



Ohio Legislative Service Commission

Bill Analysis

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(Excluding appropriations, fund transfers, and similar provisions)

Rep. McGregor

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* This version of the analysis includes discussion of sections 755.10, 755.20, 755.30, and 755.50 of the bill.

** This substitute version of the bill was accepted by the H. Finance and Appropriations Committee.

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DEPARTMENT OF TRANSPORTATION

- Allows ODOT to contract with any person or entity to operate, construct, maintain, or market the Traffic Generator Sign (brown sign) Program.
- Allows the Director of Transportation and local authorities to revoke (rather than withhold) an overweight or oversize vehicle permit if the permit holder violates the terms or conditions of the permit.
- Restricts the cost of relocation of utility facilities necessitated by the construction of a highway project for which a utility may claim reimbursement to those costs that are eligible for reimbursement in accordance with federal law.
- Makes a report that results from the investigation of an incident or unacceptable hazardous condition on a rail fixed guideway system that is operated by a transit agency confidential and not subject to disclosure under the Public Records Law.
- Alters the way in which local zoning authority rules and regulations controlling the size, lighting, and spacing of outdoor advertising devices in commercial and industrial areas are accepted.
- Makes permanent ODOT's temporary authority to use a value-based selection process for design-build projects, and allows up to \$1 billion to be spent each fiscal year on design-build projects, rather than \$1 billion for the biennium ending June 30, 2011 and \$250 million for each following biennium.
- Provides that the engineer's estimate of cost of any particular item of work involved in an ODOT construction project and the unit price components of the project are not public records, even after the bid opening for the project has occurred.



- Authorizes ODOT to enter into public-private agreements based on solicited and unsolicited proposals from private entities relating to transportation facilities and establishes the governing terms and procedures applicable to the agreements.
- Permits the Director of Transportation to enter into agreements with an agency of the United States government for the purpose of dedicating staff to the review of environmentally related documents submitted by ODOT that are necessary for the approval of federal permits.

Contracting out the Traffic Generator Sign Program

(R.C. 4511.108)

The bill authorizes the Director of Transportation to contract out the operation, construction, maintenance, or marketing of the Traffic Generator Sign Program – under which signs with a white symbol or message and white border on a brown background are erected along a highway to bring to the motorist's attention nearby recreational and cultural interest areas. Any contract for the purpose must allow for a reasonable profit to be earned by the successful applicant. In awarding the contract, the Director may consider the skill, expertise, prior experience, and other qualifications of each applicant. Whether the program is operated by the Department or by a contractor, however, the bill requires that money collected from program participants be credited to the Highway Operating Fund (rather than "be remitted to the department," as under existing law).

Revocation of overweight vehicle permits

(R.C. 4513.34)

Existing law gives the Director of Transportation or a local authority the power to "issue or withhold" an oversize or overweight vehicle permit, which may be granted for an extended period of time. Instead of allowing the Director or local authority to withhold a permit, the bill grants them power to deny or revoke a permit. It also specifically allows a previously issued permit to be revoked if the permit holder violates any of the terms or conditions of the permit.

Reimbursement of a utility for relocating some of its facilities

(R.C. 5501.51)

Existing law requires the state to reimburse a utility for the cost of relocating any of its facilities because of the construction of a highway project. At present "cost of

relocation" is defined as including the actual cost paid by a utility directly attributable to relocation after deducting any increase in the value of the new facility and any salvage value derived from the old facility. The bill defines "actual cost" to mean only those costs that are eligible for reimbursement in accordance with Part 645 of Title 23 of the Code of Federal Regulations – which concerns utility facilities on Federal-aid direct Federal projects.

Confidentiality of investigations of incidents on rail fixed guideway systems of transit agencies

(R.C. 5501.55)

The bill makes a report of an investigation conducted by either a transit agency operating a rail fixed guideway system, or by a contractor acting on behalf of a transit agency operating such a system, confidential and not subject to disclosure under the Public Records Law. A rail fixed guideway system refers to a transit service that uses heavy rail, commuter rail, or light rail.

Control of outdoor advertising by local zoning authorities

(R.C. 5516.11)

The bill (1) declares that the state law that governs outdoor advertising along interstate and state primary highways does not affect the authority of local zoning authorities to establish rules and regulations controlling the size, lighting, and spacing of outdoor advertising devices within commercial and industrial areas and (2) alters the way that such rules and regulations are accepted in lieu of the controls established in existing state law.

At present, whenever a local zoning authority adopts comprehensive zoning and establishes rules and regulations controlling outdoor advertising devices that are "equivalent to and consistent with the intent" of state law, they are accepted in lieu of the controls provided in existing law, but the zoning authority must furnish a copy of its new comprehensive zones rules or regulations to the Director of Transportation within 30 days. The bill provides, instead, that the Director of Transportation, upon the request of a local zoning authority, may certify to the Federal Highway Administration that the zoning authority has established rules and regulations controlling outdoor advertising devices that are consistent with (not equivalent to and consistent with) the intent of national policy and customary use. (The bill defines customary use as meaning the customary use of advertising devices in areas of the zoning authority that are not subject to the controls of state law on advertising along such highways.) Also, the zoning authority will no longer be required to furnish ODOT with a copy of its new comprehensive zoning rules or regulations.

Design-build contracting authority

(R.C. 5517.011)

The bill revises and makes permanent the authority granted to the Department of Transportation in 2009, as follows:

(1) Increasing the spending authority from up to \$1 billion for the biennium to up to \$1 billion per fiscal year on "design-build projects." In such projects, the design and construction elements of a highway or bridge project are combined into a single contract. Without this provision, the total value of such contracts that the Department could enter into would revert to a maximum amount of \$250 million per biennium.

(2) When letting design-build projects, to use a "value-based selection process" that combines "technical qualifications and competitive bidding elements, including consideration for minority or disadvantaged businesses that may include joint ventures." Letting contracts on this basis is an alternative to letting them to the "lowest responsive and responsible bidder."

In addition, the bill specifically authorizes the Director of Transportation to provide compensation to an unsuccessful bidder that prepares a responsive preliminary design concept. To implement this policy, the bill allows the Director to establish policies or procedures necessary to determine the amount of compensation to be provided for each project and the method of evaluating the value of the preliminary design concept submitted. In no instance, however, may the compensation exceed the value of the concept.

Confidentiality of the details of the "engineer's estimate" for highway construction projects

(R.C. 5525.15)

Before the Department of Transportation takes bids on a highway construction project, it develops its own estimate, called the "engineer's estimate," of the cost of the project. Bids that exceed 105% of the engineer's estimate are ordinarily rejected. If no acceptable bid is made, the Department may readvertise the work at the original estimate, or the estimate may be amended and the project readvertised.

Under existing law, if the Director of Transportation provides that the engineer's estimate is to be confidential, it must remain so until after bids on the project have been received. The total amount of the estimate is then published. When the engineer's estimate is confidential, the estimate of cost of any particular item of work that the project involves is also confidential and must not be revealed until after the bids have

been opened and published. The bill provides, instead, that before the bids have been opened, the engineer's estimate of the total cost of the project must (not may) be kept confidential and that after the bids have been opened, only the total estimate may be published. The engineer's estimate of cost of any particular item of work involved in the project and the unit price components of the project are to remain confidential and are not to be regarded as public records.

ODOT public-private partnerships

(R.C. 5501.70 to 5501.83)

Overview

The bill authorizes ODOT to enter into public-private partnerships (known as P3s) based on solicited and unsolicited proposals from private entities relating to transportation facilities (generally, all publicly owned modes and means of transporting people or goods and related structures and properties). It establishes the procedures for selecting a proposal and the terms of an agreement, including grounds for terminating an agreement. A P3 may cover any aspect of a transportation facility, from development, to construction, to operation of the facility. In regard to funding for a transportation facility controlled by a P3, the bill authorizes private contributions, any available public funds, user fees, and State Infrastructure Bank obligations. The bill grants ODOT rule-making authority to carry out the purposes related to P3s.

Proposals

Under the bill, ODOT may enter into a P3 with one or more private entities after soliciting proposals or based on unsolicited proposals that it receives. For both solicited and unsolicited proposals, the bill establishes that trade secrets and commercial or financial information are confidential and are not public records; it also allows a private entity, prior to submitting a solicited proposal, to request ODOT to review information to determine whether it would be subject to disclosure as a public record. The bill's provisions on receiving, evaluating, and selecting proposals control over related laws or rules that conflict.

Solicited proposals

When ODOT solicits a proposal, it must select a proposal using sealed bidding, selection based on qualifications or best value, or any appropriate or reasonable competitive selection process; however, ODOT must use a competitive basis to the maximum extent practicable. In evaluating and selecting a bid or proposal, ODOT is to consider factors relating to the facility itself (including ability to improve safety, reduce congestion, increase capacity, and promote economic growth; the proposed cost of and financial plan for the transportation facility; and the design, operation, and feasibility of

the facility) and also factors related to the private entity that is to partner with ODOT (including general reputation, qualifications, industry experience, financial capacity, and safety record). Additionally, ODOT is to consider any comments from local citizens and affected jurisdictions, the benefits to the public, and other appropriate criteria.

Unsolicited proposals

Within 90 days after receiving an unsolicited proposal related to a transportation facility, ODOT must make a preliminary evaluation of it to determine if (1) it is independently originated and developed, (2) it benefits the public, (3) it is prepared without ODOT supervision, and (4) it includes sufficient detail and information for an objective and timely evaluation. If the unsolicited proposal does not comply with these four factors, ODOT must return the proposal without further action.

If the unsolicited proposal complies with the four factors listed above and ODOT continues with the evaluation, it must advertise to receive competitive proposals for the proposed transportation facility. The bill establishes the necessary elements of advertising for proposals and allows ODOT to charge a reasonable fee to cover its costs related to the unsolicited proposal and any competing proposals.

ODOT must evaluate an unsolicited proposal and any comparable competing proposal based on seven specified factors, including: (1) novel aspects of the proposal, (2) scientific, technical, or socioeconomic merits of the proposal, (3) qualities of the private entity and its personnel that are important factors for achieving the proposal objectives, and (4) how the proposal benefits the public. After evaluating the proposals, ODOT may accept or reject the unsolicited proposal and any competing proposals based on what is most advantageous to the state.

Agreements

After selecting a solicited or unsolicited proposal for a public-private initiative, ODOT must enter into an agreement for a transportation facility with one or more selected private entities. An affected jurisdiction (any unit of government where at least part of a transportation facility is located or any other public entity directly affected by the facility) also may be a party to a public-private agreement. The bill establishes both required and permissive elements for a public-private agreement.

In addition to establishing terms for amending and terminating the agreement, the required elements of a P3 agreement include:

(1) Planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing, or operation of a transportation facility;

(2) Term of the agreement, which cannot exceed the current biennium but is subject to renewal upon the enactment of sufficient subsequent appropriations by the General Assembly;

(3) Whether the private entity will have a property interest in the facility;

(4) Description of the actions ODOT may take to ensure proper maintenance of the facility; and

(5) Whether user fees, including tolls or other fees, will be collected and the basis for determining and modifying any user fee.

The permissive terms of a P3 agreement include:

(1) Review and approval by ODOT of the operator's plans for the development and operation of the facility;

(2) Inspection by ODOT of construction of or improvements to the facility;

(3) Maintenance by the operator of a policy of liability insurance or self-insurance;

(4) Filing by the operator, on a periodic basis, of appropriate financial statements and traffic reports;

(5) Financing obligations and apportionment of expenses between the operator and ODOT, including any costs prior to acquisition and construction of a facility;

(6) Rights and duties of the operator, ODOT, and other state and local governmental entities with respect to use of the facility;

(7) Rights and remedies available in the event of default or delay;

(8) Terms and conditions of indemnification of the operator by ODOT;

(9) Any third-party assignment, subcontracting, or other delegation of responsibilities;

(10) Sale or lease to the operator of private property related to the facility;

(11) Traffic enforcement and other policing issues, including any reimbursement by the private entity for such services.

When a public-private agreement terminates, the authority and duties of the operator cease except as provided in the agreement; the transportation facility reverts to ODOT and must be dedicated for public use. If there is a material default by an operator that is not related to an uncontrollable force or natural disaster, ODOT may take over the transportation facility (subject to any previously granted liens on revenues) or terminate the public-private agreement and exercise any other available rights and remedies. If ODOT takes over a transportation facility, it may solicit proposals for the maintenance and operation of the facility or may develop and operate the facility itself, including imposing user fees and complying with any service contracts.

Financing

The bill allows State Infrastructure Bank obligations to be issued to fund the development or financing of a transportation facility.

ODOT may combine federal, state, local, and private funds to finance a transportation facility operated under a P3. The bill authorizes ODOT to accept federal grants, loans, or other financial assistance and enter into any necessary agreements for the federal funds and allows ODOT to accept any grant, donation, gift, or other form of conveyance of land, money, other real or personal property, or other item of value from any source.

General provisions

A P3 agreement for a transportation facility does not constitute a debt or pledge of the faith and credit of the state, or of any political subdivision of the state, and the operator has no right to have taxes or excises levied by the General Assembly, or the taxing authority of any political subdivision of the state, for payments under the agreement. Any P3 agreement must contain a statement to that effect.

A transportation facility and any tangible personal property used exclusively with a transportation facility that is owned by ODOT and leased, licensed, financed, or otherwise conveyed to an operator, or that is acquired, constructed, or otherwise provided by an operator on behalf of ODOT, is exempt from all state and local ad valorem property taxes and special assessments.

The bill allows ODOT to use eminent domain to acquire property, rights-of-way, or other rights in property for transportation projects that are part of a public-private initiative.

All state and local law enforcement officers have the same powers and jurisdiction within the limits of the transportation facility operated under a P3 as they have in their respective areas of jurisdiction and access to the facility at any time for the purpose of exercising their powers and jurisdiction.

The bill requires a transportation facility operator under a P3 agreement, and any utility whose facility is to be crossed or relocated, to cooperate fully in planning and arranging the manner of the crossing or relocation of the utility facility.

The bill does not limit any waiver of the sovereign immunity of the state or any officer or employee of the state with respect to the participation in or approval of all or any part of the transportation facility or its operation.

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.

DEPARTMENT OF PUBLIC SAFETY

- Eliminates the \$20 late fee that is imposed if a driver's or commercial driver's license is renewed more than seven days after its expiration date.
- Increases the \$15 fee that currently is charged for certain certificate of title and duplicate certificate of title to \$25 effective October 1, 2011, and requires the \$10 increase to be credited to the State Highway Safety Fund.



- Removes obsolete language relating to the State Highway Safety Fund, the Highway Improvement Bond Retirement Fund, and bonds issued pursuant to Article VIII, Section 2g of the Ohio Constitution.
- Authorizes the Director of Public Safety and the Registrar of Motor Vehicles to apply for, allocate, disburse, and account for grants from federal, state, or private sources.
- Requires the Registrar of Motor Vehicles to establish a program to permit the registration of apportionable motor vehicles over the Internet no later than December 31, 2012, and requires the program to provide an option for the payment of all registration taxes and fees by use of a financial transaction device.
- Allows the \$5 contribution that a person pays when obtaining "Share the Road" license plates to be used to create and distribute bicycle safety education materials rather than just to distribute a booklet on proper methods and procedures of riding bicycles on the streets and highways.
- Requires that a manufacturer's payment to the Director of Public Safety for certifying its immobilizing or disabling device be credited to the existing state Indigent Drivers Alcohol Treatment Fund rather than to the Drivers' Treatment and Intervention Fund.
- Requires the Department of Public Safety to participate in receiving notifications through the Bureau of Criminal Identification and Investigation's (BCII) Retained Applicant Fingerprint Database of the arrest or conviction of licensed private investigators and security guard providers.
- Until July 1, 2013, reduces the fee paid for each certificate of title issued to a motor vehicle dealer for resale purposes from \$5 to \$4.50, establishes a new \$0.50 fee collected at the time such a certificate of title is issued that is paid into the Title Defect Recision Fund, and reduces the amount of each fee for such a certificate of title that is distributed to the Automated Title Processing Fund from \$2 to \$1.50.

Elimination of the late fee for driver's license renewals

(R.C. 4506.08 and 4507.23)

The bill eliminates the \$20 late fee, which took effect on October 1, 2009, that is imposed on motorists who do not renew their driver's licenses or commercial driver's licenses within seven days after their licenses expire. The fee may be waived for any good cause shown if the application is accompanied by supporting evidence that the

Registrar requires. A deputy registrar who collects the late fee retains 50¢ of the \$20; the rest of the amount is credited to the State Highway Safety Fund.

Clerk of courts title fee increases

(R.C. 4501.06, 4505.09, and 4519.59)

Effective October 1, 2011, the bill increases the \$15 fee that the Clerk of the Court of Common Pleas currently charges for motor vehicle, off-highway motorcycle, and all-purpose vehicle certificates of title and duplicate certificates of title to \$25. The \$10 increase is to be credited to the existing State Highway Safety Fund.

Bonds issued pursuant to Article VIII, Section 2g of the Ohio Constitution

(R.C. 4501.06)

The bill removes obsolete language that provides that before money in the State Highway Safety Fund may be expended for enforcing and paying the expenses of administering the laws governing motor vehicle registration and operation, the Commissioners of the Sinking Fund must certify that there is sufficient money to the credit of the Highway Improvement Bond Retirement Fund to pay all the interest, principal, and charges for retiring bonds issued pursuant to Article VIII, Section 2g of the Ohio Constitution. Section 2g permits the issuance of up to \$500 million of bonds for highway construction and requires the entire debt to be discharged not later than 1989.

Director of Public Safety and Registrar of Motor Vehicles grant authority

(R.C. 4501.02 and 5502.011)

The bill specifically authorizes both the Director of Public Safety and the Registrar of Motor Vehicles to apply for, allocate, disburse, and account for grants from federal, state, or private sources.

Registration of apportionable motor vehicles

(R.C. 4503.62)

The bill requires the Registrar of Motor Vehicles to adopt rules under the Administrative Procedure Act to establish a program to permit the registration of apportionable vehicles over the Internet no later than December 31, 2012. It also allows the program to provide for the registration of nonapportionable commercial vehicles over the Internet. The Internet Registration Program must provide an option for registrants to pay all registration taxes and fees by use of a "financial transaction device"

(for example, a credit card or debit card). If the Director of Public Safety approves, the Registrar may contract with a third party to accept and process payments on behalf of the Bureau of Motor Vehicles, but all fees associated with making payment by such a device must be borne by the applicant for registration.

An "apportionable" vehicle is a truck or bus covered by the International Registration Plan – a registration reciprocity agreement among the states of the United States, the District of Columbia, and the provinces of Canada that provides for the payment of license fees on the basis of fleet distance operated in the various jurisdictions.

Uses of "Share the Road" license plate contributions

(R.C. 4503.521)

"Share the Road" license plates are issued to any applicant who pays a contribution of \$5 for the plates. Under the bill, the money may be used for creating and distributing safety education materials, rather than for the narrower purpose, specified in current law, of publishing and distributing a booklet that instructs bicycle riders on the methods and procedures of riding bicycles on the roads and streets of Ohio in a confident, legal, and safe manner.

Deposit of immobilizing and disabling device certification payments

(R.C. 4510.43)

The bill requires that a manufacturer's payment to the Director of Public Safety for certifying its immobilizing or disabling ignition interlock device be credited to the existing state Indigent Drivers Alcohol Treatment Fund rather than to the Drivers' Treatment and Intervention Fund, which no longer exists.

Public Safety participation in the Retained Applicant Fingerprint Database for licensed private investigators and security guards

(R.C. 4749.031)

The bill requires the Department of Public Safety to participate in the continuous record monitoring service of the Bureau of Criminal Identification and Investigation's (BCII) Retained Applicant Fingerprint Database in regard to records of the arrest or conviction of licensed private investigators and security guard providers. To obtain a license, private investigators and security guard providers must submit to a criminal records check and may not have been convicted of a felony within the last 20 years or any offense involving moral turpitude.

The Retained Applicant Fingerprint Database is a database maintained by the Superintendent of BCII of fingerprints of individuals on whom BCII has conducted criminal records checks for the purpose of determining eligibility for employment with or licensure by a public office. Under this program, when the Superintendent receives information that an individual whose name is in the database has been arrested for or convicted of any offense, the Superintendent must notify any participating public office, in this case the Department of Public Safety, that employs or licenses that individual of the arrest or conviction. Under the guidelines of the Retained Applicant Fingerprint Database, the public office may use that information solely to determine the individual's eligibility for continued employment or licensure; the information otherwise is confidential.

The bill requires license applicants, at the time of making an initial or renewal application, to pay any initial or annual fee established by the BCII for the continuous record monitoring service.

Title Defect Recision Fund and Automated Title Processing Fund fees

(Section 755.20)

The existing Title Defect Recision Fund consists of money that motor vehicle dealers are required to pay to the Attorney General, dependent in part upon the balance in the fund.¹ The fund is used solely to provide restitution to retail purchasers of motor vehicles who are unable to obtain a certificate of title from a dealer and suffer damages. Also under current law, motor vehicle dealers pay \$5 to obtain a certificate of title; of that \$5 fee, \$2 is distributed to the Automated Title Processing Fund to be used to implement and maintain an automated title processing system.

Notwithstanding the provisions of codified law described above, until July 1, 2013, the bill requires a clerk of a court of common pleas to charge \$4.50 for each certificate of title issued to a licensed motor vehicle dealer for resale purposes and, in addition, to charge and collect a separate fee of \$0.50 from the licensed motor vehicle dealer. The additional \$0.50 fee must be forwarded to the Registrar of Motor Vehicles.

Notwithstanding the provision of codified law governing the distribution of certificate of title fees, until July 1, 2013, the bill requires the Registrar of Motor Vehicles to pay \$1.50 of the amount received by the Registrar for each certificate of title issued to a licensed motor vehicle dealer for resale purposes into the Automated Title Processing Fund and to pay the \$0.50 separate fee collected from a licensed motor vehicle dealer into the Title Defect Recision Fund.

¹ R.C. 4505.181, not in the bill.

PUBLIC WORKS COMMISSION

- Provides that the District One (Cuyahoga County) Public Works Integrating Committee is to include two members appointed by either the Board of County Commissioners or the Chief Executive Officer of Cuyahoga County, rather than just by the Board.

Cuyahoga County Public Works Integrating Committee membership

(R.C. 164.04)

Existing law provides that the seven-member district public works integrating committee for District One (Cuyahoga County) includes two members appointed by the Board of County Commissioners. In view of the change in the structure of government that took place in Cuyahoga County on January 1, 2011, the bill provides instead for two members appointed by the Board of County Commissioners (to account for a member of the committee who was appointed before January 1 and is still serving on the Board) or by the Chief Executive Officer of the county (to account for a member appointed after January 1).

MISCELLANEOUS

- Eliminates a provision of current "Buy Ohio" purchasing preference, which deems that there is sufficient competition to prevent an excessive price or the acquiring of a disproportionately inferior product if there are two or more qualified bids that offer products that have been produced or mined in Ohio.
- 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.
- Allows the display of an electronic tolling transponder (used on the Ohio Turnpike for E-ZPass) in the lower corner of the front windshield of a motor vehicle as an exception to the general prohibition against the display of material on the windshield.
- Extends for the 2012-2013 fiscal biennium the motor fuel prompt payment and shrinkage allowances for distributors and retail dealers of motor fuel applicable to FY 2008-2011 (1% and 0.5%, respectively).



Buy Ohio

(R.C. 125.11)

In regard to the general preference for Ohio products in competitively bid purchase contracts of the state that are made by the Department of Administrative Services (or other state agencies that follow DAS purchasing), the bill eliminates a provision of current law deeming "that there is sufficient competition to prevent an excessive price for the product or the acquiring of a disproportionately inferior product" if there are two or more qualified bids that offer products that have been produced or mined in this state.

Use of federal money for fiscal stabilization and recovery purposes

(Section 755.50)

The bill requires that, to the extent permitted by federal law, federal money received by the state for fiscal stabilization and recovery purposes must be used in accordance with the preferences for products and services made or performed in the United States and Ohio established under the "Buy Ohio" and "Buy American" programs in continuing law.

Location of an E-ZPass transponder in a car

(R.C. 4513.24)

As an exception to the general prohibition against the display of material on the front windshield of a motor vehicle, the bill allows an electronic toll-collection transponder (for example, as used on the Ohio Turnpike for E-ZPass) to be displayed in the lower corner of the front windshield if it does not exceed four inches in height by six inches in width and does not conceal the vehicle identification number.

Motor fuel excise tax: continuation of current evaporation and shrinkage allowance

(Section 755.30)

Under existing law, a motor fuel excise tax of 28¢ per gallon is imposed on motor fuel dealers. The codified law governing the motor fuel excise tax² 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

² R.C. 5735.06.

the report and to account for evaporation, shrinkage, and other losses. The last two transportation appropriations acts reduced the 3.0% deduction for fiscal years 2008 through 2011 to 1.0% (minus 0.50% of gallonage sold to retail dealers). The bill extends for the 2012-2013 fiscal biennium the uncodified 1.0% motor fuel shrinkage allowance for motor fuel dealers (minus 0.5% of gallonage sold to retail dealers).

Under the ongoing 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.³ The last two transportation appropriations acts reduced the refund percentage to 0.50% for fiscal years 2008 through 2011. The bill extends for the 2012-2013 fiscal biennium the uncodified 0.5% retail dealer shrinkage refund of the taxes paid on the fuel received by a retail dealer.

HISTORY

ACTION	DATE
Introduced	02-22-11

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³ R.C. 5735.141.

