code sections	Transaction type	Current fee	Proposed fee increase
4503.04(O), 4503.042(E), 4503.07(B), 4506.08(C), 4507.23(H)	Late fee for motor vehicle registrations (including commercial vehicles and church buses), commercial driver's licenses, driver's licenses, and motorcycle endorsements	None	$10
4503.10(C)	Passenger vehicle registrations	Varies by type of vehicle	$5.75
4503.10(C)	Commercial vehicle registrations (in-state)	Varies by weight	$19
4501.044(A), 4503.65	Commercial vehicle registrations (out of state, apportionable under International Registration Plan)	Varies by weight and type of vehicle	2.5% (varies from $2 to $33.50, with an overall cap of $20.25 for buses)
4503.182	Temporary license placard (tags)	$10.50	$5
4507.24(D)(2)	Vision screening	$1	$1

The $10 late fee may be waived for good cause shown if the application is accompanied by supporting evidence as the Registrar may require. A deputy registrar who collects the $10 late fee retains 50¢ and transmits $9.50 to the Registrar for deposit into the State Highway Safety Fund.

A disabled veteran who has a service-connected disability rated at 100% currently does not pay a fee for a driver's or commercial driver's license or a motorcycle endorsement and does not pay for vision screening. Under the bill, such a veteran will not pay the late fees for licenses or the additional fee for vision screening either.

Inquiries pertaining to veteran's status or current status in the U.S. military or Ohio National Guard

(R.C. 4501.026 and 5902.09)

Current law requires the person in charge of a state agency or instrumentality, an agency or instrumentality of a political subdivision, or a private entity, that provides law enforcement, health, or welfare services to individuals, other than the Ohio Veterans' Home and Veterans Service Organizations, to ask an individual with whom the agency, instrumentality, or entity interacts if the individual is a veteran or is or was the dependent of a veteran. If the individual claims to be a veteran or the dependent of a veteran, the person in charge is required to report the individual's name, address,

telephone number, and e-mail address; the agency's, instrumentality's, or entity's name, address, telephone number, and e-mail address; the nature of the agency's, instrumentality's, or entity's interaction with the individual; and the date on which the interaction occurred, to the Director of Veterans Services. The Director is required to inform the Veterans Service Commission that has jurisdiction in that area about the veteran or dependent and the interaction. The Commission is required to inquire about, and offer benefits and services appropriate to, the veteran or dependent.

The bill eliminates this provision and instead requires the Registrar of Motor Vehicles or a deputy registrar to ask an individual with whom the Registrar or deputy registrar conducts driver's license or identification card transactions if the individual is a veteran or is currently serving in the armed forces of the United States or any reserve component of the armed forces of the United States or the Ohio National Guard. If the individual claims to be such a person, the Registrar or deputy registrar is required to provide the individual's name, address, and military status to the Department of Veterans Services for official government purposes regarding benefits and services.

Military designation on driver's licenses, commercial driver's licenses, and state identification cards

(R.C. 4506.07, 4506.11, 4507.06, 4507.13, 4507.51, and 4507.52)

Under current law, effective July 7, 2010, the application for a driver's license, commercial driver's license, or state identification card must include, in addition to the other information currently required to be on the application, an inquiry as to whether the applicant is an honorably discharged veteran of the United States armed forces and, if the applicant is an honorably discharged veteran, whether the applicant wishes the license or identification card issued to indicate that the applicant is an honorably discharged veteran of the United States armed forces. The form must inform applicants that, to qualify to have the license or identification card indicate that the applicant is an honorably discharged veteran of the United States armed forces, the applicant must present a copy of the applicant's DD-214 or an equivalent document. If a person who will be issued a driver's license, commercial driver's license, or state identification card specifies that the person wishes the license or identification card to indicate that the licensee or cardholder is an honorably discharged veteran of the United States armed forces and has presented a copy of the applicant's DD-214 form or an equivalent document, the driver's license, commercial driver's license, or identification card also must display any symbol chosen by the Registrar to indicate that the cardholder is an honorably discharged veteran of the United States armed forces.

The bill modifies these provisions by providing that effective October 7, 2009, the application for a driver's license, commercial driver's license, or state identification card

must include, in addition to the other information currently required to be on the application, an inquiry as to whether the applicant is a veteran, active duty, or reservist of the United States armed forces and, if the applicant is such, whether the applicant wishes the license or identification card issued to indicate that the applicant is a veteran, active duty, or reservist of the United States armed forces by a military designation on the license or identification card. The form must inform applicants that, to qualify to have the license or identification card indicate that the applicant is a veteran, active duty, or reservist of the United States armed forces, the applicant must present a copy of the applicant's DD-214 or an equivalent document. If a person who will be issued a driver's license, commercial driver's license, or state identification card specifies that the person wishes the license or identification card to indicate that the licensee or cardholder is a veteran, active duty, or reservist of the United States armed forces and has presented a copy of the applicant's DD-214 form or an equivalent document, the driver's license, commercial driver's license, or identification card also must display any symbol chosen by the Registrar to indicate that the cardholder is a veteran, active duty, or reservist of the United States armed forces.

Clerk of courts title fees

(R.C. 1548.10, 4505.032, 4505.09, and 4519.59)

Except in regard to certain dealer transactions, the bill generally increases the various certificate of title fees retained by the Clerk of the Court of Common Pleas from $5 to $15; the increases will take effect one year after the bill's effective date. The following chart explains the changes to title fees that are affected by the bill and any changes to the distribution of the fees.

Fee description (new provisions in italics)	Current amount and distribution	New amount and distribution
Watercraft or outboard motor duplicate certificate of title (R.C. 1548.10)	$5 • Clerk retains entire fee	$15 • Clerk retains entire fee
Watercraft or outboard motor certificate of title (R.C. 1548.10)	$5 • Clerk retains $2 • Chief of the Division of Watercraft receives $3 and deposits $1 into the Automated Title Processing Fund	$15 • Clerk retains $10.50 • Chief receives $4.50 and deposits $1 into the Automated Title Processing Fund

Fee description (new provisions in italics)	Current amount and distribution	New amount and distribution
Watercraft or outboard motor lien notation, *included in certificate of title fee if applied for at the same time* (R.C. 1548.10)	$5 • Clerk retains $3.50 • Chief of the Division of Watercraft receives $1.50 and deposits $1 into the Automated Title Processing Fund	See certificate of title, above
Watercraft or outboard motor memorandum certificate of title or non-negotiable evidence of ownership, *included in certificate of title fee if applied for at the same time* (R.C. 1548.10)	$5 • Clerk retains $2 • Chief of the Division of Watercraft receives $3 and deposits $1 into the Automated Title Processing Fund	See certificate of title, above
Watercraft or outboard motor certificate of title with no security interest noted that is *issued to a licensed watercraft dealer for resale* (R.C. 1548.10)	$5 • Clerk retains $2 • Chief of the Division of Watercraft receives $3 and deposits $1 into the Automated Title Processing Fund	Same
Watercraft or outboard motor memorandum certificate of title or non-negotiable evidence of ownership *if applied for separately* (R.C. 1548.10)	$5 • Clerk retains entire fee	Same
Motor vehicle certificate of title assignment to a motor vehicle dealer when no physical title has been issued (R.C. 4505.032)	$5 • Clerk retains $2.25 • Registrar receives $2.75 and pays $.25 to the State Bureau of Motor Vehicles Fund, $.50 to three specified funds, and $2 to the Automated Title Processing Fund	$15 • Clerk retains $11.50 • Registrar receives $3.50 and pays $1 to the State Bureau of Motor Vehicles Fund, $.50 to three specified funds, and $2 to the Automated Title Processing Fund

Fee description (new provisions in italics)	Current amount and distribution	New amount and distribution
Motor vehicle certificate of title assignment to a motor vehicle dealer when no physical title has been issued, that is *issued to a licensed motor vehicle dealer for resale purposes* (R.C. 4505.032)	$5 • Clerk retains $2.25 • Registrar receives $2.75 and pays $.25 to the State Bureau of Motor Vehicles Fund, $.50 to three specified funds, and $2 to the Automated Title Processing Fund	Same
Motor vehicle certificate of title (R.C. 4505.09)	$5 • Clerk retains $2.25 • Registrar receives $2.75 and pays $.25 to the State Bureau of Motor Vehicles Fund, $.50 to three specified funds, and $2 to the Automated Title Processing Fund	$15 • Clerk retains $11.50 • Registrar receives $3.50 and pays $1 to the State Bureau of Motor Vehicles Fund, $.50 to three specified funds, and $2 to the Automated Title Processing Fund
Duplicate certificate of title (R.C. 4505.09)	$5 • Clerk retains $4.75 • Registrar receives $.25 and pays $.25 to the State Bureau of Motor Vehicles Fund	$15 • Clerk retains $11.50 • Registrar receives $3.50 and pays $1 to the State Bureau of Motor Vehicles Fund, $.50 to three specified funds, and $2 to the Automated Title Processing Fund
Memorandum certificate of title, authorization to print a non-negotiable evidence of ownership, *included in certificate of title fee if applied for at the same time* (R.C. 4505.09)	$5 • Clerk retains entire fee	See certificate of title, above
Notation of any lien, *included in certificate of title fee if applied for at the same time* (R.C. 4505.09)	$5 • Clerk retains $4.25 • Registrar receives $.75 and pays $.75 to the State Bureau of Motor Vehicles Fund	See certificate of title, above

Fee description (new provisions in italics)	Current amount and distribution	New amount and distribution
Motor vehicle certificate of title with no security interest noted that is *issued to a licensed motor vehicle dealer for resale* (R.C. 4505.09)	$5 • Clerk retains $2.25 • Registrar receives $2.75 and pays $.25 to the State Bureau of Motor Vehicles Fund, $.50 to three specified funds, and $2 to the Automated Title Processing Fund	Same
Motor vehicle memorandum certificate of title or non-negotiable evidence of ownership *if applied for separately* (R.C. 4505.09)	$5 • Clerk retains entire fee	Same
Off-highway motorcycle or all-purpose vehicle certificate of title (R.C. 4519.59)	$5 • Clerk retains $2.25 • Registrar receives $2.75 and pays $.25 to the State Bureau of Motor Vehicles Fund, $.50 to three specified funds, and $2 to the Automated Title Processing Fund	$15 • Clerk retains $11.50 • Registrar receives $3.50 and pays $1 to the State Bureau of Motor Vehicles Fund, $.50 to three specified funds, and $2 to the Automated Title Processing Fund
Duplicate certificate of title for off-highway motorcycle or all-purpose vehicle (R.C. 4519.59)	$5 • Clerk retains $4.75 • Registrar receives $.25 and pays $.25 to the State Bureau of Motor Vehicles Fund	$15 • Clerk retains $11.50 • Registrar receives $3.50 and pays $1 to the State Bureau of Motor Vehicles Fund, $.50 to three specified funds, and $2 to the Automated Title Processing Fund
Memorandum certificate of title, authorization to print a non-negotiable evidence of ownership for off-highway motorcycle or all-purpose vehicle, *included in certificate of title fee if applied for at the same time* (R.C. 4519.59)	$5 • Clerk retains entire fee	See certificate of title, above

Fee description (new provisions in italics)	Current amount and distribution	New amount and distribution
Notation of any lien for off-highway motorcycle or all-purpose vehicle, *included in certificate of title fee if applied for at the same time* (R.C. 4519.59)	$5 • Clerk retains $4.25 • Registrar receives $.75 and pays $.75 to the State Bureau of Motor Vehicles Fund	See certificate of title, above
Off-highway or all-purpose vehicle certificate of title with no security interest noted that is *issued to a licensed motor vehicle dealer for resale* (R.C. 4519.59)	$5 • Clerk retains $2.25 • Registrar receives $2.75 and pays $.25 to the State Bureau of Motor Vehicles Fund, $.50 to three specified funds, and $2 to the Automated Title Processing Fund	Same
Off-highway or all-purpose vehicle memorandum certificate of title or non-negotiable evidence of ownership *if applied for separately* (R.C. 4519.59)	$5 • Clerk retains entire fee	Same

MARCS Task Force

(Section 755.80)

The bill establishes a MARCS Task Force to explore and issue recommendations on the organizational structure and operational and capital funding options for the long-term sustainability and more ubiquitous utilization of the MARCS System. Not later than nine months after the bill's 90-day effective date, the Task Force must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives making recommendations on these matters.

The Task Force is to consist of 17 members as follows: three members appointed by the Governor; three members appointed by the Speaker of the House of Representatives, not more than two from the same political party; three members appointed by the President of the Senate, not more than two from the same political party; one representative from the Department of Public Safety, appointed by the Director of Public Safety; one representative from the State Highway Patrol, appointed

by the Director of Public Safety; one representative from the Buckeye State Sheriffs' Association, appointed by the Governor; one representative from the Ohio Association of Chiefs of Police, appointed by the Governor; one representative from the Ohio Fire Chiefs Association, appointed by the Governor; one representative from MARCS, appointed by the Director of Administrative Services; one representative of an emergency management agency, appointed by the Governor; and the Director of Administrative Services or the Director's designee. The appointed members must be appointed not later than 45 days after the bill's 90-day effective date.

The Director of Administrative Services or the Director's designee is to serve as the Task Force's chairperson.

Members of the Task Force cannot receive compensation or reimbursement for their services.

Shipping radioactive material

(R.C. 4163.01, 4163.07, 4163.08, and 4163.09)

The bill prohibits a person from transporting or causing to be transported high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity within, into, or through Ohio by rail or motor carrier unless the person, at least four days prior to the date of shipment, pays the Department of Public Safety the fees described below for each shipment that meets or exceeds the highway route controlled quantity, as applicable. Under the bill, "high-level radioactive waste" means any of the following:

(1) Irradiated reactor fuel;

(2) Liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel;

(3) Solids into which such liquid wastes have been converted;

(4) Any other highly radioactive waste material that the United States Nuclear Regulatory Commission or the United States Department of Energy determines by law requires permanent isolation; or

(5) Any by-product material.

In addition, "spent nuclear fuel" is defined as fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing. The bill also defines "transuranic waste" as material

containing elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and that are in concentrations greater than 10 nanocuries per gram or in other concentrations that the United States Nuclear Regulatory Commission may prescribe. Current law defines "special nuclear material" as plutonium or uranium enriched in the isotope 233 or in the isotope 235 or any other material that the Governor declares by order to be special nuclear material. Finally, the bill states that "highway route controlled quantity" has the same meaning as in applicable federal regulations.

The bill establishes fees of $2,500 for each shipment by motor carrier and $4,500 per cask plus $3,000 for each additional cask shipped by rail by the same entity in the same shipment.

However, the above fees do not apply to any shipment of high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity by or for the United States government for military or national defense purposes. The bill specifically states that the fees apply to all other shipments of high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity by or for the United States government, to the extent permitted by federal law.

The bill requires the Director of Public Safety, in administering the bill's fee provisions, to work with any department or agency of federal, state, or local government that also regulates the shipment of high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity.

Radiation Response Fund

The bill requires the Department to deposit all fees collected under the bill in the Radiation Response Fund, which the bill creates in the state treasury. All investment earnings of the Fund must be credited to it.

Money in the Fund can be used only for the following purposes, as determined by the Director:

(1) State and local expenses related to the shipment of high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity in this state, including inspections, escorts, security, emergency management services, and accident response;

(2) Planning, coordination, education, and training of emergency response providers, law enforcement agencies, and other appropriate state or local entities;

(3) Purchase and maintenance of monitoring, medical, safety, or emergency response equipment and supplies;

(4) Administrative costs of the Department and other state or local entities related to the shipping of high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity; and

(5) Other similar expenses determined by the Director to be appropriate.

The bill authorizes the Director to adopt rules as necessary to implement the bill's provisions governing shipment fees and the Fund.

Notification requirements prior to shipping certain radioactive material

Current law requires the carrier or shipper of any large quantity of special nuclear material or by-product material, prior to transporting the material into or through Ohio, to notify the Executive Director of the Emergency Management Agency of the shipment. Existing law defines "large quantity" to have the same meaning as in applicable federal regulations and defines "by-product material" as any radioactive material (except special nuclear material) yielded in, or made radioactive by exposure to the radiation incident to, the process of producing or utilizing special nuclear materials.

The bill instead requires a carrier or shipper, prior to transporting any high-level radioactive waste, spent nuclear fuel, transuranic waste, or any quantity of special nuclear material that meets or exceeds the highway route controlled quantity within, into, or through the state, to notify the Executive Director of the Emergency Management Agency of the shipment. It eliminates the definition of "large quantity" and revises the definition of "by-product material" by stating that the term has the same meaning as in the Atomic Energy Act.

Current law requires the notice to be in writing and be sent by certified mail and to include the name of the shipper; the name of the carrier; the type and quantity of the special nuclear material or by-product material; the transportation mode of the shipment; the proposed date and time of shipment of the material into or through the state; and the starting point, termination or exit point, scheduled route, and each alternate route, if any, of the shipment. The bill generally retains the requirements governing the content of the notice with two changes. First, it eliminates the specific references to special nuclear material and by-product material in the notice provision indicating the type and quantity of the material to be shipped, thus requiring notice of

only the type and quantity of material to be shipped. The bill also requires the proposed date and time of shipment of material within the state to be included in the notice.

Under existing law, in order to constitute effective notification, the notice must be received by the Executive Director at least 48 hours prior to entry of the shipment into the state. The bill revises this requirement by requiring the notice to be received by the Executive Director at least four days prior to shipment within, into, or through the state.

Currently, upon receipt of a notice of any shipment of a large quantity of special nuclear material or by-product material into or through Ohio, the Executive Director must immediately notify the Director of Public Safety, the Director of Environmental Protection, the chairperson of the Public Utilities Commission, and the sheriff of each county along the proposed route, or any alternate route, of the shipment. The bill instead states that upon receipt of a notice of any shipment of material that is subject to the bill, the Executive Director must notify the designated officials. It also applies the requirement to shipments within the state in addition to shipments into or through the state.

Current law precludes the Executive Director from disclosing to any person other than the designated officials identified above any information pertaining to any shipment of special nuclear material or by-product material prior to the time that the shipment is completed. The bill authorizes the Department of Public Safety, subject to this preclusion and consistent with national security requirements, to notify any law enforcement agency or other state or local entity affected by the shipment as the Director of Public Safety considers necessary for public safety.

Under current law, the carrier or shipper of any shipment that is subject to the notice requirements must immediately notify the Executive Director of any change in the date and time of the shipment or in the route of the shipment into or through the state. The bill also applies this requirement to shipments within the state.

Existing law states that the notice requirements do not apply to radioactive materials, other than by-products, shipped by or for the United States Department of Defense and the United States Department of Energy. The bill revises the exemption by adding that shipments by the Departments of Defense and Energy must be for military or national defense purposes.

Penalty

Current law prohibits a person from transporting or causing to be transported into or through the state any large quantity of special or by-product material without

first providing the notice described above. The bill revises the prohibition by eliminating the reference to any large quantity of special or by-product and instead prohibiting a person from transporting or causing to be transported within, into, or through the state any material that is subject to the bill without first providing the required notice.

Under current law, whoever violates the requirement to provide notice is guilty of a felony of the fourth degree. Each shipment made in violation of that requirement is a separate offense.

The bill imposes civil penalties in addition to the criminal penalty. Under the bill, whoever violates the notice provision or the fee provision is liable for a civil penalty in an amount not to exceed ten times the amount of the fee due. The Attorney General, upon the request of the Executive Director of the Emergency Management Agency, must bring a civil action to collect the penalty. Civil fines collected are deposited into the state treasury to the credit of the Radiation Response Fund.

Department of Public Safety study group

(Section 755.40)

The bill requires the Department of Public Safety to form a study group to conduct a study and make recommendations to improve services related to vehicle registrations, driver's license and identification card issuance, and vehicle title issuance. The study group must include representatives from all of the following: (1) the Department of Public Safety, (2) the Bureau of Motor Vehicles, (3) the Office of Budget and Management, (4) the Ohio Title Clerks' Association, (5) the County Auditors' Association, (6) the Ohio Trucking Association, (7) the Deputy Registrars' Association, (8) the Ohio Auto Dealers' Association, (9) the County Commissioners' Association, and (10) the Ohio Municipal League.

The study group is charged with doing all of the following in regard to services related to vehicle registrations, driver's license and identification card issuance, and vehicle title issuance: (1) evaluating ways to improve the efficient delivery of services, (2) examining existing statutory authority governing the supporting processes and infrastructure systems and analyze methods to improve such processes and systems, (3) reviewing demographic data, conducting a financial assessment of existing procedures, and identifying additional services that may be provided, and (4) reviewing current business methods and identifying new technology that may improve processes and procedures.

The study group must submit its report with recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate not later

than six months after the effective date of the bill. After submitting its report, the study group ceases to exist.

All-purpose vehicles

(R.C. 2911.21, 4519.02, 4519.03, 4519.04, 4519.08, 4519.09, 4519.10, 4519.44, and 4519.47)

Registration required for certain all-purpose vehicles

Current law generally prohibits any person from operating an all-purpose vehicle within this state unless it is registered and numbered. There are exceptions to this registration requirement, however; no registration is required for an all-purpose vehicle that is:

(1) Operated exclusively upon lands owned by the owner of the all-purpose vehicle or on lands to which the owner has a contractual right;

(2) Owned and used in this state by a resident of another state whenever that state has in effect a registration law that is similar to that of this state; or

(3) Owned and used in this state by the United States, another state, or a political subdivision of another state, but such an all-purpose vehicle must display the owner's name.

Whoever violates this registration requirement must be fined not more than $25. If the offender previously has been convicted of or pleaded guilty to a violation of this requirement, the court must impose a fine of not less than $25 but not more than $50.

The bill retains the exceptions to the all-purpose vehicle registration requirement but changes the exception that is listed in above item (1) by requiring all-purpose vehicles to be registered except for those that are used primarily on a farm as a farm implement. The bill provides that whoever violates the registration requirement must be fined not less than $50 but not more than $100. This increased penalty provision also applies to cases involving a violation of the registration requirements for snowmobiles and off-highway motorcycles.

All-purpose vehicle license plate

Under current law, when an all-purpose vehicle is registered, the owner receives a registration sticker, which must be displayed on the vehicle. The bill eliminates the registration sticker for all-purpose vehicles and instead requires the Registrar or deputy registrar, when issuing a certificate of registration for an all-purpose vehicle, to issue also one license plate and a validation sticker, or a validation sticker alone when applicable for a registration renewal. The license plate and validation sticker must be

displayed on the all-purpose vehicle so that they are distinctly visible, in accordance with rules the Registrar must adopt. The validation sticker must indicate the expiration date of the registration period for the all-purpose vehicle. During each succeeding registration period following the issuance of a license plate and validation sticker, only a validation sticker is issued. The bill provides that the Bureau of Motor Vehicles is not required to issue license plates and validation stickers to all-purpose vehicles until one year after the bill's effective date.

All-purpose vehicle license registration fees

Currently, all-purpose vehicles, as well as snowmobiles and off-highway motorcycles, are registered for a three-year period at a cost of $5. The bill increases the registration fee for all these vehicles to $31.25 for the same three-year period. Of each registration fee collected for the registration of an all-purpose vehicle, the Registrar retains not more than $5 to pay for the licensing and registration costs the Bureau of Motor Vehicles incurs in registering all-purpose vehicles. The remainder of the registration fee must be deposited into the state treasury to the credit of the existing State Recreational Vehicle Fund.

A temporary operating permit enables a resident of a state that does not have a registration law that is equivalent to that of this state to use a snowmobile, off-highway motorcycle, or all-purpose vehicle from another state within this state. The permit is valid for 15 days and costs $5. The bill extends the period during which a temporary operating permit is valid from 15 days to one year, and increases the fee from $5 to $11.25.

Operation of a snowmobile, off-highway motorcycle, or all-purpose vehicle on public roads

Current law prohibits any person who does not hold a valid, current motor vehicle driver's or commercial driver's license, motorcycle operator's endorsement, or probationary license issued by Ohio from operating a snowmobile, off-highway motorcycle, or all-purpose vehicle on any street or highway in this state, on any portion of the right-of-way of a street or highway in this state, or on any public land or waters. The bill applies the prohibition, instead, to a person who does not hold a valid, current driver's license issued by Ohio or any other jurisdiction.

Impoundment of the certificate of registration and license plate of an all-purpose vehicle

Current law provides that whenever a person is found guilty of operating a snowmobile, off-highway motorcycle, or all-purpose vehicle in violation of any rule adopted under the Special Vehicle law, the trial judge of any court of record, in addition

to or independent of any other penalties provided by law, may impound the certificate of registration of that snowmobile, off-highway motorcycle, or all-purpose vehicle for not less than 60 days. The court must send the impounded certificate of registration to the Registrar, who must retain it until the expiration of the period of impoundment.

The bill retains this impoundment provision, but provides that in the case of an all-purpose vehicle, the certificate of registration and license plate also must be impounded.

Criminal trespass and all-purpose vehicles

The offense of criminal trespass, which is found in the Criminal Code (Ohio Revised Code Title 29), involves entering or remaining on land without privilege to do so. Criminal trespass is a fourth degree misdemeanor, which is punishable by a jail term of not more than 30 days, a fine of not more than $250, or both.

Under the bill, if an offender commits criminal trespass while using an all-purpose vehicle, the court is required to impose a fine of two times the usual amount for the violation. If an offender previously has been convicted of or pleaded guilty to two or more state criminal trespass violations or a substantially equivalent municipal ordinance, and the offender, in committing each violation, used an all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration and license plate of that all-purpose vehicle for not less than 60 days. In such a case, the court is required to send the impounded certificate of registration and license plate to the Registrar, who must retain them until the end of the impoundment period.

The bill also provides that, notwithstanding any Revised Code provision, if the offender, in committing the criminal trespass violation, used an all-purpose vehicle, the clerk of the court is required to pay the fine imposed to the State Recreational Vehicle Fund.

Multiyear registration of commercial trailers and semitrailers

(R.C. 4503.103)

Current law permits 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 file a written application for registration for not 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. The Registrar has not adopted rules to permit this. The bill requires the Registrar to adopt these rules not later than October 1, 2009.

- Establishes that violations of vehicle weight limits on the Ohio Turnpike are subject to the same fines as such violations occurring on other roads, generally dependent on the amount by which the overweight vehicle exceeds the established weight limits.

- Requires bid and performance bonds for Turnpike Commission bids and contract awards that are over $150,000 and for any service facility contract.

- Allows the Turnpike Commission to combine the design and construction elements into a single competitively bid contract for "special projects."

Fines for overweight vehicles on the Ohio Turnpike

(R.C. 5537.99)

Current law authorizes 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; except in regard to civil violations related to failure to comply with toll collection rules, violations of Commission rules are a minor misdemeanor (fine of up to $150) on a first offense and a fourth degree misdemeanor (fine of up to $250 and up to 30 days) on any subsequent offense. Fines for violations of Commission rules that are misdemeanor offenses are distributed in accordance with the provisions governing the distribution of fines collected from persons apprehended or arrested by the State Highway Patrol, with a portion credited to the General Revenue Fund (after sufficient revenue is credited to the Security, Investigations, and Policing Fund to support specific activities of the Patrol), a small portion credited to the Trauma and Emergency Medical Services Grants Fund, and the remainder distributed based on the court that imposes the fine (R.C. 4501.11 and 5503.04, not in the bill).

The bill establishes that violations of vehicle weight limits on the Turnpike are subject to the same fines as such violations occurring on other roads, rather than being a minor misdemeanor on a first offense and a fourth degree misdemeanor on subsequent offenses. Vehicle weight violation fines generally are dependent on the amount by which the overweight vehicle exceeds the established weight limits. Specifically, the fines are $80 for the first 2,000 pounds, or fraction thereof, of overload; for overloads of 2,000 to 5,000 pounds, the fine is $100 plus $1 per 100 pounds of overload; for overloads

of 5,000 to 10,000 pounds, the fine is $130 plus $2 per 100 pounds of overload and the violator may be imprisoned not more than 30 days; for all overloads in excess of 10,000 pounds the fine is $160 plus $3 per 100 pounds of overload and the violator may be imprisoned not more than 30 days. Additionally whoever violates the weight provisions of vehicle and load relating to gross load limits (calculated by the federal bridge formula with a general maximum of 80,000 pounds) is fined not less than $100. (R.C. 5577.99, not in the bill.)

Ohio Turnpike contracts

(R.C. 5537.07)

Design-build

The bill allows the Ohio Turnpike Commission to establish a program to expedite special projects by combining the design and construction elements of any public improvement project into a single contract. The Commission must prepare and distribute a scope of work document on which the bidders must base their bids. At a minimum, bidders must meet the requirements to engage in the practice of engineering. Except in regard to those requirements relating to providing plans, the Commission must award the design-build contracts following the Commission's general competitive bidding requirements.

Bid and performance bonds

In general, current law requires the Ohio Turnpike Commission to competitively bid any contract in excess of $50,000. Each bid for a contract (other than a construction, demolition, alteration, repair, improvement, renovation, or reconstruction contract, which is covered by separate bid guaranty provisions) must be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured; additionally, a performance bond approved by the Commission, in an amount equal to at least 50% of the contract price, is required of every contractor awarded a competitively bid contract.

The bill retains the general requirement that contracts over $50,000 be competitively bid but modifies the requirements related to bid and performance bonds. Under the bill, only bids for contracts over $150,000 or for a service facility contract must be accompanied by the specified bond or certified check. Also, every contractor awarded a contract over $150,000 or a service facility contract must furnish a performance bond in a form as prescribed and approved by the Commission with good and sufficient surety in an amount equal to at least 50% of the contract price.

Ohio Turnpike Commission green technology study

(Section 755.60)

The bill requires the Ohio Turnpike Commission to conduct a study to examine ways to increase the application of green technology, including the reduction of diesel emissions, in the construction, maintenance, improvement, repair, and operation of Ohio Turnpike Commission facilities. The study must evaluate all opportunities to develop energy alternatives, including solar, geothermal, natural gas, and wind, in cooperation with the Power Siting Board and ODOT. The Commission is required to issue its report not later than six months after the effective date of the bill.

MISCELLANEOUS

- Permits the organization Ohio Pet Fund to use the money it receives from the issuance of "Pets" license plates to pay the expenses it incurs in obtaining and maintaining its tax-exempt status and performing its duties, and eliminates the Pets Program Funding Board and replaces references to "Pets Program Funding Board" with "Ohio Pet Fund."

- Requires the headlights of a vehicle to be lighted when the windshield wipers of that vehicle are in use.

- Requires a driver to move over or slow down upon approaching a stationary road service vehicle or emergency vehicle that is displaying a flashing, oscillating, or rotating amber light.

- Extends the laws governing debt issuance to support the Clean Ohio program to reflect the recent adoption of Section 2q, Ohio Constitution, which provides additional debt authority for conservation and revitalization purposes.

- Provides specific authorization for the issuance of $60 million in state general obligations and $60 million in state revenue bonds to fund the Clean Ohio program in addition to the amounts authorized in Am. Sub. H.B. 562 of the 127th General Assembly.

- Beginning July 1, 2009, reduces the motor fuel shrinkage allowance for distributors and retail dealers of motor fuel.

- Authorizes the motor fuel shrinkage allowance to be claimed if the tax is timely paid or the report is timely filed, but does not require both, as under current law.

- Allocates a portion of the money collected by the courts from moving violations to the Justice Program Services Fund.

- Designates the City of Dayton and Montgomery County as an Ohio hub of innovation and opportunity for aerospace and aviation.

- Appropriates to various state agencies money received by the state pursuant to the American Recovery and Reinvestment Act of 2009.

- Requires that, to the extent possible, federal money received for fiscal stabilization and recovery purposes be used to encourage the purchase of supplies and services from Ohio companies and stimulate job growth and retention.

- Requires the Director of Administrative Services to annually report to the Governor and to the members of the General Assembly the progress made by state agencies in advancing the Minority Business Enterprise (MBE) and the Encouraging Diversity, Growth, and Equity (EDGE) Programs.

- Eliminates the requirement that an individual be eligible for unemployment compensation in order to be eligible for continued coverage under the individual's group health insurance contract after termination of employment and requires only that the individual's employment not have been terminated as a result of any gross misconduct on the part of the individual.

- Lengthens the time that the individual would be eligible for continued coverage under a group health insurance contract from six months to twelve months.

- Requires the Director of Development to establish an Energy Star Rebate Program to provide rebates to consumers for household devices carrying the federal Energy Star Label.

- Requires the Ohio Board of Building Standards to adopt rules to implement a specified residential building energy code or equivalent code as part of its residential building code.

- Requires the Ohio Board of Building Standards to adopt rules to implement a specified commercial building energy code or equivalent code as part of its commercial building code.

- Directs the Board of Building Standards to develop a plan to work to achieve compliance with the energy codes the bill requires so that within eight years at least 90% of new and renovated residential and commercial building space complies with the codes.

- Requires the federal payments that are made to the state from the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund pursuant to Title VIII of the American Recovery and Reinvestment Act of 2009 to be credited to the existing Water Pollution Control Loan Fund and the existing Drinking Water Assistance Fund, respectively; requires the money so credited to be used and administered to provide financial assistance in any manner that is consistent with the requirements of the Federal Water Pollution Control Act or the Safe Drinking Water Act, respectively, or the American Recovery and Reinvestment Act of 2009; and authorizes the Director of Environmental Protection, for the purpose of obtaining federal payments pursuant to the Act, to impose alternative public comment procedures for the draft intended use plan, including alternative time frames for public notice and comment and the frequency of public meetings.

- Creates the position of Deputy Inspector General for Funds Received through the American Recovery and Reinvestment Act of 2009.

- Permits the Director of Natural Resources to create an Ohio All-Purpose Vehicle Advisory Board to provide advice and receive input regarding all-purpose vehicle trails and trail maintenance.

- Requires motor vehicle tire or wheel road hazard contracts to be backstopped by reimbursement insurance policies.

Ohio Pets Fund and "Pets" license plates

(R.C. 955.201, 955.202, and 4501.21)

A person who obtains the special license plate "Pets" makes a contribution of $15 in addition to the usual taxes and fees. The Registrar pays these contributions to the organization Ohio Pet Fund, which can use this money only to support programs for the sterilization of dogs and cats and for educational programs concerning the proper veterinary care of those animals. The bill permits the Ohio Pet Fund to use this money also to pay the expenses it incurs that are reasonably necessary for it to obtain and maintain its tax-exempt status and to perform its duties.

Current law provides for a seven-member Pets Program Funding Board. The Board's function is to determine the grant amount that an eligible organization may receive from the Ohio Pets Fund, which otherwise administers the grant program. The bill eliminates the Pets Program Funding Board and requires the Ohio Pets Fund to make such determinations.

Vehicle headlights on when wipers are in use

(R.C. 4513.03)

Current law generally requires every vehicle operated on a street or highway within Ohio to display lighted lights and illuminating devices as required by law during the time from sunset to sunrise and at any other time when, because of insufficient natural light or unfavorable atmospheric conditions, persons, vehicles, and substantial objects on the highway are not discernible at a distance of 1,000 feet ahead.

The bill expands these requirements to include the use of lighted lights and illuminating devices when the windshield wipers of the vehicle are in use because of precipitation on the windshield.

Road service and emergency vehicles

(R.C. 4511.01 and 4511.213)

Under current law, when the driver of a motor vehicle approaches a stationary public safety vehicle (generally an ambulance, police, or fire vehicle) that is displaying its emergency lights, the driver must change lanes into a lane that is not adjacent to that of the stationary public safety vehicle if the highway configuration allows such movement and the movement can be done safely; if the driver cannot safely move to an adjacent lane of travel, the driver must proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather, and traffic conditions. Violation of this law is a minor misdemeanor on a first offense; if, within one year, the offender has been convicted of or pleaded guilty to one violation of certain similar offenses, the offense is a misdemeanor of the fourth degree; and upon a third or subsequent violation of certain similar offenses within one year, the offense is a misdemeanor of the third degree.

Under the bill, a driver also must pull over or slow down as described above upon approaching a stationary emergency vehicle or road service vehicle that is displaying the appropriate visual signals by means of flashing, oscillating, or rotating amber lights as authorized under existing law (R.C. 4513.17, not in the bill). The bill defines "road service vehicle" as a wrecker, utility repair vehicle, and state, county, and municipal service vehicle equipped with visual signals by means of flashing, rotating, or oscillating lights. Current law defines "emergency vehicle" as emergency vehicles of municipal, township, or county departments or public utility corporations when identified as such as required by law, the Director of Public Safety, or local authorities, and motor vehicles when commandeered by a police officer.

Clean Ohio program debt authority expansion

(R.C. 133.52, 151.01, 151.09, and 151.40; Sections 610.20 and 610.21)

In 2000, Ohio voters adopted Section 2o of Article VIII, Ohio Constitution authorizing the issuance of bonds to be used for conservation and revitalization purposes (the "Clean Ohio" program). The General Assembly subsequently enacted legislation to implement the Clean Ohio program, including debt-issuance authority (Am. Sub. H.B. 3 of the 124th General Assembly). Section 2o and the implementing law provide that the Ohio Public Facilities Commission is authorized to issue up to $200 million in general obligation bonds at any one time, the proceeds of which benefit the Clean Ohio Conservation Fund, the Clean Ohio Trail Fund, and the Clean Ohio Agricultural Easement Fund. Section 2o and the implementing law also provide for the issuance of revenue bonds for revitalization purposes. These obligations are not general obligations of the state, and the full faith and credit, revenue, and taxing power of the state are not pledged to the payment of debt service on the obligations. The Treasurer of State is authorized to issue these bonds, up to $200 million at any one time, the proceeds of which are to be credited to the Clean Ohio Revitalization Fund. For both the general obligation bonds and revenue bonds, not more than $50 million principal amount of each may be issued in any fiscal year, plus the principal amount of any obligations that could have been issued in a prior fiscal year but were not issued.

In 2008, Ohio voters adopted Section 2q of Article VIII, Ohio Constitution, an identical provision to Section 2o. This constitutional amendment authorizes an additional issuance of bonds to be used for the same conservation and revitalization purposes described above. Identical to Section 2o, up to $200 million may be issued in general obligations at any one time for conservation purposes. Similarly, up to $200 million in revenue bonds may be issued at any one time for revitalization purposes. Also, for both types of debt, the same $50 million annual limit for issuance of each is imposed. Under the combined constitutional authority of Sections 2o and 2q, up to $400 million in general obligation bonds may be issued for conservation purposes and up to $400 million in revenue bonds may be issued for revitalization purposes at any one time. The combined per fiscal year limitation on bond issuance is now $100 million.

Additionally, under Section 2o and its implementing law, a county, municipal corporation, or township is authorized to issue or incur public obligations, including general obligations, to provide, or assist in providing, grants, loans, loan guarantees, or contributions for conservation and revitalization purposes pursuant to Section 2o. Section 2q provides the same constitutional authority.

The bill extends the Section 2o implementing law to include the debt authority granted to state and local governments under Section 2q. In addition, with respect to

the general obligations and revenue bonds that may be issued by the state, the bill increases the implementing law's outstanding debt limitation of $200 million to $400 million for each type of debt. The bill does not, however, increase the current limitation of $50 million per fiscal year imposed under the implementing law for issuances of state general obligations or revenue bonds.

Pursuant to the extension of the implementation authority, the bill (1) authorizes the Ohio Public Facilities Commission to issue $60 million in general obligations and the Treasurer of State to issue $60 million in revenue bonds, and (2) appropriates the proceeds to fund the Clean Ohio program. This debt is in addition to the debt authorized in Am. Sub. H.B. 562 for the same purposes.

Motor fuel excise tax: reduce evaporation and shrinkage allowance

(R.C. 5735.06 and 5735.141; Section 812.30)

Under continuing law, a motor fuel excise tax of 28¢ per gallon is imposed on motor fuel dealers. The 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 the tax due for 3% of the fuel gallonage the dealer received, minus 1% of the fuel gallonage sold to retail dealers. This deduction is to cover the costs of filing the report and to account for evaporation, shrinkage, and other losses. The transportation appropriations act for the 2008-2009 fiscal biennium, Am. Sub. H.B. 67 of the 127th General Assembly, reduced the 3.0% deduction for fiscal years 2008 and 2009 to 1.0% (minus 0.50% of gallonage sold to retail dealers--see below).

The bill reduces the codified motor fuel shrinkage allowance for motor fuel dealers to 0.50% of the fuel gallonage the dealer receives minus 0.15% of gallonage sold to retail dealers. The reduction takes effect July 1, 2009.

The bill also authorizes the deduction for both distributors and retail dealers that either timely pay the tax or file the required report, but does not require both, as under current law.

Under the current 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 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. 67 reduced the refund percentage to 0.50% for fiscal years 2008 and 2009, but permitted retail dealers to claim a "vendor discount" for motor fuel purchased during the FY 2008-2009 biennium. The discount equals 0.90% of the fuel tax paid on the motor fuel purchased, and could be claimed as a refund for fuel purchased during the biennium.

The bill reduces the codified retail dealer shrinkage refund from 1.0% to 0.15% of the taxes paid on the fuel received by a retail dealer. The temporary 0.90% retail vendor discount lapses at the end of fiscal year 2009. The reduction in the shrinkage refund takes effect July 1, 2009.

Court costs for moving violations

(R.C. 2949.094(A), (B), and (C), 5502.67, and 5502.68)

Under current law, the court in which any person is convicted of or pleads guilty to any moving violation, including a juvenile court in the case of a juvenile traffic offender, must impose an additional court cost of $10 on the offender. The clerk of court is required to transmit 35% of the money collected under this requirement to the Division of Criminal Justice Services, and the Division is required to deposit the money received into the Drug Law Enforcement Fund operating pursuant to R.C. 5502.68. If the person charged with a moving violation posts bail, the $10 is added to the amount of bail and retained by the clerk of court until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk of court must transmit $3.50 (35%) of the $10 additional bail to the Drug Law Enforcement Fund. The bill would alter the transmission and distribution of the money collected by the clerk of court under these provisions. Under the bill, the clerk of court would be required to transmit the money to the state treasury, of which, 97% would be credited to the Drug Law Enforcement Fund and 3% would be credited to the Justice Program Services Fund operating pursuant to R.C. 5502.67. The bill would amend R.C. 5502.67 to acknowledge the addition of this money to the Justice Program Services Fund and also would amend R.C. 5502.68 to state that the Drug Law Enforcement Fund will receive 97%, instead of the current 100%, of this money.

Designation of the City of Dayton and Montgomery County as an Ohio hub for aerospace and aviation innovation and opportunity

(R.C. 5.24)

The bill designates the City of Dayton and Montgomery County as an Ohio hub of innovation and opportunity for aerospace and aviation.

Appropriation of federal recovery and reinvestment money

(Sections 205.10, 301.10, 303.10, 305.10, 307.10, 309.10, 311.10, 313.10, 315.10, 317.10, 319.10, 321.10, 323.10, 325.10, 327.10, and 812.30)

The bill appropriates money received by the state pursuant to the American Recovery and Reinvestment Act of 2009 to the following agencies to be used for specific purposes and programs as required by the federal act or the bill: the Department of Aging, the Office of the Attorney General, the Departments of Commerce, Development, and Education, the Environmental Protection Agency, eTech Ohio, the Departments of Health, Job and Family Services, and Public Safety, the Rehabilitation Services Commission, and ODOT. Except with respect to the Department of Public Safety, the federal money is appropriated for fiscal year 2009. If the appropriated amounts remain unencumbered or unexpended, the bill reappropriates those amounts for the same purposes in fiscal year 2010. The amounts appropriated to the Department of Public Safety are for fiscal years 2010 and 2011.

Use of federal money for fiscal stabilization and recovery purposes

(Section 521.30)

The bill requires that, to the extent possible, federal money received by the state for fiscal stabilization and recovery purposes must be used in a manner that encourages the purchase of supplies and services from Ohio companies and stimulates job growth and retention.

Annual report regarding agency MBE and EDGE initiatives

(R.C. 123.153)

The bill requires the Director of Administrative Services to submit, on October 1 of each year, a written report to the Governor and to each member of the General Assembly describing the progress made by state agencies in advancing the Minority Business Enterprise (MBE) Program and the Encouraging Diversity, Growth, and Equity (EDGE) Program. The report is to highlight the initiatives implemented to encourage participation of minority-owned, as well as socially and economically disadvantaged, businesses in programs funded by federal money received by Ohio for fiscal stabilization and recovery purposes. It also must include the total number of procurement contracts each agency has entered into with certified minority business enterprises, as defined in section 123.151 of the Revised Code, and EDGE business enterprises, as defined in section 123.152 of the Revised Code.

Continuation of group health insurance coverage

(R.C. 1751.53 and 3923.38)

Current law requires group health insurance contracts offered by health insuring corporations and sickness and accident insurers to include a provision that allows eligible employees and their dependents to continue receiving coverage under the group contract at the employee's expense for six months after the employee's employment is terminated. The bill lengthens the time that the employee would be eligible for continued coverage from six months to twelve months.

Under current law an "eligible employee" is an employee that meets all of the following requirements:

(1) The employee has been continuously covered under a group contract during the entire three-month period preceding the termination of the employee's employment.

(2) The employee is entitled, at the time of the termination of this employment, to unemployment compensation benefits.

(3) The employee is not, and does not become, covered by or eligible for coverage by Medicare.

(4) The employee is not, and does not become, covered by or eligible for any other group coverage under which the employee was not covered immediately prior to the termination of employment.

The bill eliminates the requirement that an individual be eligible for unemployment compensation in order to be eligible for continued coverage under the individual's group contract after termination of employment and requires only that the individual's employment has not been terminated as a result of any gross misconduct on the part of the individual.

Current law also specifies that the continuation of coverage is not required to include dental, vision care, prescription drug benefits, or any other benefits provided under the policy in addition to its hospital, surgical, or major medical benefits provided by a group sickness and accident insurance policy. The bill removes prescription drug benefits from that list.

Energy Star Rebate Program

(R.C. 122.077)

The bill requires the Director of Development to establish an Energy Star Rebate Program under which the Director provides rebates to consumers for household devices carrying the Energy Star Label indicating that the device meets the energy efficiency criteria of the Energy Star Program established by the United States Department of Energy and the United States Environmental Protection Agency. The purpose of the Energy Star Rebate Program is to promote the use of energy efficient products to reduce greenhouse gas emissions in Ohio.

Ohio Board of Building Standards

The Ohio Board of Building Standards is responsible for adopting commercial and residential building codes in Ohio. Current law requires those codes to relate to the conservation of energy. (R.C. 3781.10.)

The commercial building code applies to all buildings except manufactured homes and one-, two-, and three-family residential structures. It is enforced throughout the state by building departments the Board certifies for enforcement of the code and by the Superintendent of the Division of Industrial Compliance where there is no certified building department.

The residential code, which applies to one-, two-, and three-family homes, is recommended to the Board by the Residential Construction Advisory Committee. The residential code is enforced only where the local government has opted to have a municipal, township, or county building department receive residential certification to enforce the code.

Department of Energy requirements

The federal Department of Energy (DOE), under authority in the Energy Policy Act of 2005, currently prescribes ANSI/ASHRAE/IESNA Standard 90.1-2004 as its national reference standard for commercial buildings. DOE requires that states must certify that their building codes meet or exceed the energy requirements in this code. According to the DOE web site, the Ohio commercial building code currently meets or exceeds the standards of this code.

DOE has a recommended code for residential structures, the International Energy Conservation Code (IECC). It appears that there is no requirement that state codes meet the standards of DOE's recommended residential code. The DOE web site

indicates that the Ohio residential building code currently meets or exceeds the energy standards of its recommended code.

Energy code requirements under the bill

The bill requires the Ohio Board of Building Standards to adopt specific codes or codes that perform as well or better than the specified codes. (R.C. 3781.10.) The commercial building energy code the bill specifies is the code developed by the American National Standards Institute, the American Society of Heating, Refrigerating, and Air Conditioning, and the Illuminating Engineering Society of North America, known as the ANSI/ASHRAE/IESNA Standard 90.1-2007. This is the code that replaces the Standard 90.1-2004, which DOE currently requires state compliance. DOE is conducting tests to compare the energy performance of the 2007 code to the 2004 code.

The residential code the bill requires is the International Energy Conservation Code (IECC), which is the code that DOE recommends states comply with.

Work plan

The amendment directs the Ohio Board of Building Standards to develop a plan so that within eight years of the effective date of the act, at least 90% of new and renovated residential and commercial building space comply with the codes the bill prescribes. (Section 737.10)

Crediting of Federal Economic Stimulus Payments to Water Pollution Control Loan Fund and Drinking Water Assistance Fund

(Sections 521.10 and 521.20)

The bill requires the federal payments that are made to the state from the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund pursuant to Title VIII of the American Recovery and Reinvestment Act of 2009 to be credited to the existing Water Pollution Control Loan Fund and the existing Drinking Water Assistance Fund, respectively. In addition, the bill states that notwithstanding the requirements in current law concerning the Water Pollution Control Loan Fund and the Drinking Water Assistance Fund, the money so credited to each Fund must be used and administered to provide financial assistance in any manner that is consistent with the Federal Water Pollution Control Act or the Safe Water Drinking Act, respectively, or the American Recovery and Reinvestment Act of 2009.

The bill authorizes the Director of Environmental Protection, for the purpose of obtaining federal payments pursuant to Title VIII of the American Recovery and Reinvestment Act of 2009, to impose alternative public comment procedures for the

draft intended use plan, including alternative time frames for public notice and comment and the frequency of public meetings, notwithstanding the requirements in current law and rules adopted under it governing the Water Pollution Control Loan Fund and the Drinking Water Assistance Fund and certain procedural rules governing the Environmental Protection Agency.

Creation of the position of Deputy Inspector General for Funds Received through the American Recovery and Reinvestment Act of 2009

(R.C. 121.53)

The bill creates, until September 30, 2013, the position of Deputy Inspector General for Funds Received through the American Recovery and Reinvestment Act of 2009. Like the existing Deputy Inspector General for ODOT, the new Deputy Inspector General is to be appointed by and serve at the pleasure of the Inspector General. Technical, professional, and clerical assistance for the new Deputy Inspector General is to be provided by the Inspector General. Costs incurred by the new Deputy Inspector General are to be paid out of the Deputy Inspector General for Funds Received through the American Recovery and Reinvestment Act of 2009 Fund, which the bill creates in the state treasury.

The new Deputy Inspector General is to investigate all wrongful acts or omissions that have been committed or are being committed by employees of any state agency with respect to money received from the federal government under the American Recovery and Reinvestment Act of 2009. Also, like the existing Deputy Inspector General for ODOT, the new Deputy Inspector General is to conduct a program of random review of the processing of contracts associated with projects to be paid for with such money.

Inasmuch as the powers and duties of the new Inspector General are modeled on those of the existing Deputy Inspector General for ODOT, the bill requires the Inspector General to coordinate and monitor the work of the two deputy inspectors general. The objective of the Inspector General, in this respect, is to ensure that the work performed by each deputy inspector general is most appropriate to that deputy inspector general, that it does not duplicate work performed by the other deputy inspector general, and that the result is an overall effective and efficient operation within the office of the Inspector General.

Ohio All-Purpose Vehicle Advisory Board

(R.C. 1519.20)

The bill permits the Director of Natural Resources to create an Ohio All-Purpose Vehicle Advisory Board to provide advice and receive input regarding all-purpose vehicle trails and trail maintenance.

Reimbursement insurance policies

Tire and wheel road hazard contracts

(R.C. 3905.425)

When a person buys a motor vehicle tire or wheel, the dealer may offer the person a buyer protection plan under which, for an additional payment, the dealer agrees to repair or replace, or pay the costs of repairing or replacing, the tire or wheel if it becomes damaged because of a pothole, nail, glass, road debris, or other road hazard. The protection is offered in the form of a contract, in which the dealer is referred to as the "provider" and the buyer is referred to as the "contract holder." The contract is not insurance. It is also different from a warranty in which the manufacturer agrees to repair or replace the tire or wheel because of a defect in materials or workmanship.

To ensure that the contract holder will be protected in case the provider goes out of business or for some other reason does not make good on the contract, the bill requires all motor vehicle tire or wheel road hazard contracts issued in Ohio to be guaranteed by a "reimbursement insurance policy." The insurance policy must state that (1) if the provider fails to perform or make payment due under the contract within 60 days after the contract holder requests performance or payment, the contract holder may request performance or payment from the provider's reimbursement insurance policy insurer, and (2) if the provider's reimbursement insurance policy is canceled, insurance coverage will continue for all contract holders whose contracts were reported to the insurer for coverage during the term of the insurance policy. These guarantee are required to be conspicuously stated in the tire or wheel road hazard contract, along with the name, address, and telephone number of the reimbursement insurance policy insurer.

Consumer goods service contracts

(R.C. 3905.423)

The Revised Code already has a law dealing with "consumer goods service contracts" that is similar to the proposed new law dealing with tire and wheel road

hazard contracts. The bill aligns the language of the two more closely, in particular by adding to the consumer goods services contracts law:

(1) A statement that a consumer goods service contract does not include a contract to perform or pay for the repair, replacement, or maintenance of a motor vehicle that is "due to a defect in materials or workmanship, normal wear and tear, mechanical or electrical breakdown, or failure of part or equipment of a motor vehicle."

(2) A requirement that the reimbursement insurance policy state that if the provider's reimbursement insurance policy is canceled, insurance coverage will continue for all contract holders whose consumer goods service contracts were reported to the insurer for coverage during the term of the insurance policy.

NOTE ON EFFECTIVE DATES

(Sections 812.10 to 815.10)

Section 1d, Article II of the Ohio Constitution states that "laws providing for tax levies [and] appropriations for the current expenses of the state government and state institutions *** shall go into immediate effect," and "shall not be subject to the referendum." R.C. 1.471 implements this provision with respect to appropriations, providing that a codified or uncodified section of law contained in an act that contains an appropriation for current expenses is not subject to the referendum and goes into immediate effect if (1) it is an appropriation for current expenses, (2) it is an earmarking of the whole or part of an appropriation of current expenses, or (3) its implementation depends upon an appropriation for current expenses that is contained in the act. The statute states that the General Assembly is to determine which sections go into immediate effect.

The act includes a default provision stating that, except as otherwise specifically provided, the amendment, enactment, or repeal of a section in the act is subject to the referendum and takes effect on the 91st day after the act is filed with the Secretary of State (barring the filing of a referendum petition). The act also includes many exceptions to the default provision, some of which provide that the specified provisions are not subject to the referendum and go into immediate effect.

HISTORY

ACTION	DATE
Introduced	02-12-09
Reported, H. Finance & Appropriations	---

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