Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 114*

129th General Assembly
(As Reported by S. Highways and Transportation)
(Excluding appropriations, fund transfers, and similar provisions)

Reps. McGregor, Amstutz, Carey, R. Adams, Anielski, Antonio, Ashford, Baker, Barnes, Beck, Blair, Blessing, Boose, Brenner, Bubp, Buchy, Carney, Celeste, Clyde, Combs, Derickson, Dovilla, Driehaus, Duffey, Fedor, Fende, Garland, Gentile, Gerberry, Gonzales, Goodwin, Goyal, Hackett, C. Hagan, Hall, Hayes, Heard, Henne, Hollington, Huffman, Johnson, Landis, Letson, Luckie, McClain, McKenney, Mecklenborg, Milkovich, Murray, Newbold, O'Brien, Patmon, Peterson, Phillips, Reece, Roegner, Rosenberger, Ruhl, Schuring, Sears, Slaby, Sprague, Stebelton, Stinziano, Sykes, Szollosi, Thompson, Uecker, Weddington, Williams, Winburn, Young, Yuko

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

DEPARTMENT OF TRANSPORTATION

- 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.

- Eliminates the Ohio Transportation Finance Commission, which is a seven-member body required to approve all ODOT tolling projects.

- Establishes that ODOT may not permit tolls to be charged on existing nontoll public roads (rather than just highways).

- Allows ODOT to contract with any person or entity to operate, construct, maintain, or market the Traffic Generator Sign (brown sign) Program and provides that the contract may allow for a reasonable profit to be earned by the successful applicant.

- Requires the state to reimburse a cable operator, as well as an electric cooperative and a municipal electric utility, for the cost of relocating any of its facilities because of highway construction.

- Makes a report by a transit agency or its contractor that results from the investigation of an accident or unacceptable hazardous condition on a rail fixed guideway system that is operated by the transit agency confidential.

- 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.

- 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.

- 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.

- Establishes a 5% gross vehicle weight tolerance and a separate 5% wheel or axle load tolerance for the following vehicles under specified conditions: (1) a surface mining truck transporting minerals, (2) a vehicle transporting hot mix asphalt material, (3) a vehicle transporting concrete, (4) a vehicle transporting manure, turf, sod, or silage, and (5) a vehicle transporting chips, sawdust, mulch, bark, pulpwood, biomass, or firewood.

- In regard to the existing 7.5% vehicle weight limit tolerance on non-interstates, establishes that no wheel or axle limits apply if vehicles to which the weight tolerance currently applies do not exceed the 7.5% gross vehicle weight tolerance.

- Requires the Auditor of State to conduct a performance audit of the Department of Transportation.

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 are confidential and are not public records. Financial information that is related to a proposal is confidential and not a public record, but only until a proposal is selected or rejected. The bill 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 or selection based on qualifications or best value. 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 extent that the proposal identifies a need in a transportation plan and is on the transportation improvement program for an affected metropolitan planning organization or the state transportation improvement program; 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) A specific plan to ensure proper maintenance of the facility throughout the term of the agreement and a return of the facility to ODOT (if applicable) in good condition and repair; 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 the following:

(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 use federal, state, local, and private funds to finance a transportation facility operated under a P3 and must comply with any requirements and restrictions governing the use of the funds, including maintaining the funds separately when necessary. 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 in the same manner and for the same transportation purposes governing ODOT's exercise of eminent domain for its own projects. Additionally, if ODOT proposes to acquire property at the request of a private entity, the acquisition must be

by ODOT but paid for by the private party and only if the Director first makes a finding that the acquisition is for a public transportation use and serves the general public transportation purposes of P3 agreements. No P3 agreement may be construed to transfer to a private entity any of the Director's authority to appropriate property.

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.

ODOT tolling authority

(R.C. 5531.12 and 5531.18)

The bill eliminates the Ohio Transportation Finance Commission, which is a seven member body created within the Department of Transportation. Upon selection of a toll project by the Transportation Review Advisory Council (TRAC), the Director of Transportation is required to submit a toll proposal for the project to the Ohio Transportation Finance Commission, which must review the toll proposal for the project and either approve it (by an affirmative vote of four of the six voting members), disapprove it, or suggest modifications to it. The bill does not otherwise modify the authority of ODOT to develop toll projects as part of the major new capacity projects evaluated and selected by the TRAC.

The bill broadens the restriction on ODOT's current tolling authority relative to existing roads by establishing that the tolling authority cannot be construed to permit tolls to be charged on existing nontoll public roads (rather than just highways).

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 may 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).

Reimbursement of a utility for relocating some of its facilities

(R.C. 5501.51)

Existing law requires the state to reimburse a utility (defined to include publicly, privately, and cooperatively owned utilities subject to the authority of the Public Utilities Commission of Ohio) for the cost of relocating any of its facilities because of highway construction. The bill requires that the state also reimburse a cable operator and, in addition, an electric cooperative and a municipal electric utility, neither of which are subject to the authority of the Public Utilities Commission, for the cost of relocating their facilities because of highway construction. As used in the law, "cost of relocation" includes 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.

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

(R.C. 5501.55)

The bill applies to a transit agency operating a rail fixed guideway system (primarily a heavy rail, commuter rail, or light rail system), or a contractor acting on behalf of a transit agency operating such a system, the following three confidentiality provisions that existing law applies to the Department of Transportation or a contractor acting on behalf of the Department:

(1) A report of any investigation of an accident or unacceptable hazardous condition by the Department, or contractor acting on behalf of the Department, is not subject to the Public Records Law.

(2) A report of such an investigation cannot be admitted in evidence or used for any purpose in any action or proceeding arising out of any matter referred to in the investigation, except in actions or proceedings instituted by the state or by the Department on behalf of the state.

(3) No member of the Department or its employees, or a contractor acting on behalf of the Department, can be required to testify to any facts ascertained in, or information obtained by reason of, the person's official capacity, or to testify as an expert witness in any action or proceeding involving or pertaining to a rail fixed guideway system to which the state is not a party.

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. Ordinarily bids that exceed 105% of the engineer's estimate are rejected. (An exception is made for projects in which federal funds are involved if the Director determines that the winning bid is nonetheless fair and reasonable, the federal government imposes regulation on prices charged for construction service, and the successful bidder certifies that its bid does not exceed the maximum permitted by federal regulation.) 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.

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 competent and responsive bidder."

In addition, the bill specifically authorizes the Director of Transportation to provide compensation for the preparation of a responsive preliminary design concept to not more than two bidders who, after the successful bidder submitted the next best bids. 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.

Under the bill, if the engineer's estimate is to be confidential, the total amount of the estimate must remain confidential until after the bids have been opened (rather than received). However, 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.

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.

Non-interstate highway vehicle weight limit tolerances

(R.C. 5577.042 and 5577.043)

The bill specifies that if a vehicle to which the current 7.5% weight tolerance applies (a coal truck, farm truck and farm machinery, log truck, and solid wast haul vehicle) is operated within the weight tolerance and under any specified conditions for the type of vehicle, the vehicle will not be subject to any penalty for a wheel or axle limit violation. As under current law, a vehicle that is operated over the weight tolerance is subject to the applicable criminal penalty for violating the weight limits and civil liability for damages to roads.

Under the bill, the following vehicles may exceed an otherwise applicable gross vehicle weight by more than 5% and no penalty for a gross vehicle weight applies and, in addition, the vehicles may exceed the wheel or axle load limits by no more than 5% and no penalty for a wheel or axle overload applies:

(1) A surface mining truck transporting minerals from the place where the minerals are loaded to the construction site where the minerals are discharged, the place where title to the minerals is transferred, or the place of processing;

(2) A vehicle transporting hot mix asphalt material from the place where the material is first mixed to the paving site where the material is discharged;

(3) A vehicle transporting concrete from the place where the material is first mixed to the site where the material is discharged;

(4) A vehicle transporting manure, turf, sod, or silage from the site where the material is first produced to the first place of delivery;

(5) A vehicle transporting chips, sawdust, mulch, bark, pulpwood, biomass, or firewood from the site where the product is first produced or harvested to the first point where the product is transferred.

As under current law for the 7.5% weight tolerance, the 5% weight tolerances do not apply on interstate highways or on bridges or highways with a reduced safe carrying capacity determined by county or state transportation officials. If a vehicle is operated over either the 5% gross vehicle weight tolerance or the 5% wheel and axle load limit tolerance, it is subject to the applicable criminal penalty for violating the weight limits and civil liability for damage to roads.

Performance audit required of the Department of Transportation

(Section 701.10)

The bill requires the Auditor of State to conduct a performance audit of the Department of Transportation and requires the Department to cooperate fully with the Auditor of State in conducting the audit.

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.

- Exempts farm trucks and farm buses from the $20 motor vehicle registration late fee and requires the waiver of that late fee in any case involving the registration of a motor vehicle that is used on a seasonal basis upon proof of such seasonal use.

- Allows the clerk of the court of common pleas to compete for the award of a deputy registrar contract in any county with a population of 40,001 to 50,000 people.

- Allows a county auditor who is designated to act as a deputy registrar and the clerk of a court of common pleas to allocate their deputy registrar duties and certificate of title duties and fees between them.

- Requires a clerk of the court of common pleas to inform the Registrar of Motor Vehicles if space is available at an office of the clerk that could be occupied by a deputy registrar and, subject to the approval of the Registrar, permits a clerk and deputy registrar to occupy a common location where neither is an occupant.

- Allows a deputy registrar who, subsequent to being awarded a deputy registrar contract, is elected to a local office to continue to be a deputy registrar, and exempts such a deputy registrar from the political contribution limits that generally apply to a deputy registrar.

- Requires that a credit of $3.50 be granted to a deputy registrar for each damaged license plate or validation sticker that the deputy registrar replaces as a service to a member of the public.

- Requires the Registrar to adopt rules allowing a deputy registrar to collect driver's license reinstatement fees and charge a $10 service fee and, not later than January 1, 2012, to ensure that at least one deputy registrar in each county has the necessary equipment and is able to accept the fees.

- Allows a deputy registrar, in accordance with guidelines the Director of Public Safety must adopt, to operate or contract for the operation of a vending machine at a deputy registrar location if products of the vending machine are consistent with the functions of a deputy registrar.

- Establishes a five-year construction equipment auction license to be administered by the Registrar of Motor Vehicles in the same manner as a motor vehicle dealer license, including eligibility standards, application procedures (including a $7,500 fee), standards for a licensee to sell equipment and motor vehicles at auction, and penalties for violating the standards and related prohibitions.

- Allows a clerk of a court of common pleas to issue a certificate of title to a motor vehicle applied for by an agent of a licensed motor vehicle dealer when that agent has a properly executed power of attorney from the dealer.

- Allows a motor vehicle leasing dealer to sell to another licensed motor vehicle dealer a motor vehicle that previously was titled to someone else as the ultimate purchaser of the vehicle.

- Requires every person who applies for a new or renewal driver's or commercial driver's license, temporary instruction permit, motorcycle operator's license or endorsement, or identification card to be furnished with a form for listing contact persons for inclusion in the next of kin database of the Bureau of Motor Vehicles.

- Permits the operator of a motorcycle to back the motorcycle into an angled parking space.

- Codifies existing limitations and restrictions that apply to the operation of a motorcycle by a person who holds a motorcycle temporary instruction permit.

- Requires the Registrar of Motor Vehicles, not later than December 31, 2011, to enable all electronic motor vehicle dealers to file applications for certificates of title on behalf of purchasers of motor vehicles electronically directly through the Registrar.

- 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, 2011, and requires the program to provide an option for the payment of all registration taxes and fees by use of a financial transaction device.

- Creates a "realtor" special license plate and a "Glen Helen Nature Preserve" special license plate.

- Requires a $15 contribution for a set of "Prince Hall" freemason license plates, to be used by the Prince Hall Grand Lodge of Free and Accepted Masons of Ohio for scholarship purposes.

- 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 the contributions the Registrar of Motor Vehicles collects from persons who obtain "Teen Driver Education" license plates to be deposited into the existing License Plate Contribution Fund.

- Permits a "noncommercial trailer" to have a gross weight of not more than 10,000 pounds, rather than 3,000 pounds.

- Abolishes the Seat Belt Education Fund and requires that the percentage of fines for seat belt violations that currently is credited to the fund be credited to the Trauma and Emergency Medical Services Fund instead.

- Increases from $400 to $1,000 the amount of property damage resulting from a motor vehicle accident that triggers the requirement that the local law enforcement agency that investigated the accident forward a written report of the accident to the Director of Public Safety.

- Specifically permits a State Highway Patrol trooper to render emergency assistance to another peace officer if the latter requests it at a particular location and the trooper arrives at the location before the other peace officer does.

- 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.

- Makes permanent a provision of temporary law requiring 50¢ of a $2 portion of the $5 fee that a motor vehicle dealer pays for a certificate of title to be deposited into the Title Defect Recision Fund, rather than requiring the entire $2 portion to be deposited into the Automated Title Processing Fund.

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.

Motor vehicle registration late fee

(R.C. 4503.04)

The bill exempts farm trucks and farm buses from the $20 motor vehicle registration late fee and requires the waiver of that late fee in any case involving the registration of a motor vehicle that is used on a seasonal basis if sufficient proof of such seasonal use accompanies the vehicle registration application.

Performance of vehicle registration and titling functions

(R.C. 4503.03, 4503.031, and 4503.037)

Allowing the clerk of the court of common pleas to compete for the award of a deputy registrar contract

Existing law authorizes the Registrar of Motor Vehicles to designate the county auditor as a deputy registrar in any county of the state. Where this is done in a county with a population of 40,000 or less according to the last federal census, no other person need then be designated to act as a deputy registrar in the county. Existing law also authorizes the Registrar to designate a clerk of a court of common pleas as a deputy registrar in any county with a population of 40,000 or less according to the last federal census. The bill adds that if the population of a county is more than 40,000 but not more than 50,000, the clerk of a court of common pleas may compete for a deputy registrar contract in the county along with any other applicants for the award of a deputy registrar contract. Notwithstanding these population restrictions, if no person

applies to act under contract as a deputy registrar and the county auditor is not designated as a deputy registrar, the Registrar may ask a clerk of a court of common pleas to serve as a deputy registrar for that county. The bill also adds that a county auditor or clerk of a court of common pleas who is performing deputy registrar functions is not required to file the political contribution disclosure form (or pay the filing fee) otherwise required for persons acting under contract as a deputy registrar.

Allowing a county auditor and clerk of a court of common pleas to allocate motor vehicle-related duties between them

Notwithstanding any laws to the contrary and subject to the approval of the Registrar of Motor Vehicles and the board of county commissioners, the bill authorizes a county auditor who is designated to act as a deputy registrar and the clerk of the court of common pleas of the same county to enter into a memorandum of understanding for the allocation of their deputy registrar and certificate of title duties between them. Such a memorandum may also provide for the allocation of any fees that they retain.

Colocation of an office of the clerk of the court of common pleas and a deputy registrar

Under existing law, if the Registrar of Motor Vehicles determines that space is available at a deputy registrar's office, the clerk of the court of common pleas in the county where the deputy is located must be given the opportunity to use the space for the purpose of carrying out the clerk's duties related to the titling of motor vehicles. Each clerk of the court of common pleas using such space must remit to the deputy a rental fee equal to the percentage of space occupied by the clerk in the deputy's office multiplied by the rental fee or mortgage cost paid for the entire deputy registrar's office plus a pro rata share of all utility costs.

Similarly, the bill provides that if a clerk of the court of common pleas determines that space is available at a location where the clerk has an office, the clerk must inform the Registrar about it. After giving due consideration to the locations of the existing deputy registrar offices in the county, the Registrar must inform the appropriate deputy registrars, if any, of the available space. A deputy registrar who moves into the available space must pay a rental fee to the clerk that is computed in the same way as the rental fee is currently computed for space that a clerk of court occupies in a deputy's office. If no existing deputy wishes to utilize the available space, the Registrar must inform all persons who express an interest to the Registrar in becoming a deputy registrar in the county of the space if it continues to be available.

The bill also provides that a clerk and a deputy registrar may both elect to occupy space at a common location which neither of them occupies. Any such arrangement is subject to the approval of the Registrar, who must give due

consideration to all issues and aspects of the proposed arrangement, including security and service to the public.

Election of a deputy registrar to a local office

(R.C. 4503.03)

Existing law prohibits the Registrar from contracting with an elected official other than a county auditor or clerk of courts to act as a deputy registrar and also prohibits anyone but a county auditor or clerk of a court of common pleas from becoming a deputy registrar if the individual or the individual's spouse or member of the person's immediate family made contributions totaling more than $100 to a political party, political action committee, candidate for statewide political office or for the Ohio House or Senate, or the campaign committee for any such candidate during the current or any one of the previous three calendar years. The bill (1) provides that these political contribution limitations do not apply to a deputy registrar who, subsequent to being awarded a deputy registrar contract, is elected to an office of a county, township, municipal corporation, or school district and (2) requires the Registrar to continue and allows the Registrar to renew the contract with any deputy registrar who, subsequent to being awarded a deputy registrar contract, is elected to an office in any such political subdivision.

Granting a credit to a deputy registrar for replacing a damaged license plate or validation sticker

(R.C. 4503.03)

The bill requires the Bureau of Motor Vehicles to grant a deputy registrar, as a daily adjustment, a credit of $3.50 for each damaged license plate or validation sticker the deputy registrar replaces as a service to a member of the public.

Allowing deputy registrars to accept reinstatement fees

(R.C. 4503.03, 4507.1612, 4507.45, 4509.101, 4509.81, 4510.10, 4510.22, 4510.72, and 4511.191)

The bill requires the Registrar to adopt rules establishing procedures under which a deputy registrar who requests the authority from the Registrar may collect the fees due for restoring any operating privileges or reissuing a probationary driver's license, restricted license, driver's license, or probationary commercial driver's license that has been suspended. Besides collecting a reinstatement or reissuance fee, the deputy registrar must collect a service fee of $10, of which $8 is to be retained by the deputy registrar and $2 is to be transmitted to the Registrar. The $2 that the Registrar receives from each service fee is to be credited to the State Bureau of Motor Vehicles

Fund and used for deputy registrar equipment necessary in connection with accepting reinstatement fees. The bill also requires the Registrar, not later than January 1, 2012, to ensure that at least one deputy registrar in each county has the necessary equipment and is able to accept the fees.

Deputy registrar vending machine business

(R.C. 4503.03)

The bill allows a deputy registrar, in accordance with guidelines that the Director of Public Safety must establish, to operate or contract for the operation of a vending machine at a deputy registrar location if products of the vending machine are consistent with the functions of a deputy registrar.

Construction equipment auction license

(R.C. 4517.01, 4517.02, 4517.16, 4517.17, 4517.171, 4517.18, and 4517.33)

Overview

The bill establishes a five-year construction equipment auction license to be administered by the Registrar of Motor Vehicles in the same general manner as motor vehicle dealer licenses. The license allows a person to sell, at auction, "large construction or transportation equipment" (vehicles having a gross vehicle weight rating of more than 10,000 pounds, including road rollers, traction engines, power shovels, power cranes, commercial cars and trucks, or farm trucks, and other similar vehicles obtained primarily from the construction, mining, transportation, or farming industries). Under limited conditions, a licensee also is able to sell smaller motor vehicles. The bill establishes that a person who has a construction equipment auction license is not in violation of the general prohibition against selling used motor vehicles without a license issued by the Registrar.

Eligibility

To be eligible for a construction equipment auction license, a person must:

(1) Maintain a permanent auction site in Ohio that is at least 90 acres in size and also maintain over 60,000 square feet of total facility space;

(2) Be engaged primarily in the business of selling large construction and transportation equipment at auction;

(3) Receive more than $1 million in gross annual sales in Ohio; and

(4) Derive not more than 10% of the person's gross annual sales revenue in Ohio from the sale of motor vehicles having a gross vehicle weight rating of 10,000 pounds or less.

Licensing

The bill establishes procedures governing the application for the license and also gives the Registrar rule-making authority governing the application process and the regulation of construction equipment auction sales and licensees. The rules must be specific to construction equipment auction sales and licensees and must be separate and distinct for other motor vehicle dealer rules. The license fee is $7,500 (deposited into the State Bureau of Motor Vehicles Fund) and the license expires five years after it is issued, unless it is revoked before that time.

The bill requires the Registrar to deny or revoke a license if the person: (1) is not eligible for the license, (2) has made any false statement of a material fact in the application, (3) is of bad business repute or has habitually defaulted on financial obligations, (4) has been guilty of a fraudulent act in connection with auctions, vehicles, or equipment, (5) is insolvent, or (6) is of insufficient financial responsibility related to payment of judgments against the applicant because of construction equipment auction business transactions. A person who has been denied a license or has a license revoked may appeal to the Motor Vehicle Dealers Board.

When the Registrar grants an application, the licensee must keep the license (or a certified copy) posted in a conspicuous place in each place of its business. Also, the licensee's business records must be open for reasonable inspection by the Registrar.

Conditions for operation

When the licensee holds an auction, the licensee must have title present for all vehicles being sold. In order to verify eligibility requirements related to sales revenue, the bill requires a licensee to file with the Bureau of Motor Vehicles on an annual basis a certification stating the gross proceeds generated from auctions held at the auction site during the prior calendar year and the gross proceeds generated from the sale of motor vehicles having a gross vehicle weight rating of 10,000 pounds or less during the year.

Special restrictions apply when a construction equipment auctioneer sells a motor vehicle with a gross vehicle weight of 10,000 pounds or less. For those vehicles, the auctioneer specifically must comply with titling, sales tax, and commercial activity tax provisions in the same manner as a motor vehicle dealer, including transferring title to the licensee's name prior to the auction.

Prohibitions

The bill contains a general prohibition against engaging in the business of auctioning large construction or transportation equipment unless a person is a construction equipment auctioneer (a construction equipment licensee who also holds an auctioneer's license) or is licensed as a motor vehicle auction owner and uses a licensed auctioneer. Violation of this is a minor misdemeanor with a mandatory $100 fine, and on subsequent offenses it is a first degree misdemeanor with a mandatory $1,000 fine.

Additionally, the bill specifically prohibits a construction equipment auction licensee from doing any of the following:

(1) Selling vehicles with a manufacturer's statement of origin;

(2) Holding any motor vehicle dealer licenses issued by this state at the same time as holding a construction equipment auction license, which must be separate and distinct from motor vehicle dealer and sales licenses the Registrar issues;

(3) Selling at auction a motor vehicle having a gross vehicle weight rating of 10,000 pounds or less unless the motor vehicle owner also sells large construction or transportation equipment through the construction equipment auction licensee.

A violation of these provisions is a minor misdemeanor on a first offense and a fourth degree misdemeanor on subsequent offenses. In addition, a court is required to impose a fine of up to $10,000.

Issuing a certificate of title to the agent of a motor vehicle dealer with a properly executed power of attorney

(R.C. 4505.08)

The bill allows a clerk of a court of common pleas, in accordance with rules adopted by the Registrar, to issue a certificate of title that is applied for by an agent of a licensed motor vehicle dealer when the agent has a properly executed power of attorney from the dealer.

Motor vehicle leasing dealer vehicle sales

With two exceptions, existing law prohibits a motor vehicle leasing dealer or a motor vehicle renting dealer from selling a motor vehicle within 90 days after a certificate of title to the motor vehicle is issued to the dealer. The exceptions are when a salvage certificate of title is issued to replace the original certificate of title and when a motor vehicle leasing dealer sells a motor vehicle to another motor vehicle leasing

dealer at the end of a sublease pursuant to the sublease. The bill adds a third exception: when a motor vehicle leasing dealer sells a motor vehicle to another licensed motor vehicle dealer and the vehicle previously was titled to an "ultimate purchaser." (With respect to a new motor vehicle, the ultimate consumer is the first person − excluding the dealer − who purchased the vehicle for purposes other than reselling it.)

BMV next of kin database

(R.C. 4501.81)

The bill requires every person who applies to the Registrar of Motor Vehicles or a deputy registrar for a new or renewal driver's or commercial driver's license, temporary instruction permit, motorcycle operator's license or endorsement, or identification card to be furnished with a next of kin information form on which the applicant may list the name, address, telephone number, and relationship to the applicant of at least one contact person for inclusion in the next of kin database of the Bureau of Motor Vehicles (BMV). The contact person is the person whom the applicant wishes to be contacted if the applicant is involved in a motor vehicle accident or emergency situation and the applicant dies or is seriously injured or rendered unconscious and is unable to communicate with the contact person.

The form must inform the applicant that, after completing the form, the applicant may return the form to the Registrar or any deputy registrar, who will accept it without charge. The form also must contain (1) an address to which the completed form may be mailed, and (2) instructions whereby the applicant may furnish the information to the Registrar via the Internet. The bill requires the BMV to adopt a rule specifying the contents of the form.

The bill stands in contrast to the current Revised Code provision, which provides that an individual holding a valid Ohio driver's or commercial driver's license, temporary instruction permit, or identification card (holders of motorcycle operator's licenses and endorsements are not included) must "be afforded the opportunity to list" emergency contact persons for inclusion in the BMV next of kin database.

Angle parking by a motorcycle

(R.C. 4511.69)

Current law regulates the parking of motor vehicles on public streets and highways. For example, every vehicle that is stopped or parked upon a roadway where there is an adjacent curb must be stopped or parked with the right-hand wheels of the vehicle parallel with and not more than 12 inches from the right-hand curb, if possible. Local authorities may permit angle parking on any roadway under their jurisdiction,

except that angle parking is not permitted on a state route within a municipal corporation unless an unoccupied roadway width of not less than 25 feet is available for free-moving traffic.

Current law also prohibits any vehicle or trackless trolley from being stopped or parked on a road or highway with the vehicle or trackless trolley facing in a direction other than the direction of travel on that side of the road or highway. The bill permits the operator of a motorcycle to back the motorcycle into an angled parking space so that when it is parked it is facing in a direction other than the direction of travel on the side of the road or highway.

Motorcycle operation under a temporary instruction permit

(R.C. 4507.05 and 4511.53)

Current law permits the Registrar of Motor Vehicles or a deputy registrar, upon receiving from any person an application for a temporary instruction permit and temporary instruction permit identification card to operate a motorcycle, to issue such a permit and identification card entitling the applicant, while having the permit and identification card in the applicant's immediate possession, to drive a motorcycle under restrictions determined by the Registrar. Currently, these restrictions are not codified.

The bill codifies these restrictions by prohibiting any person from operating a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar unless the person, at the time of such operation, is wearing on the person's head a protective helmet that conforms with rules adopted by the Director of Public Safety. In addition, the bill prohibits any person from operating a motorcycle with such a permit and identification card in any of the following circumstances: (1) at any time when lighted lights are required by current law, such as between sunset and sunrise, (2) while carrying a passenger, and (3) on any limited access highway.

Application for a certificate of title by an electronic motor vehicle dealer

(R.C. 4505.06)

The bill requires the Registrar of Motor Vehicles, not later than December 31, 2011, to enable all electronic motor vehicle dealers to file applications for certificates of title on behalf of purchasers of motor vehicles electronically directly through the Registrar, not through a third party.

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, 2011. 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 costs 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.

Special license plates

(R.C. 4503.564, 4503.751, 4503.521, 4503.94, 4503.701, and 4501.21; R.C. 4501.14 (repealed))

Glen Helen Nature Preserve license plates

The bill creates a "Glen Helen Nature Preserve" special license plate, available to anyone for a contribution of $15 (plus all standard taxes and fees, including the $10 fee for the Registrar of Motor Vehicles for services in issuing the plate). The $15 contribution is to be distributed to the Glen Helen Ecology Institute to pay expenses related to the Glen Helen Nature Preserve. The Preserve, approximately 1,000 acres in area, is located east of Yellow Springs.

"Realtor" license plates

The bill creates a "realtor" special license plate available to members of a national, state, or local association of realtors for a contribution of $15 (plus all standard taxes and fees, including the $10 fee for the Registrar of Motor Vehicles for services in issuing the plate). The $15 contribution is to be distributed to the Ohio Association of Realtors for deposit into a property disaster relief fund maintained under the Ohio Realtors Charitable and Education Foundation.

"Prince Hall freemason" license plates

The bill requires that anyone applying for a set of "Prince Hall" license plates, which are provided for by existing law, pay a contribution of $15 (in addition to the standard taxes and fees currently required for a set of "Prince Hall" license plates). The Registrar is directed to distribute the contributions collected to the Prince Hall Grand Lodge of Free and Accepted Masons of Ohio, which must use the contributions for scholarship purposes.

Uses of "Share the Road" license plate contributions

"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.

"Teen Driver Education" license plates

The bill requires the contributions the Registrar of Motor Vehicles collects from persons who obtain "Teen Driver Education" license plates to be deposited into the

existing License Plate Contribution Fund instead of the Teen Driver Education License Plate Fund. The bill then eliminates the latter fund but continues to require that the Registrar pay the contributions to the Michelle's Leading Star Foundation to fund the rental, lease, or purchase of the simulated driving curriculum of the Foundation by boards of education of city, exempted village, local, and joint vocational school districts.

Permissible weight of a noncommercial trailer

(R.C. 4501.01)

The bill modifies the definition of a "noncommercial trailer," which (1) excludes a travel trailer or trailer used to transport a boat, (2) includes a vehicle used to transport a boat, and (3) is required to be used exclusively for purposes other than engaging in business for a profit. At present a noncommercial trailer may not have a gross weight greater than 3,000 pounds; under the bill, it could have a gross weight of no more than 10,000 pounds. The bill also clarifies the meaning of "purposes other than engaging in business for a profit" by giving, as an example, "the transportation of personal items for personal or recreational purposes."

Abolition of the Seat Belt Education Fund

(R.C. 4513.263)

The bill abolishes the Seat Belt Education Fund, which currently receives 8% of the fines for seat belt violations, and requires that the money be credited to the existing Trauma and Emergency Medical Services Fund instead. The money credited to the Seat Belt Education Fund is required to be used by the Department of Public Safety to establish a seat belt education program. The Trauma and Emergency Medical Services Fund, which currently receives 28% of the fines for seat belt violations, is required to be used by the Department for the administration of the Division of Emergency Medical Services and the State Board of Emergency Medical Services. Existing law authorizes the Director of Budget and Management to transfer excess money in the Trauma and Emergency Medical Services Fund to the State Highway Safety Fund.

Motor vehicle accident reports

(R.C. 5502.11)

The bill increases from $400 to $1,000 the amount of property damage resulting from a motor vehicle accident that triggers the requirement that the law enforcement agency of the political subdivision that investigated the accident must forward a written report of the accident to the Director of Public Safety.

Emergency assistance rendered by a highway patrol trooper to another peace officer

(R.C. 5503.02)

Existing law permits a State Highway Patrol trooper to render emergency assistance to another peace officer with arrest powers who requests such assistance in a serious emergency situation. The bill adds, specifically, that a trooper may render such assistance if the other peace officer requests it, specifies a particular location, the trooper arrives at that location before the other peace officer does, and the circumstances observed by the trooper reasonably indicate that emergency assistance is appropriate.

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.

Distribution of certificate of title fees

(R.C. 4505.09)

The bill makes permanent a provision of uncodified law that currently modifies the distribution of certificate of title fees that are collected from motor vehicle dealers that is set forth in codified law.

Specifically, under codified law, a licensed motor vehicle dealer is required to pay a $5 fee to the clerk of the court of common pleas to obtain a certificate of title to a motor vehicle for resale. Of that $5 fee, $2 is distributed to the Registrar of Motor Vehicles for deposit into the Automated Title Processing Fund, to be used to implement and maintain an automated title processing system. However, under uncodified law, until July 1, 2011 the $2 amount is split into two parts: $1.50, which the Registrar deposits into the Automated Title Processing Fund, and a separate fee of 50¢, which the Registrar deposits into the existing Title Defect Recision Fund. The 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 so suffer damages. Under the bill, the temporary distribution of the $2 fee becomes permanent.

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.

- Revises the formula for allocating, in each year of the State Capital Improvements Program, the proceeds of obligations issued under Article VIII, Section 2p of the Ohio Constitution for public infrastructure capital improvements.

[1] R.C. 4505.181, not in the bill.

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).

State Capital Improvements Program

(R.C. 164.08; Sections 209.20, 209.21, 209.30, 209.40, and 209.50)

The bill revises the formula for allocating, in each program year, the proceeds of obligations issued under Article VIII, Section 2p of the Ohio Constitution for public infrastructure capital improvements, as follows:

(1) Increases, from $12 million to $15 million, the amount that must first be allocated to villages, and to townships with populations in the unincorporated areas of the township of less than 5,000, for capital improvements;

(2) Increases, from $2.5 million to $3 million, the amount that may next be allocated to local subdivisions for capital improvement projects the Director of the Ohio Public Works Commission believes are "necessary for the immediate preservation of the health, safety, and welfare" of the citizens of those local subdivisions.

DEPARTMENT OF DEVELOPMENT

- Prohibits the Department of Development or any other entity from providing certain economic development assistance to businesses conducting gaming activities (casino gaming or the pari-mutuel system of wagering) or on project sites on which gaming activities are or will be conducted.

- Expands the list of alternative fuels to which the Department's Alternative Fuel Transportation Grant Program may apply.

Prohibit economic development assistance for gaming activities

(R.C. 122.014)

The bill prohibits the Department of Development or any other entity that administers certain programs or development projects from providing any financial assistance, including loans, tax credits, and grants, staffing assistance, technical support, or other assistance to businesses conducting gaming activities or for project sites on which gaming activities are or will be conducted. "Gaming activities" means activities conducted in connection with or that include (1) "casino gaming," as authorized and defined in the Ohio Constitution or under existing law[2] and (2) the pari-mutuel system of wagering.[3]

Generally, "casino gaming" is any type of slot machine or table game wagering, using money, casino credit, or any representative of value, authorized in Indiana, Michigan, Pennsylvania, and West Virginia as of January 1, 2009, and includes slot machine and table game wagering subsequently authorized by, but is not limited by, subsequent restrictions placed on such wagering in those states. "Casino gaming" excludes bingo, as authorized under the Ohio Constitution and conducted as of January 1, 2009, and horse racing where the pari-mutuel system of wagering is conducted, as authorized under Ohio law as of January 1, 2009.[4] The pari-mutuel system of wagering is a method of wagering on live racing programs and simulcast racing programs held or conducted at horse racing tracks, as authorized under the Horse Racing Law.[5] While pari-mutual wagering on horse racing is excluded from the definition of "casino gaming," it is explicitly made subject to the prohibition described above.

The specific economic development programs and projects for which the Department of Development and other entities are prohibited from providing financial assistance, staffing assistance, technical support, or any other assistance are all of the following:

(1) Any program or development project administered under the Department of Development Law, for example, the Job Ready Site Program or the Industrial Site Improvement Fund, to name a few;[6]

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[2] Section 6(C) of Article XV, Ohio Constitution and R.C. Chapter 3772.

[3] R.C. Chapter 3769.

[4] R.C. 3772.01(D).

[5] R.C. Chapter 3769.

[6] R.C. Chapter 122.

(2) Any program or development project administered under the Economic Development Program Law, including the Facilities Establishment Fund;[7]

(3) The Third Frontier Program;[8]

(4) The historic building rehabilitation program, for which a tax credit may be granted;[9]

(5) Real property tax exemptions for the increased value of remediated land and buildings;[10] and

(6) Financial incentive programs for remediating business facilities, which are administered by counties or municipal corporations.[11]

Additional "alternative fuels" to which the Department's Alternative Fuel Transportation Grant Program may apply

(R.C. 122.075)

The bill adds to the list of "alternative fuels" to which the Department of Development's Alternative Fuel Transportation Grant Program may apply to include all the kinds of alternative fuels to which the Fleet Management Program of the Department of Administrative Services applies. In effect, this means adding the following alternative fuels to the Department of Development's grant program: natural gas, liquefied petroleum gas, hydrogen, any power source (including electricity), and any other fuel that the United States Department of Energy determines by final rule to be substantially not petroleum and that yields substantial energy security and environmental benefits.

Under the Alternative Fuel Transportation Grant Program, the Director of Development is authorized to make grants to businesses, nonprofit organizations, public school systems, or local governments to (1) purchase and install alternative fuel refueling or distribution facilities and terminals, (2) purchase and use alternative fuel, and (3) pay the costs of educational and promotional materials and activities intended for prospective alternative fuel consumers, fuel marketers, and others in order to

[7] R.C. Chapter 166.

[8] R.C. Chapter 184.

[9] R.C. 149.311.

[10] R.C. 5709.87.

[11] R.C. 5709.88.

increase the availability and use of alternative fuel. At present the only kinds of alternative fuels to which the program applies are blended biodiesel, blended gasoline, and compressed air used in air-compression driven engines.

Under the bill, the Department of Development's grant program is expanded to include all the kinds of alternative fuels to which the Fleet Management Program of the Department of Administrative Services applies. Under the Fleet Management Program, DAS is required to ensure that all new motor vehicles purchased or leased by the state for use by a state agency are capable of using an alternative fuel except where emergency or exigent circumstances exist and except where doing so cannot be done economically or would not meet the energy conservation and exhaust emissions criteria described in DAS rules. Moreover, all motor vehicles owned or leased by the state that are capable of using an alternative fuel must use an alternative fuel if it is reasonably available at a reasonable price. The specific alternative fuels to which the Fleet Management Program applies are "E85 blend fuel"; compressed air; blended biodiesel; natural gas; liquefied petroleum gas; hydrogen; any power source, including electricity; and any other fuel that the United States Department of Energy determines by final rule to be substantially not petroleum and that yields substantial energy security and environmental benefits.

DEPARTMENT OF COMMERCE

- Authorizes an S liquor permit to be issued to certain brand owners and importers of beer, in addition to wine as in existing law, located inside or outside Ohio to allow those owners and importers to sell beer to personal consumers.

- Exempts from the existing $300 supplier registration fee manufacturers that produce and ship beer into Ohio and that hold an S liquor permit.

- Specifies that an S permit holder that does not sell its beer to wholesale distributors of beer in Ohio is not required to submit to the Division of Liquor Control territory designation forms.

- Requires an S permit holder who sells wine to pay the tax on wine that is used in part to support Ohio's grape industries.

- Allows an Ohio resident or a member of the United States armed forces who is 21 years of age or older to bring into the state for personal use not more than four and one-half liters of wine or 288 ounces of beer in any 30-day period.

- Exempts such a person from any tax consent fee when the person physically possesses and accompanies the wine or beer into the state.

- Revises what constitutes an outdoor performing arts center for purposes of on-premises consumption of wine by reducing the required acreage of such a center.

S liquor permit

(R.C. 4301.10 and 4303.232)

Shipment of beer

The bill allows a beer brand owner, importer, or designated agent of either of those to sell beer to personal consumers. It does so by authorizing the existing S liquor permit, which provides for the sale of wine to personal consumers, to be issued to a person that is the brand owner or United States importer of beer or is the designated agent of a brand owner or importer for all beer sold in Ohio for that owner or importer. Currently, an S liquor permit can only be issued to those persons and certain manufacturers regarding wine.

Under the bill, existing provisions governing S liquor permits apply to beer brand owners, importers, and designated agents of either of those. Those provisions include payment of a $25 permit fee and requirements to keep beer shipment records, collect and pay applicable beer taxes, and use H permit holders to ship beer. The bill expands the definition of "personal consumer" to include an individual who is at least 21 years of age, is an Ohio resident, does not hold an Ohio liquor permit, and intends to use beer purchased in accordance with the bill for personal consumption only and not for resale or other commercial purposes.

Additionally, the bill exempts from the existing $300 supplier registration fee manufacturers that produce and ship beer into Ohio and that hold an S liquor permit. It also specifies that an S permit holder that does not sell its beer to wholesale distributors of beer in Ohio is not required to submit to the Division of Liquor Control territory designation forms. Currently, those exemptions only apply with regard to wine.

Shipment of wine

The bill requires an S liquor permit holder who sells wine to pay the tax on wine that is used in part to support Ohio's grape industries. That tax is in addition to other taxes on wine currently collected and paid by the permit holder, including state and local taxes levied on wine sales and state retail sales and use taxes.

Importation of beer or wine for personal use

(R.C. 4301.20)

The bill allows an Ohio resident or a member of the United States armed forces who is 21 years of age or older to bring into the state for personal use not more than four and one-half liters of wine or 288 ounces of beer in any 30-day period. It also exempts such a person from any tax consent fee when the person physically possesses and accompanies the wine or beer into the state. Currently, such a resident or member of the armed forces may bring into the state for personal use not more than one liter of spirituous liquor in any 30-day period. Additionally, such a person is exempt from any tax consent fee under the above circumstances.

Wine at outdoor performing arts centers

(R.C. 4301.62)

The bill revises what constitutes an outdoor performing arts center for purposes of on-premises consumption of wine by reducing the required acreage of such a center. For purposes of an existing statute that allows a person, under specified circumstances, to have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the D-2 permit holder if the premises for which the D-2 permit is issued is an outdoor performing arts center, the bill specifies that an outdoor performing arts center is a center that is located on not less than 150 acres, rather than not less than 800 acres as in existing law, and that is open for performances from April 1 to October 31 of each year. The bill retains the following additional conditions:

(1) The person is attending an orchestral performance; and

(2) The D-2 permit holder grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

A D-2 liquor permit may be issued under existing law to allow retail sale of wine or mixed beverages by individual glass or in containers for on- or off-premises consumption.

DEPARTMENT OF TAXATION

- Exempts from the commercial activity tax certain in-kind exchanges of petroleum products between motor fuel dealers.

- 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).

- Permits, for a limited time, the abatement of unpaid property taxes, penalties, and interest owed on state-owned property that would have been tax-exempt except for a failure to comply with certain tax exemption procedures.

CAT exemption for receipts from motor fuel exchanges

(R.C. 5751.01; Section 757.10)

The bill exempts certain in-kind exchanges of petroleum products between motor fuel dealers from the commercial activity tax. Under existing law, the commercial activity tax is levied on a business' annual taxable gross receipts. Businesses with annual taxable gross receipts between $150,000 and $1 million pay an annual minimum tax of $150; businesses with over $1 million in annual gross receipts pay the $150 minimum tax plus 0.26% of the gross receipts exceeding $1 million.

Generally, a business' annual "gross receipts" equals the total amount realized by the business during the tax year, without deduction for the cost of goods sold or other expenses, from activities that contribute to the production of the business' gross income.

Under the bill, gross receipts from certain described exchanges of petroleum products between licensed motor fuel dealers are not taxable gross receipts. To qualify, the exchanging motor fuel dealers must each agree that neither will receive monetary compensation for the value of the exchanged products except to compensate for differences in the location or grade of the products. In addition, delivery of the petroleum products must occur at a refinery, terminal, pipeline, or marine vessel. Amounts that a motor fuel dealer does receive as compensation for differences in the location or grade of exchanged products continue to be taxable gross receipts. Certain fees arising from an exchange, such as pipelines security fees or handling, lubricity, dye, and additive injections fees, also remain taxable.

The exemption applies retrospectively to any tax year beginning on or after July 1, 2005, which is the original inception date of the commercial activity tax. The bill states that the amendment "is intended to clarify" existing law.

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 tax[12] 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 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.[13] 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.

Temporary state property tax abatement

(Section 757.20)

The bill provides a temporary procedure whereby certain "qualified property" may be exempted from taxation, and all past-due taxes, penalties, and interest may be abated, even if more than three years' worth of past-due taxes have accrued because an exemption application was not filed as required under continuing permanent law. Under the bill, the "qualified property" eligible for the abatement and exemption is real property owned by the state and used for a public purpose.

To qualify for the special abatement and exemption, current owners of qualified property are required to apply to the Tax Commissioner within 12 months after the bill's effective date. The application must include the name of the county in which the property is located; a legal description of the property; its taxable value; the amount of

[12] R.C. 5735.06.

[13] R.C. 5735.141.

the unpaid taxes, penalties, and interest; the date of acquisition of title to the property; the use of the property during the time the unpaid taxes accrued; and any other information required by the Commissioner. Upon the request of the applicant, any of this information must be supplied by the county auditor. Property owners also must obtain and include with the application a certificate from the county treasurer indicating that all special assessments have been paid in full, and that any taxes, penalties, and interest that were charged before the property was used for the exempt purpose have been paid in full.

If the Tax Commissioner determines that the property qualifies for the special abatement and exemption under the terms of the bill, the Commissioner must issue an order directing that the property be placed on the list of exempt property and that all unpaid taxes, penalties, and interest be abated for every year the property qualified for exemption.

If, however, the Tax Commissioner determines that the property currently is being used for a purpose that would foreclose its right to exemption, the Commissioner must deny the application. And, if the Commissioner finds that the property is not entitled to the special abatement and exemption for any of the years for which the abatement and exemption are sought, the Commissioner is required to order the county treasurer to collect all of the taxes, penalties, and interest due on the property for those years.

The bill permits the Tax Commissioner to apply these provisions to any qualified property that is the subject of an application for exemption pending on the bill's effective date, without requiring the property owner to file an additional application, and to qualified property that is the subject of an application for exemption filed on or after the bill's effective date and within 12 months after the effective date, even if the application does not expressly request abatement of unpaid taxes, penalties, and interest.

MISCELLANEOUS

- Eliminates fees paid to the Public Utilities Commission of Ohio for shipments, exceeding a certain quantity, of radioactive materials.

- Eliminates a requirement that the "carrier" of a shipment, exceeding a certain quantity, of radioactive materials notify the Emergency Management Agency within the Department of Public Safety of the shipment.

- Permits the Speaker of the House of Representatives and the Senate President (respectively) to designate the vice-chairpersons of the finance committees to serve on the Controlling Board instead of the chairpersons.

- 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.

- Increases the threshold at which a port authority must open construction work to competitive bidding from $25,000 at present to the greater of $100,000 or, beginning on January 1, 2012, $100,000 as adjusted for inflation every two years.

- Requires a port authority to restore, relocate, duplicate, or pay compensation for any appropriated property or facilities of a cable operator.

- Expands the kinds of projects that a transportation improvement district may construct and operate to include (1) parking facilities and (2) freight rail tracks and necessarily related freight rail facilities.

- 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 an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device to be located in the front windshield of a passenger car or commercial car as an exception to the general prohibition against the display of material on the windshield.

- Authorizes the conveyance of state-owned land to the city of Massillon.

- Authorizes the conveyance of state-owned land in Fairfield County to Taylor Chevrolet, Inc.

- Authorizes the conveyance of real estate owned by Kent State University to Delta Upsilon KSU Alumni Chapter, Inc.

- Authorizes a board of county commissioners, or a joint board of county commissioners, to use specified existing statutory ditch maintenance procedures and requirements to maintain soil and water conservation district improvements.

- Authorizes a board of county commissioners to adjust the permanent base of a ditch improvement that is used to calculate maintenance fund assessments.

- Requires notice to be sent to each owner that would be affected by the adjusted permanent base 30 days before the hearing at which the board will consider the new permanent base.

- Prohibits the spending of money received under the American Recovery and Reinvestment Act of 2009 on signs that identify the source of specific project funding.

- Makes the Ohio Turnpike Commission responsible for the "major maintenance and repair and replacement" of grade separations at intersections of the Ohio Turnpike with county and township roads in a county that, as of January 1, 2011, had closed one or more roads as a result of grade separation failure.

- Prohibits a sheriff or police chief from charging to file an affidavit related to disposing of a vehicle that the sheriff or chief has ordered into storage.

Shipments of radioactive materials

(R.C. 4905.801 (repealed); R.C. 4163.07; conforming changes in R.C. 4905.802 (renumbered 4905.801))

Elimination of shipment fees

The bill eliminates fees currently required to be paid to the Public Utilities Commission of Ohio (PUCO) for shipments of radioactive materials meeting or exceeding the federal highway route controlled quantity. This quantity is calculated based on values of radioactive units of certain isotopes; it varies based on the form and class of radioactive material.[14] Current law requires these fees for any motor carrier or railroad transporting such a shipment within, into, or through Ohio. The fees are currently:

- $2,500 per shipment by a motor carrier;

- $4,500 for the first casket by rail ($3,000 for each additional cask in the same shipment).

Modification of notice requirement

The bill also removes a requirement that a "carrier" of such a shipment give prior notice to the Emergency Management Agency within the Department of Public Safety.

[14] 49 C.F.R. 173.403 and 173.435.

Current law requires that the "carrier or shipper" provide this notice; neither "carrier" nor "shipper" is defined. Current law also specifies fines for noncompliance with this requirement. The bill does not eliminate these fines, which can be up to ten times as much as the shipment fees the bill is eliminating. The fines (and, under current law, the shipment fees) are to be deposited into the Radioactive Waste Transportation Fund, which fund is to be used for various purposes relating to the shipments, such as local escort expenses and training of emergency response providers, as determined by the PUCO.

Controlling Board membership

(R.C. 127.12)

The bill permits the vice-chairpersons of the House Finance and Appropriations and Senate Finance Committees to serve on the Controlling Board. Current law requires the *chairpersons* of those committees to serve on the Board. The bill permits the Speaker of the House of Representatives and the Senate President (respectively) to designate the vice-chairperson to serve instead of the chairperson.

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.

Port authority competitive bid threshold

(R.C. 4582.12 and 4582.31)

The bill increases the contract amount for the construction by a port authority of a building, structure, or other improvement above which the port authority must utilize competitive bidding. At present the threshold amount is $25,000. Under the bill, it is to be $100,000 or, commencing January 1, 2012, $100,000 plus an amount based on the average increase for the prior two years in the Producer Price Index for Material and Supply Inputs for New Nonresidential Construction as determined by the United States Bureau of Labor Statistics. The inflation adjustment is to be made by the Director of Commerce on January 1 of every even-numbered year.

Port authority appropriation of property of cable operators

(R.C. 4582.31)

The bill requires that if a port authority takes or disturbs property or facilities of a cable operator that are necessary and convenient to the cable operator's operations, the port authority must restore, relocate, duplicate, or, upon the cable operator's election, pay compensation for the property or facilities. Additionally, any new facilities or location must be of at least comparable utilitarian value and effectiveness. Relocation must not impair the cable operator's ability to compete in the original area of operation. The relocated property or facilities also must be available for use by, and its title transferred to, the cable operator before the port authority can take title to the appropriated property. The bill defines "cable operator" the same as in the federal Cable Communications Policy Act of 1984, as amended by the Telecommunications Act of 1996. Current law requires the same protections for property or facilities of state agencies, political subdivisions, public utilities, and common carriers.

Transportation improvement district projects

(R.C. 5540.01)

The bill expands the kinds of projects that a transportation improvement district (TID) may construct and operate to include (1) parking facilities and (2) freight rail tracks and necessarily related freight rail facilities.

At present a TID's jurisdiction is confined to streets, highways, and related facilities. A TID may purchase, construct, maintain, repair, sell, exchange, police, operate, or lease its projects; establish and collect tolls or user charges for them; issue revenue bonds; use federal, state, or local grants for or in aid of the construction, maintenance, or repair of its projects; appropriate property for its projects; and levy special assessments against lots and parcels of land in the area to be benefited by the improvement. A TID is created by a board of county commissioners and governed by a board of trustees. Under existing law, no funds appropriated to the Department of Transportation may be used to provide funds to more than five TIDs.

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.

Installation of certain electronic devices in a car's front windshield

(R.C. 4513.24)

Existing law generally prohibits the display of material on the front windshield of a motor vehicle other than a bus but exempts a sign, poster, or decal that is not more than four inches in height and six inches in width that is located in the *lower* left-hand or right-hand corner of the windshield. The bill provides that the prohibition does not apply to a person who is driving a passenger car or a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device does not restrict the vehicle operator's sight lines to the road and highway signs and signals. In addition, in the case of a passenger car, the device must not conceal the vehicle identification number. In the case of a commercial car, the device must be mounted not more than six inches below the upper edge of the windshield and outside the area swept by the vehicle's windshield wipers.

Land conveyance to the city of Massillon

(Section 753.10)

The bill authorizes the Governor to execute a deed in the name of the state conveying to the city of Massillon ("grantee"), and its successors and assigns, all of the state's right, title, and interest in 8.622 acres of real estate located in the city of Massillon, Stark County, and which is part of a 40-acre tract that was conveyed to the Ohio Youth Commission.

The grantee must pay $15,000 to the state at closing in consideration for the conveyance plus the costs of the conveyance. The consideration derives from a mutual agreement between the state and the grantee through an executed offer to purchase.

The grantee also must do all of the following:

(1) Construct and maintain, at the grantee's sole expense, a detention basin on the real estate;

(2) Permit the state to discharge water into the detention basin; and

(3) Maintain or relocate the state's existing storm sewer connections.

The real estate must be sold as an entire tract and not in parcels. Upon payment of the purchase price, the Auditor of State, with the assistance of the Attorney General, must prepare a deed to the real estate. The deed must state the consideration and the conditions, and must be executed by the Governor in the name of the state,

countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee must present the deed for recording in the Office of the Stark County Recorder and must pay the recordation costs.

Authority to make the conveyance described above expires one year after the effective date of the section of law in which it is expressed.

Land conveyance to Taylor Chevrolet

(Section 753.20)

The bill provides for the conveyance of real estate, formerly used as a highway patrol post, to the neighboring automotive dealership. Specifically, the bill authorizes the Governor to execute a deed in the name of the state conveying to Taylor Chevrolet, Inc., its successors and assigns, all of the state's right, title, and interest in Ohio State Highway Patrol Post 23, 1125 Ety Road, in the city of Lancaster, county of Fairfield, state of Ohio, and in the land on which the post is situated.

The bill requires the Auditor of State, with the assistance of the Attorney General, to develop a legal description of the real estate when preparing the deed. The description must be in conformity with the actual bounds of the real estate.

Consideration for conveyance of the real estate must be agreed upon between the Superintendent of the State Highway Patrol and Taylor Chevrolet.

The deed may contain any condition or restriction that the Governor determines is reasonably necessary to protect the state's interests.

Taylor Chevrolet must pay all costs associated with the purchase and conveyance of the real estate, including recordation costs of the deed.

The bill requires the Auditor of State, with the assistance of the Attorney General, to prepare a deed to the real estate upon payment of the purchase price. The deed must state the consideration and any conditions or restrictions and must be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to Taylor Chevrolet. Taylor Chevrolet must present the deed for recording in the Office of the Fairfield County Recorder.

The bill requires all proceeds of the conveyance of the real estate to be deposited into the state treasury to the credit of the State Highway Safety Fund.

Authority to make the conveyance described above expires one year after the effective date of the section of law in which it is expressed.

Delta Upsilon KSU Alumni Chapter land conveyance

(Section 753.30)

The bill authorizes the Governor to execute a deed in the name of Kent State University conveying, to Delta Upsilon KSU Alumni Chapter, Inc., its successors and assigns, all of the university's right, title, and interest in real estate described in the bill. The real estate is to be conveyed subject to all covenants, restrictions, and conditions contained in the prior deed, except as they may be modified in accordance with their terms.

Consideration for conveyance of the real estate is to be determined by Kent State University and Delta Upsilon KSU Alumni Chapter, Inc.

Delta Upsilon KSU Alumni Chapter, Inc., must pay the costs of the conveyance.

The bill requires the Auditor of State, with the assistance of the Attorney General, to prepare a deed to the real estate. The deed must state the consideration and the conditions. The deed must be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to Delta Upsilon KSU Alumni Chapter, Inc., 83 Hawthorne Avenue, Akron, Ohio 44303. Delta Upsilon KSU Alumni Chapter, Inc., must present the deed for recording in the Office of the Portage County Recorder.

Authority to make the conveyance described above expiries three years after the effective date of the section of law in which it is expressed.

Soil and water conservation district improvements

(R.C. 1515.29)

The bill authorizes a board of county commissioners, or a joint board if one has been appointed, to use procedures and requirements governing assessments, maintenance and cleaning, and inspections that are established in the Ditch Maintenance Fund Law in order to maintain soil and water conservation district works of improvement. The procedures and requirements in that Law include authorization for an owner who performs maintenance on a portion of a drainage improvement to petition for a reduced maintenance assessment and authorization for the levy of an additional repair assessment to rectify damage caused to a drainage improvement by the negligent act of an owner.

Current law requires a board or a joint board to maintain the works of improvement constructed by the board for a soil and water conservation district. The board may contract with or authorize the supervisors or joint board of supervisors of a district to perform maintenance on the works of improvement.

Ditch maintenance fund assessments

(R.C. 6137.112)

The bill authorizes a board of county commissioners to request the county engineer to estimate the construction cost of an existing ditch improvement as if that improvement were to be constructed at the time of the permanent base review that is required by current law (see below). The permanent base is the original schedule of benefit assessments, determined using the original cost of constructing the improvement. The board's request must occur at the review of the permanent base of the improvement for maintenance fund assessments that is required after six annual maintenance fund assessments have been made on owners benefitting from the improvement. The bill requires the clerk of the board, at least 30 days before a hearing at which the board will consider the estimate as the construction cost of the improvement, to send notice to each owner that would be affected. The notice must be sent by certified or first class mail. For each improvement, all individual notices must be sent by the same type of mail. The bill requires "legal notice" to be printed in plain view on an envelope. The notice must state the amount of the present permanent base for maintenance assessment, the proposed new permanent base amount with respect to the owner, and the date of the hearing on the proposed change.

If the board, by adoption of a resolution at the hearing required under the bill, approves the estimate as the construction cost of the improvement in lieu of the original construction cost, the estimate must be the permanent base that is used to calculate maintenance fund assessments for owners who benefit from the improvement. The approved estimate of construction cost must serve as the permanent base for purposes of the Ditch Maintenance Fund Law until such time as it is revised in accordance with the bill's provisions.

Under current law, a board of county commissioners is required to maintain a fund for the repair, upkeep, and permanent maintenance of each ditch or other drainage improvement constructed under the Single County Ditch Law. Upon the review of the permanent base as discussed above, the board may increase or decrease the benefit apportionments of each of the owners in accordance with changes in benefits that have occurred during the previous six years.

American Recovery and Reinvestment Act signage

(R.C. 121.531)

The bill prohibits any recipient or distributor of money received under the "American Recovery and Reinvestment Act of 2009" from spending it to purchase, produce, erect, or maintain signs identifying the act as the source of specific project funding.

Responsibility for the upkeep of grade separations in counties where the Ohio Turnpike intersects with county and township roads

(R.C. 5537.051)

The bill provides that in any county that, as of January 1, 2011, had closed one or more roads as a result of grade separation failure at intersections of a turnpike project (the Ohio Turnpike) with a county or township road, the Turnpike Commission is responsible for the major maintenance and repair and replacement of failed grade separations and the governmental entity with jurisdiction over the county or township road is responsible for routine maintenance of such failed grade separations. Major maintenance and repair and replacement of these failed grade separations is to commence not later than July 1, 2011 and to be completed before December 31, 2014.

In the context of the Ohio Turnpike, grade separation refers to the placement at different levels or heights (that is, grades) of intersecting roads so that traffic will not be disrupted where they cross. This kind of grade separation is usually accomplished through the use of overpasses and underpasses.

As used in the bill, "major maintenance and repair and replacement" relates to all elements constructed as part of or required for a grade separation, including bridges, pile, foundations, substructures, abutments, piers, superstructures, approach slabs, slopes, embankments, fences, and appurtenance. By contrast, "routine maintenance" refers to activities like clearing debris, sweeping, snow and ice removal, wearing surface improvements, marking for traffic control, box culverts, drainage facilities including headwalls and underdrains, inlets, catch basins and grates, guardrails, minor and emergency repairs to railing and appurtenances, and emergency patching.

Disposal of a vehicle in the possession of law enforcement

(R.C. 4513.61)

When a sheriff or police chief orders into storage a motor vehicle, including a junk motor vehicle, that obstructs traffic or that has been left on a public street, other property open to the public for vehicular travel, or inside the right-of-way of a road or

highway, for 48 hours or longer without notification to the sheriff or police chief of the reason the vehicle was left there, the sheriff or police chief can order it into storage. The sheriff or police chief must then cause the owner of the storage facility to make a search of the records of the Bureau of Motor Vehicles in an attempt to determine the owner and any lienholder and, if known, notify the person by certified mail. If the vehicle is not claimed within ten days of the mailing and the vehicle is to be disposed of at public auction, the sheriff or chief must then file with the clerk of courts of the county where the storage facility is located an affidavit showing compliance with the notice requirements, and the clerk is required to issue a salvage certificate of title to the sheriff or chief without charge. The bill provides that the affidavit filed by the sheriff or the chief of police is also to be without charge − to any party.

HISTORY

ACTION	DATE
Introduced	02-22-11
Reported, H. Finance & Appropriations	03-09-11
Passed House (95-0)	03-10-11
Reported, S. Highways & Transportation	---

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