Ohio Legislative Service Commission

Final Analysis

Various LSC staff

Am. Sub. H.B. 51

130th General Assembly
(As Passed by the General Assembly)
(Excluding appropriations, fund transfers, and similar provisions)

Reps. McGregor and Patmon, Wachtmann, Amstutz, Beck, Grossman, Hackett, Huffman, Perales, Sears, Sprague, Stebelton, Terhar, Batchelder

Sens. Manning, Balderson, Beagle, Brown, Cafaro, Hite, Hughes, Lehner, Patton, Peterson, Schaffer, Uecker

Effective date: July 1, 2013; certain provisions effective April 1, 2013; certain provisions effective January 1, 2017, to maintain the act's provisions after that date; one item vetoed*

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* The Governor vetoed one appropriation item to the Department of Transportation, providing state reimbursement of railroads for maintenance of roadways. For information about the vetoed item, see page 80 of the LSC Comparison Document, As Enacted; the LSC Budget in Detail, As Enacted; or the LSC Greenbook. These documents are available at www.lsc.state.oh.us; click on "Budget Bills & Related Documents" and then on "Transportation."

TURNPIKE AND INFRASTRUCTURE COMMISSION

Infrastructure projects

- Authorizes the Ohio Turnpike Commission (renamed as the Ohio Turnpike and Infrastructure Commission) to issue revenue bonds for infrastructure projects.

- Requires that infrastructure projects first must be approved by the Transportation Review Advisory Council (TRAC) and then be recommended by the Director of Transportation and evaluated and approved by the Commission.

- Requires not less than 90% of the total cost of infrastructure project funding requests that are recommended by the Director of Transportation to be used for infrastructure projects at least partially located within 75 miles of the Ohio turnpike system.

- Generally requires an infrastructure project to have (1) an anticipated benefit on the system of public highways in Ohio and (2) a transportation-related nexus with and relationship to the Ohio turnpike system and the Ohio turnpike and infrastructure system.

- Specifies criteria that the rules of the Commission must include to determine if an infrastructure project has the required nexus and relationship and when determining whether to approve an application for infrastructure project funding.

- Until 2023, generally prohibits the Commission from increasing the existing toll rates for passenger vehicles when (1) the tolls are collected and remitted in accordance with a multi-jurisdiction electronic toll collection agreement (E-ZPass) and (2) the distance traveled is 30 miles or less; but allows the Commission to increase such tolls as necessary to comply with covenants in bond proceedings existing before July 1, 2013.

- Generally separates the Commission duties related to "turnpike projects" and "infrastructure projects."

- Specifies that a determination to fund an infrastructure project is conclusive and incontestable.

- Specifies that infrastructure bond proceeds, after expenses and required debt service payments, be exclusively used to pay the cost of approved infrastructure projects, but allows income earned by an infrastructure fund to be used by the Commission towards the payment of bond service charges.

- Specifies that in paying the cost of a turnpike project, the Commission may use funds specifically acquired for that turnpike project or excess funds available from any other turnpike project and removes language restricting the use of toll revenue to the turnpike project generating the revenue.

- Revises the law on fixing and adjusting tolls for turnpike projects that continue to be toll roads after payment of outstanding bonds.

Commission membership and other general provisions

- Modifies the membership of the renamed Ohio Turnpike and Infrastructure Commission to: (1) add two new public members appointed by the Governor, (2) set terms for members appointed after July 1, 2013 at five years, rather than eight, and (3) remove the Director of the Ohio Development Services Agency.

- Makes all voting Commission members, including the Director of Transportation, eligible to be elected as the chairperson or vice-chairperson of the Commission.

- Modifies the general purposes of the Commission to specify that it may finance infrastructure projects that improve and enhance mobility on the system of public highways in Ohio.

Repeal of turnpike outsourcing laws

- Repeals authority (1) allowing the Director of Budget and Management and Director of Transportation to execute a contract with a private entity for the purpose of outsourcing turnpike-related highway services, and (2) granting the Director of Transportation the authority to exercise the powers of the Commission.

- Eliminates the Highway Services Fund, which was created to receive money from the contract outsourcing highway services.

Sale of tolling equipment

- Authorizes the Ohio Turnpike and Infrastructure Commission to enter into agreements with retail locations, specifically including deputy registrars, to make electronic tolling equipment (transponders) available to the general public at such locations, for a reasonable fee established by the Commission.

- Allows deputy registrars to make electronic tolling equipment (transponders) available to the general public under an agreement with the Turnpike and Infrastructure Commission for such fees as are established by the Commission, without the prior approval of the Registrar of Motor Vehicles.

Sovereign immunity

- Establishes that the Commission is a political subdivision for purposes of the Political Subdivision Sovereign Immunity Law.

Other turnpike provisions

- Allows the Commission to adopt rules governing citations for the evasion of toll payments.

- Modifies the authority of the Ohio Turnpike and Infrastructure Commission in regard to the business logo sign program by removing explicit language allowing the Commission to contract with a private person to operate the program in accordance with rules it adopts.

- Makes the Commission subject to certain general public contracting provisions as a "public authority."

- Not later than July 1, 2013, requires the Director of Transportation to establish a turnpike mitigation program to assist political subdivisions through which a portion of the Ohio Turnpike passes and address concerns resulting from the proximity of the turnpike.

Turnpike and infrastructure projects

(R.C. 5537.01, 5537.02, 5537.03, 5537.04, 5537.05, 5537.051, 5537.06, 5537.07, 5537.08, 5537.09, 5537.11, 5537.12, 5537.13, 5537.14, 5537.15, 5537.16, 5537.17, 5537.18, 5537.19, 5537.20, 5537.21, 5537.22, 5537.24, 5537.25, 5537.26, 5537.27, 5537.28, and 5537.30; R.C. 126.60, 126.601, 126.602, 126.603, 126.604, and 126.605 (repealed); and conforming changes in R.C. 153.65, 718.01, 2937.221, 3354.13, 3355.10, 3357.12, 5503.31, 5503.32, 5513.01, 5533.31, 5728.01, 5735.05, 5735.23, 5739.02, 5747.01, and 5751.01)

Overview

The act renames the Ohio Turnpike Commission as the Ohio Turnpike and Infrastructure Commission and authorizes the Commission to issue revenue bonds to provide funding for infrastructure projects. In general, infrastructure projects must involve public highways and are selected for funding through a three-step process, as described in detail below. In order to be considered for funding by the Commission, the project first must be reviewed and recommended by the Transportation Review Advisory Council (TRAC). Next, the Director of Transportation must submit an application to the Commission. Lastly, the Commission may approve an application based on criteria that it establishes by rule, which generally must have a required nexus and relationship to the turnpike system and the turnpike and infrastructure system.

Under the act, not less than 90% of the total moneys that are deposited into an infrastructure fund or funds (infrastructure bond proceeds) must be expended on infrastructure projects with at least a portion of the project located within 75 miles of the Ohio turnpike system. Additionally, the act limits toll increases over the next ten years for persons in passenger vehicles who use the electronic toll collection system (E-ZPass) and travel for less than 30 miles.

The act also repeals all authority granted in 2011 that allows the Director of Budget and Management and Director of Transportation to execute a contract with a private entity for the purpose of outsourcing turnpike-related highway services. Also under the provisions being repealed, the Director of Transportation was given the authority to exercise the powers of the Ohio Turnpike Commission.

Infrastructure project selection

(R.C. 5537.01, 5537.04, and 5537.18)

The act requires the Commission to adopt rules establishing the procedures and criteria under which the Commission may approve an application for infrastructure project funding received from the Director of Transportation. The rules must require an infrastructure project to have (1) an anticipated benefit on the system of public highways in Ohio and (2) a transportation-related nexus with and relationship to the Ohio turnpike system and the Ohio turnpike and infrastructure system.

The Commission must include the following criteria in the rules and use the criteria to determine if an infrastructure project has the required nexus and relationship to the Ohio turnpike system and the Ohio turnpike and infrastructure system and also when determining whether to approve an application for infrastructure project funding:

(1) A physical proximity to and a direct or indirect physical connection between the infrastructure project and the Ohio turnpike system;

(2) The impact on traffic density, flow through, or capacity on the Ohio turnpike system;

(3) The impact on the Ohio turnpike system toll revenue or other revenues;

(4) The impact on the movement of goods and services on or in the area of the Ohio turnpike system; and

(5) The enhancement or improvement of access to, use of, and egress from the Ohio turnpike system and access to and from connected areas of population, commerce, and industry.

Continuing law defines "Ohio turnpike system" as all existing and future turnpike projects under the jurisdiction of the Commission. The act defines "Ohio turnpike and infrastructure system" as turnpike projects and infrastructure projects funded by the Commission existing on and after July 1, 2013, that facilitate access to, use of, and egress from the Ohio turnpike system, and also facilitate access to and from areas of population, commerce, and industry that are connected to the Ohio turnpike system.

When the Director of Transportation submits an infrastructure project funding application to the Commission, the act requires that the application be limited only to infrastructure projects that previously have been reviewed and recommended by the Transportation Review Advisory Council (TRAC). The Director, in selecting infrastructure projects for which applications will be made to the Commission for infrastructure project funding, must consider the physical proximity of the project to the Ohio turnpike system.

The act requires that not less than 90% of the total cost of the infrastructure project funding requests submitted by the Director must be for infrastructure projects that are at least partially located within 75 miles of the Ohio turnpike system.

Additionally, the act allows the Director, by rule, to establish guidelines under which an application for infrastructure project funding may combine separate projects if the combination of projects is necessary to satisfy any funding threshold required for TRAC approval and the individual projects have a nexus to the Ohio turnpike system and also address a critical public safety concern or have a significant economic impact. TRAC approval standards are established by rule; the current funding threshold for major new capacity projects generally is $12 million. The TRAC is an appointed council that is chaired by the Director of Transportation and that assists in developing Department of Transportation (ODOT) project selection and approves funding for major new projects. The act declares that nothing in the infrastructure project selection interferes with the authority of the Director of Transportation in regard to the TRAC procedures (Revised Code Chapter 5512.).

After receiving an application from the Director, the Commission must evaluate the application for infrastructure project funding in accordance with the procedures and criteria established in its rules. A determination or approval by the Commission is conclusive and incontestable. The act grants the Commission express authority to approve funding and authorize agreements with ODOT for the funding of infrastructure projects recommended by the Director.

Toll restrictions

(R.C. 5537.13 and 5537.21)

Except as necessary to comply with covenants in bond proceedings in existence before July 1, 2013, for calendar years 2013 through 2023, the act prohibits the Commission from increasing the existing toll rates for any class of passenger vehicle, when (1) the tolls are collected and remitted in accordance with a multi-jurisdiction electronic toll collection agreement (E-ZPass), and (2) the distance traveled is 30 miles or less.

Infrastructure project funding general provisions

(R.C. 5537.03, 5537.08, 5537.12, 5537.13, and 5537.21)

The act specifies that the financing of infrastructure projects that improve and enhance mobility in Ohio is an express purpose underlying the general authority of the Ohio Turnpike and Infrastructure Commission. The act also restates this general statement of purpose to establish that the purpose of the Commission is to promote the agricultural, recreational, tourism, and commercial, industrial, and economic development of Ohio. The Commission is expressly authorized to provide the infrastructure funds to pay the cost or a portion of the cost of infrastructure projects. The act specifically requires that the costs of infrastructure projects be funded exclusively out of the infrastructure fund for that infrastructure project.

The act authorizes the use of Commission revenue (primarily tolls) to support bonds issued by the Commission to fund infrastructure projects and generally uses the retained bond authority of the Commission for this function. To fund the bonds for infrastructure projects, the act revises bond and tolling provisions generally retained by the act.

An "infrastructure project" for which the Commission may issue bonds is generally defined by the act as any public highway (including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, and those portions of connecting public roads that serve interchanges), that is constructed or improved with infrastructure funding approved by the Commission. For purposes of an infrastructure project, "cost" is broadly defined in the same manner as in law retained by the act; it generally includes any expense necessary or incident to the construction of a project and also includes the acquisition of property acquired by the owner of the infrastructure project. An infrastructure project owner is the public entity for whom an infrastructure project is funded by the Commission.

For purposes of the act, "infrastructure fund" means the fund or funds created by the bond proceedings, which must be used to pay or defray the cost of approved infrastructure projects. The proceeds of bonds issued for the payment of the costs of infrastructure projects, net of the payment of all financing expenses and deposits into debt service reserves or other special funds as may be required in the applicable bond proceedings, must be deposited to the infrastructure fund or funds and must be exclusively used to pay the cost of infrastructure projects approved by the Commission. However, income earned by the infrastructure fund may be used by the Commission towards the payment of bond service charges.

As a general matter, the act stipulates that the proceeds of bonds must be used solely to pay the costs of (1) the turnpike project or projects for which such bonds were issued, or (2) for the payment of the costs of an approved infrastructure project. With respect to bonds issued for an infrastructure project, the act requires the proceeds of the bonds to be used exclusively for the payment of the costs of the infrastructure project or projects for which those bonds are issued. Prior law required the proceeds of each issue of turnpike project bonds to be used solely for the payment of the costs of the turnpike project or projects for which the bonds were issued.

The act revises the provision of prior law related to maintaining a turnpike project as a toll road after the bonds issued in connection with that project are paid. Under prior law, generally retained by the act, the Commission may continue to operate a turnpike as a toll road after the outstanding bond service charges related to the project have been paid. Under the act, all revenues received by the Commission for such a turnpike project must be applied and the tolls for such a project must be fixed and adjusted so that all of the revenues relating to that project are in amounts to provide moneys *at least sufficient* (rather than *sufficient* as under prior law) to pay the cost of maintaining, improving, repairing, constructing, and operating the Ohio turnpike system, and for any reserves for those purposes. Under the provision of continuing law generally authorizing the Commission to revise tolls, irrespective of whether there are outstanding bonds, the tolls must be *at least sufficient* to maintain and operate the turnpike system and to pay any unpaid bond service charges on outstanding bonds and for any reserves.

The act allows the Commission, in the bond proceedings, to pledge bond revenue to the payment of bond service charges to secure "the bonds senior or subordinate to or on a parity with bonds" previously or subsequently issued, if and to the extent provided in the bond proceedings. The act removes a provision of prior law that stated, unless the bond proceedings provide otherwise, a bond service fund was required to be a fund for all bonds, without distinction or priority of one over another.

Law retained by the act establishes that tolls are not subject to supervision, approval, or regulation by any state agency other than the Commission. Law also generally unaffected by the act establishes notice and hearing requirements for any increase in toll rates.

As under continuing law for bonds that support turnpike projects, the bonds to support infrastructure projects do not constitute a debt, or a pledge of the faith and credit, of the state or of any political subdivision of the state. The transfer of Commission bonds and the income from bonds is free from taxation within the state.

Law generally unaffected by the act allows the Commission to sell bonds by competitive bid on the best bid after advertisement or request for bids or by private sale in the manner, and for the price, it determines to be for the best interest of the state. However, the act removes a provision of prior law that requires Controlling Board approval of the Commission's determination as to the manner of sale.

The act allows the Commission to spend such moneys as it considers necessary for studies of any infrastructure project, whether proposed, under construction, or in operation. As under continuing law for turnpike projects, the Commission may employ anyone it considers necessary to properly implement the studies and may pay the cost of the studies from revenues or other available funds, including bond proceeds.

Changes to laws governing turnpike projects

(R.C. 5537.28)

To enable the funding of infrastructure projects, the act generally separates "turnpike projects" and "infrastructure projects." Additionally, the act removes the following provisions of prior law that restricted the ability of the Commission to fund projects:

- A prohibition against expending toll revenues that are generated by an existing turnpike project to fund "another turnpike project." Under prior law, this prohibition generally allowed only infrastructure improvements on the Ohio turnpike and connecting roadways within one mile away from an Ohio turnpike interchange.

- A prohibition against the Commission expending any toll revenues generated by the Ohio turnpike to pay for bonds or bond anticipation notes issued by the Commission for the cost of "another turnpike project" or a new turnpike project or the cost of the operation, repair, improvement, maintenance, or reconstruction of any turnpike project other than the project that generated those toll revenues.

- A requirement that Commission projects be constructed, operated, maintained, and repaired entirely with funds generated by that project or otherwise specifically acquired for that project.

In place of these prohibitions, the act requires that a turnpike project be constructed, operated, maintained, and repaired with funds specifically acquired for that project or with excess funds available from any other turnpike project. Under the act, "any turnpike project" excludes infrastructure projects.

Commission membership and other general provisions

(R.C. 5537.02, 5537.04, 5537.17, and 5537.24)

The renamed Ohio Turnpike and Infrastructure Commission consists of ten members, rather than nine as under prior law. The Governor appoints six members under the act, rather than four, and no more than three of the Governor's appointments may be of the same political party. The Governor may appoint persons who reside in different geographic areas of the state, taking into consideration the various turnpike and infrastructure projects. Additionally, members appointed prior to July 1, 2013, serve eight year terms as provided in prior law, while members appointed after that date serve five-year terms.

The act removes the Director of Development Services from the Commission. Accordingly, the remaining members not appointed by the Governor consist of (1) the Director of Transportation, who may vote under continuing law, (2) the Director of Budget and Management, whose status as an ex officio, nonvoting member is not changed by the act, and (3) a member of the Senate appointed by the President of the Senate and a member of the House of Representatives appointed by the Speaker of the House, each of whom, as provided in continuing law, are nonvoting members, must represent a district near the Ohio turnpike, and serve during the remainder of their legislative terms. The act also increases the number of members needed for a quorum and a vote to take action from three to four.

The act allows any voting member of the Commission to be elected as the chairperson or vice-chairperson of the Commission. Under prior law, the voting members elected the chairperson and vice-chairperson from the appointed, voting members. As a result, the Director of Transportation is eligible to be elected as the chairperson or vice-chairperson of the Commission.

Generally, the Commission is established as a "body both corporate and politic." It is an instrumentality of the state and the exercise of its powers in regard to the Ohio turnpike system are held under continuing law to be "essential governmental functions of the state." Under the act, the exercise of Commission powers in regard to entering

into agreements with ODOT to pay the costs of infrastructure projects also are held to be essential functions of the state.

A legal action against the Commission with respect to infrastructure projects specifically must be brought in the Franklin County Court of Common Pleas. With respect to the Ohio turnpike system or Ohio turnpike projects, continuing law requires a legal action against the Commission to be brought in the court of common pleas of the county where "the principal office of the Commission is located" (presently in Cuyahoga County). For both types of projects, notice of a legal action must be served at the Commission's principal office (presently in Berea, Ohio).

Under law generally retained by the act, the Commission makes an annual report with a complete operating and financial statement to the Governor and the General Assembly. The act requires the annual report to include funding of any turnpike projects and infrastructure projects. Additionally, the act requires the Commission, at least annually, to make a report to the Turnpike Legislative Review Committee of those infrastructure projects approved and paid for by the Commission.

Repeal of turnpike outsourcing laws

(R.C. 126.60, 126.601 through 126.605 (repealed))

The act repeals authority granted in 2011 that allows the Director of Budget and Management and Director of Transportation to execute a contract with a private entity for the purpose of outsourcing turnpike-related highway services. The provisions being repealed also (1) grant the Director of Transportation the authority to exercise the powers of the Commission, (2) establish a proposal process requiring General Assembly approval before the release of an invitation to bid, and (3) create the Highway Services Fund, which is to receive money from the contract outsourcing highway services.

Sale of electronic tolling equipment

(R.C. 4503.03 and 5537.04)

The act authorizes the Ohio Turnpike and Infrastructure Commission to enter into agreements with retail locations, including deputy registrars, to allow the general public to acquire electronic toll collection devices (E-ZPass transponders) from those retail locations for such reasonable fees as are established by the Commission. Similarly, the act authorizes deputy registrars to enter into agreements with the Commission to allow the general public to acquire the devices from the deputy registrars. As a general matter, a deputy registrar must have the prior approval of the Registrar of Motor Vehicles to conduct other business at the deputy registrar location. The act specifies that

transponders may be sold by a deputy registrar under an agreement with the Commission, without the prior approval of the Registrar.

Sovereign immunity

The act establishes that the Commission is a political subdivision for purposes of Political Subdivision Sovereign Immunity Law (R.C. Chapter 2744.). As a general matter, the Political Subdivision Sovereign Immunity Law establishes the scope of liability for political subdivisions. The law establishes civil liability and immunity for a subdivision and employees based generally on whether the function being performed at the time in question was governmental or proprietary. Law retained by the act states generally that the Commission is not immune from liability because it exercises an essential governmental function of the state.

Other turnpike provisions

Toll collection and evasion

(R.C. 5537.04 and 5537.16)

Under the act, the Commission is authorized to charge and collect tolls by any method it approves, including manual methods or through electronic technology accepted within the tolling industry.

The act also authorizes the Commission to adopt rules for the issuance of citations either by a policing authority or through administrative means to individuals or corporations that evade the payment of tolls established for the use of any turnpike project. Under continuing law, the Commission adopts bylaws and rules for the control and regulation of traffic on a turnpike project and also to establish liability for failure to comply with toll collection rules. Violation of these bylaws and regulations may be criminal or civil. Just as under continuing law for a civil violation of failure to comply with toll collection, the act specifies that fees or charges assessed by the Commission against an owner or operator of a vehicle as a civil violation of the toll evasion rules are revenues of the Commission.

Business logo sign program

(R.C. 5537.30)

Continuing law generally requires the Commission to establish a business logo sign program for the placement of business logos for identification purposes on directional signs within the turnpike right-of-way. The act eliminates the express rule-making authority for the Commission to contract with any private person to operate, maintain, or market the business logo sign program. Under the language removed by

the act: (1) a contract could allow for a reasonable profit to be earned by the successful applicant, and (2) in awarding a contract, the Commission had to consider the skill, expertise, prior experience, and other qualifications of each applicant.

Although the act removes the language allowing the Commission to act by rule, it generally continues to require that money generated from participating businesses in excess of the direct and indirect costs and any reasonable profit earned by a person awarded a contract to operate, maintain, or market the business logo sign program be remitted to the Commission. The act also retains a provision allowing the Commission to retain all money collected from participating businesses if the Commission operates the program.

General public contracting provisions

(R.C. 9.33 and 153.65)

The act makes the Ohio Turnpike and Infrastructure Commission (as renamed by the act) subject to certain general public contracting provisions by specifying that the Commission is a "public authority" for purposes of those laws. In particular, the Commission is a public authority for purposes of the public contracting provisions that establish standards for hiring a construction manager, including advertising for bids, selection, and contract standards. The Commission also is a public authority for purposes of professional design services (an architect or registered landscape architect or a professional engineer or registered surveyor) or design-build services, including evaluating and selecting firms and any prequalification requirements of a design-build firm's proposed architect or engineer of record. A design-build firm contracted for design-build services by a public authority may perform design, construction, demolition, alteration, repair, or reconstruction work and also may perform professional design services for design-build services even if the design-build firm is not a professional design firm.

Under prior law, the Commission was not a public authority for purposes of those contracting laws.

Department of Transportation turnpike mitigation program

(Section 755.50)

The act requires the Director of Transportation, not later than July 1, 2013, to establish a turnpike mitigation program to assist political subdivisions that have a portion of the Ohio Turnpike passing through the political subdivision. The program must address concerns resulting from the proximity of the Ohio Turnpike. The program may provide monetary and other resources, and must address conditions including

noise mitigation, bridge embankments, drainage, bridge repair, grade separations, and other related conditions.

The Director may consult with affected political subdivisions in assessing needs and in developing the program. Upon establishing the program, the Director must notify affected subdivisions in an appropriate manner of the program's availability.

For purposes of this program, "Ohio Turnpike" means the existing turnpike that runs in an easterly and westerly direction through northern Ohio.

DEPARTMENT OF TRANSPORTATION

ODOT public-private partnership agreements

- In regard to the authority for the Department of Transportation (ODOT) to enter into public-private partnership agreements (known as P3s), allows the Director of Transportation to adopt rules for the control of traffic on public-private transportation facilities, particularly rules related to the avoidance of user fees.

- Establishes criminal penalties for violations of the rules, and establishes civil penalties for failure to comply with rules related to user fees.

- Allows the Director to include a binding dispute resolution provision in any P3 agreement.

ODOT force account limits

- Establishes scope of work limits allowing ODOT to proceed by force account without competitive bidding for certain bridge, culvert, and paving projects based on the size of the project and not the cost of the project.

- Increases the ODOT force account limits for projects not covered by the scope of work limits: (1) from $25,000 per mile to $30,000 per centerline mile, (2) from $50,000 to $60,000 for any single traffic control signal, and (3) from $50,000 to $60,000 for other single projects.

- Requires the Director of Transportation to adjust the force account limits in odd numbered years (beginning in 2015) by the lesser of 3% or the percentage amount of any increase in ODOT's construction cost index for the prior two calendar years.

- Requires ODOT force account project cost estimates to include costs for subcontracted work and any competitively bid project components.

ODOT contracting changes

- Specifies that certain general laws related to the bidding of contracts and public improvements do not apply to the Director of Transportation when exercising the Director's authority to prepare plans for, acquire rights-of-way for, construct, or maintain roads, highways, or bridges.

- Permits ODOT to advertise for bids for construction contracts by allowing ODOT to advertise under a continuing optional provision of law that specifies that, after first advertising for bids by full publication, the second advertisement may be made in an abbreviated form.

- Requires the amount of an ODOT construction contract performance bond and payment bond to equal 100% of the contract amount, rather than 100% of the estimated cost of the work.

Speed limits

- Establishes new speed limits as follows:

  --70 miles per hour for all vehicles at all times on all interstate freeways outside urbanized areas;

  --65 miles per hour on interstate freeway outerbelts in urban areas as determined by the Director of Transportation; and

  --55 miles per hour on all interstate freeways in congested areas as determined by the Director and that are located within a municipal corporation or within an interstate freeway outerbelt.

- Allows the Director to increase the speed limit from 55 miles per hour to 60 miles per hour on two-lane state routes outside municipal corporations if the Director determines on the basis of a study that the speed limit is less than is reasonable or safe.

- Declares that it is the intent of the General Assembly that the new speed limits established by the act are not to result in any decrease of any speed limit on any freeway that is in effect on the effective date of those new speed limits.

Vehicle weight and size limits

- Increases from 40 feet to 50 feet the general maximum length for the operation of certain vehicles on public roads.

- Requires the Director of Transportation and local authorities to establish and issue special regional heavy hauling permits for regional trips at distances of 150 miles or less.

- Establishes a $100 fee for an application to operate a triple trailer at locations authorized under federal law.

- Revises the penalty related to an overweight or oversize special permit to specifically prohibit the operation in violation of (1) gross load limits, (2) axle load by more than 2,000 pounds per axle or group of axles, (3) the terms of a permit that relate to an approved route except upon order of a law enforcement officer.

- Specifies that a special permit to operate an overweight or oversize vehicle is voidable by law enforcement only for operation of a vehicle in violation of the weight, dimension, or route provisions of the permit, except a permit cannot be voided for violating a route provision pursuant to a law enforcement order.

- Allows vehicles fueled solely by compressed natural gas to exceed by 2,000 pounds the gross vehicle weight limits and the axle load limits without penalty, but establishes that the allowance does not apply to the operation of such vehicles on interstates or roads subject to reduced weight limits.

Energy Industry Infrastructure Task Force

- Creates the Energy Industry Infrastructure Task Force to do both of the following:

  --Study and make recommendations to the Director of Transportation on future infrastructure projects in districts established by ODOT that are affected by the energy industry; and

  --Make recommendations to the Director on infrastructure projects in those districts that support the economic development activities in the districts.

- Requires the Task Force to submit its recommendations by January 31, 2015, and states that the Task Force ceases to exist after submitting its recommendations.

ODOT's authority over aviation; ODOT's general duties and powers

- Requires ODOT to encourage the promotion of aviation research in Ohio, and permits ODOT to furnish engineering or other technical counsel and services to any appropriate government agency that desires such counsel or services in connection with the location, construction, maintenance, or operation of airports, landing fields, or other air navigation facilities.

- Permits ODOT to cooperate with any government agency in any of a number of specified matters relating to airports, landing fields, and other air navigation facilities, such as aviation education or research and joint meetings and hearings in connection with any matter arising under the aviation laws.

- Requires ODOT, in its research and development program, to consider technologies for improving safety, mobility, aviation and aviation education, and transportation facilities.

- Specifically permits the Director of Transportation to appoint additional personnel such as clerks, engineers, inspectors, and technicians as are necessary for ODOT to carry out its duties that relate to aviation.

- Permits up to 10% of the money deposited annually in the existing Airport Assistance Fund to be spent annually to pay operating costs associated with ODOT's Office of Aviation, as well as for maintenance and capital improvements to publicly owned airports as is authorized under continuing law.

Other provisions

- Clarifies that the operator of a motor vehicle, when facing a red traffic signal, whether a round signal or an arrow, may not turn left after stopping at the signal unless the turn is being made from a one-way street into a one-way street.

- Modifies the definition of "bicycle" under the vehicle and traffic laws to mean every device, other than a device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which a person may ride, and that has two or more wheels, any of which is more than 14" in diameter.

- Terminates Ohio's participation in the Midwest Interstate Passenger Rail Compact.

- Authorizes the Director of Transportation to enter into an agreement or contract with any entity to establish a traveler information program to provide real-time traffic conditions and travel time information free to travelers.

- Authorizes the Director of Transportation to remove snow and ice and maintain, repair, improve, or provide lighting upon interstate highways that are located within the boundaries of a municipal corporation or, by agreement, to reimburse a municipal corporation for the costs of such work.

- Requires ODOT to reimburse a county for the cost of relocating a county water and sewer facility due to a highway construction project.

- Authorizes the Director to use revenues from the state motor vehicle fuel tax to match approved federal grants awarded to ODOT, regional transit authorities, or eligible public transportation systems for public transportation highway purposes.

- Authorizes the Director to enter into agreements with specified federal agencies for the purpose of dedicating staff to the expeditious and timely review of environmentally related documents as necessary for the approval of federal permits.

- Permits a board of county commissioners to establish a fee to cover the actual costs the county incurs in providing required published and mailed notice when vacating a road.

- Creates a six-member Joint Legislative Task Force on Department of Transportation Funding, requires the Task Force to examine the funding needs of ODOT and the issue of eliminating the Ohio motor fuel tax, and to report its findings and recommendations by December 15, 2014.

- Repeals a provision of prior law that prohibited ODOT from providing funds to more than five transportation improvement districts (TIDs).

- Changes the name of the "U.S. Army Staff Sergeant Lester O. Kinney II Memorial Highway" to the "U.S. Army Staff Sergeant Lester O. "Buddy" Kinney II Memorial Highway."

- Generally requires ODOT and local authorities to erect stop signs at a railroad highway grade crossing if either: (1) new warning or protective devices that are not active grade crossing warning devices are being installed at a grade crossing and railroad crossbucks were the only warning devices at the grade crossing prior to the installation of the new warning devices, or (2) the grade crossing is constructed after the act's effective date and only nonactive grade crossing warning devices are installed at the grade crossing.

ODOT public-private partnership agreements

Under continuing law, the Department of Transportation (ODOT) may enter into public-private partnership agreements (known as P3s) with private entities with regard to transportation facilities (generally, all publicly owned modes and means of transporting people or goods and related structures and properties). Funding for a transportation facility controlled by a P3 may include private contributions, any available public funds, user fees, and State Infrastructure Bank obligations. A user fee

may be a rate, toll, fee, or other charge imposed by an operator for use of all or part of a transportation facility.

Traffic control and regulation on public-private transportation facilities

(R.C. 5501.77)

The act allows the Director of Transportation to adopt rules for the control and regulation of traffic on any transportation facility subject to a P3. The rules may address: (1) the protection and preservation of the transportation facility, (2) the maintenance and preservation of good order within the transportation facility, and (3) vehicle owner or operator liability for avoidance of user fees.

The act prohibits any person from violating any ODOT rule described above and establishes criminal and civil penalties for violations of the rules. In general, whoever violates such a rule is guilty of a minor misdemeanor on a first offense; on each subsequent offense such person is guilty of a misdemeanor of the fourth degree. When the violation is a civil violation for failure to comply with toll collection rules, the person is subject to a fee or charge established by ODOT by rule.

All fines collected for the violation of applicable laws of the state and the rules of ODOT or money arising from bonds forfeited for a violation must be disposed of in accordance with continuing law governing the disposition of fines from persons apprehended or arrested by the State Highway Patrol. All fees or charges assessed by ODOT against an owner or operator of a vehicle as a civil violation for failure to comply with toll collection rules are declared to be revenues of ODOT or the public-private operator as set forth in the P3 agreement.

Additionally, the rules must provide that public police officers be afforded ready access, while in the performance of their official duties, to the transportation facility without the payment of user fees.

Binding dispute resolution in P3 contracts

(R.C. 5501.73)

The act allows the Director of Transportation to include in any P3 agreement a provision authorizing binding dispute resolution for any contract controversy. Binding dispute resolution requires the agreement of all parties to the controversy and if all parties do not agree, a party having a claim against ODOT must exhaust its administrative remedies as specified in the P3 agreement before filing any action against ODOT in the Court of Claims. Under a binding dispute resolution, a technical expert makes a binding determination after review of all relevant items, which may

include documents, interviewing appropriate personnel, and visiting the project site involved in the controversy.

The act prohibits an appeal from the determination of a technical expert, but allows the Franklin County Court of Common Pleas to issue an order vacating such a determination if: (1) the determination was procured by corruption, fraud, or undue means, (2) there was evidence of partiality or corruption on the part of the technical expert, or (3) the technical expert was guilty of misconduct in refusing to postpone the hearing, or in refusing to hear pertinent and material evidence, or of any other prejudicial misbehavior.

ODOT force account limits

(R.C. 5517.02 and 5517.021)

Overview

In general, "force account" is a term used to refer to circumstances under which ODOT is not required to competitively bid a construction project. Instead, ODOT may use its own labor force and equipment for the project. ODOT may perform a force account project if the estimated cost of the project is below specified force account limits established under the law. In order to determine the estimated cost of a project, ODOT must first complete the force account project assessment form developed by the Auditor of State. When the total estimated cost exceeds the force account amounts, the Director of Transportation must competitively bid the project and let the work to the lowest competent and responsible bidder.

As explained below, the act establishes scope of work limits that are not subject to: (1) the force account limits, (2) the requirement to estimate the cost of the project, or (3) the competitive bidding requirements. The act also increases the force account limits, requires the Director to adjust the amounts in odd-numbered years, and requires the costs for subcontracted work and competitively bid project components to be included in project estimates.

Scope of work limits

Under the act, the Director of Transportation may proceed by force account without completing the Auditor's project assessment form and without competitive bidding to do any of the following work:

(1) Replace or widen any single span bridge if the deck area of the new or widened bridge does not exceed 700 square feet as measured around the outside perimeter of the deck;

(2) Replace the bearings, beams, and deck of any bridge on that bridge's existing foundation if the deck area of the rehabilitated structure does not exceed 800 square feet;

(3) Construct or replace any single cell or multi-cell culvert whose total waterway opening does not exceed 52 square feet; and

(4) Pave or patch an asphalt surface if the operation does not exceed 120 tons of asphalt per lane-mile of roadway length, except that ODOT cannot perform a continuous resurfacing operation under this scope of work authority if the cost of the work exceeds the force account amount of $30,000 per centerline mile of highway, as adjusted.

In addition to being exempt from completing the Auditor's project assessment form, these types of work projects are exempt from audit for force account purposes, except to determine compliance with the applicable size or tonnage limitations.

Force account estimates, increases, and adjustments

Generally, before undertaking the construction, reconstruction by widening or resurfacing, or improvement of a state highway, a bridge or culvert, or the installation of a traffic control signal, the Director of Transportation must make an estimate of the cost of the work using the Auditor's force account project assessment form. The act specifies that when a force account project assessment form is required, the estimate must include costs for subcontracted work and any competitively bid component costs.

Under the act, the force account limits, subject to adjustment, are increased as follows:

- To $30,000 per centerline mile of highway for highway construction and reconstruction projects, exclusive of structures and traffic control signals, from $25,000 per mile of highway under prior law;

- To $60,000 for any single traffic control signal or any other single project, from $50,000 for such projects under prior law.

Beginning on July 1, 2015, and every odd-numbered year thereafter, the act requires the Director to increase the force account amounts by an amount not to exceed the lesser of 3% or the percentage amount of any increase in ODOT's construction cost index as annualized and totaled for the prior two calendar years. The Director must publish the applicable amounts on ODOT's web site.

The act specifies that when a project proceeds by force account as a result of the project estimated cost being within the force account limits or within the scope of work limits, ODOT must perform the work in compliance with any project requirements and specifications that would have applied if a contract for the work had been let by competitive bidding. Also, ODOT must retain in the project record all records documenting materials testing compliance, materials placement compliance, actual personnel and equipment hours usage, and all other documentation that would have been required if a contract for the work had been let by competitive bidding.

Lastly, the act requires the Director to proceed by competitive bidding to let work to the lowest competent and responsible bidder after advertisement in both of the following situations:

(1) When the scope of work exceeds the prescribed limits established by the act; and

(2) When the estimated cost of a project, other than a scope-of-work project, exceeds the force account amounts, as adjusted.

ODOT construction projects

ODOT contracts

(R.C. 9.33, 153.01, and 153.65)

The act provides that the Director is not a "public authority" for purposes of the state construction manager law and professional design services law when exercising the Director's authority to prepare plans for, acquire rights-of-way for, construct, or maintain roads, highways, or bridges. Therefore the Director is not subject to those laws when exercising that authority. The act also provides that nothing in the general laws that govern bids for public improvements may interfere with the power of the Director to prepare plans for, acquire rights-of-way for, construct, or maintain roads, highways, or bridges, or to let contracts for those purposes.

Advertising by ODOT for bids for construction contracts

(R.C. 5525.01)

The act permits the Director of Transportation to advertise for bids for construction contracts under a continuing optional provision of law. This provision provides that, after first advertising for bids by full publication, the second advertisement may be made in abbreviated form in a newspaper of general circulation and if the newspaper has a web site, on that web site. Prior law required the Director to arrange for the full publication of an advertisement for bids for a construction contract

for two consecutive weeks in one newspaper of general circulation published in the county in which the project or any part of the project was located.

ODOT construction contract bonds

(R.C. 5525.16)

Before entering into a construction contract, the Director of Transportation must have a contract performance bond and a payment bond with sufficient sureties from the contractor. The act requires the amount of the contract performance bond and payment bond to equal 100% of the contract amount, rather than 100% of the estimated cost of the work as required in prior law.

Under continuing law, a contract performance bond is conditioned upon the contractor's performing the work upon the terms proposed, within the time prescribed, and in accordance with applicable plans and specifications. It is also conditioned upon the contractor indemnifying the state against any damage that may result from the contractor's failure to perform under the contract. The payment bond is issued to ensure that all laborers, suppliers, and subcontractors are paid in full.

Speed limits

(R.C. 4511.21; Section 755.40)

The act establishes speed limits for all vehicles at all times on all portions of freeways that are part of the interstate system, as follows:

(1) A speed limit of 55 miles per hour on all such freeways in congested areas as determined by the Director of Transportation and that are located within a municipal corporation or within an interstate freeway outerbelt;

(2) A speed limit of 65 miles per hour on all such freeways in urban areas as determined by the Director and that are part of an interstate freeway outerbelt; and

(3) A speed limit of 70 miles per hour on all such freeways outside urbanized areas, as those areas are designated in federal law.

For purposes of these provisions, the act defines "outerbelt" to mean a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.

The act also prohibits any person from operating a motor vehicle, trackless trolley, or streetcar in excess of any of the speed limits established by the act at any of

the applicable locations. In addition, the act declares that it is the intent of the General Assembly that these new speed limits are not to result in any decrease of any speed limit on any freeway that is in effect on the effective date of those new speed limits.

The act does *not* affect the speed limits that apply to freeways that are built to the standards and specifications applicable to interstate freeways but are not part of the interstate system.

The act also allows the Director of Transportation to increase the speed limit from 55 miles per hour to 60 miles per hour on two-lane highways that are part of the state highway system and are located outside municipal corporations if the Director determines on the basis of a geometric and traffic study that the speed limit is less than is reasonable or safe under the conditions found to exist on that portion of the highway. The act prohibits any person from operating a motor vehicle, trackless trolley, or streetcar in excess of the speed limit on those state highways.

Vehicle weight and size limits

(R.C. 4513.34 and 5577.05)

Vehicle size limits

The act increases from 40 to 50 feet the general maximum length for motor vehicles operating on public roads in Ohio that do not otherwise have a separate maximum length. In particular, this general maximum vehicle length applies to vehicles other than trailers, semitrailers, and certain other specified vehicles, including passenger buses and certain transporter combinations. A vehicle may exceed this maximum length only with a special permit, issued under rules adopted by the Director of Transportation or a local authority.

Permits

The act creates a new, mandatory special regional heavy hauling permit that the Director of Transportation and local authorities must issue for trips of 150 miles or less, unless the requested route is over a highway with a condition insufficient to bear the weight of the vehicle or combination of vehicles. Upon application in writing, the special regional heavy hauling permit must be issued authorizing the applicant to operate or move a vehicle or combination of vehicles as follows: (1) at a size or weight exceeding the maximum allowable under Ohio law, (2) upon any highway under the jurisdiction of ODOT or the local authority, except highways with a condition insufficient to bear the weight as stated on the application, (3) for regional trips at distances of 150 miles or less from a facility stated on the application as the applicant's

point of origin, and (4) upon payment of a permit fee established by the Director or the local authority.

The act continues to allow the Director or a local authority to issue or withhold an existing special permit that is not a mandatory, regional heavy hauling permit and to establish conditions for the operation of a vehicle under a permit. The act also provides that the fee for a special permit to operate a triple trailer unit, at locations authorized under federal law, is $100.

As stated above, the act retains the law governing general oversize and overweight vehicle permits. Under that law, the issuance by the Director and local authorities of a special overweight or oversize vehicle permit is discretionary. Under rule, ODOT issues multiple types of permits based on what is being moved, size and weight, the routes, and the frequency of movement. Permits include trip permits, round trip permits, 90-day continuing permits, 365-day continuing permits, permits specific to an industry or product (construction equipment, farm equipment, manufactured buildings, and steel coils), and location specific permits (Toledo port area, Delta steel complex, and marinas). Each type of permit has a separate fee schedule and conditions for operation.[1]

Penalties

The act establishes specific permit violations in place of a general prohibition against violating the law governing permits. The act prohibits violation of the following terms of a permit: (1) gross load limits, (2) axle load by more than 2,000 pounds per axle or group of axles, and (3) the terms of a permit that relate to an approved route, except upon order of a law enforcement officer. The act retains the existing penalties applicable to special permits; specifically, (1) a first violation is a minor misdemeanor, (2) a second offense within one year is a fourth degree misdemeanor, and (3) any subsequent offense within one year is a third degree misdemeanor.[2]

In addition, the act specifies that a special permit to operate an overweight or oversize vehicle is voidable by law enforcement only for operation of a vehicle in violation of the weight, dimension, or route provisions of the permit. However, a permit is not voidable for operation in violation of a route provision of a permit if the operation is upon the order of a law enforcement officer.

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[1] Ohio Administrative Code Chapter 5501:2-1.

[2] R.C. 4513.99, not in the act.

Weight allowance for vehicles fueled by compressed natural gas

(R.C. 5577.044)

The act allows vehicles fueled by compressed natural gas to exceed the gross vehicle weight limits and axle load limits by up to 2,000 pounds without penalty, except on interstate highways or a highway, road, or bridge that is subject to reduced maximum weight limits. The act also imposes criminal penalties, including monetary fines and imprisonment, for the operation of such a vehicle that exceeds the vehicle weight limits or axle load limits by more than 2,000 pounds and civil liability for any damage caused to a street, highway, road, or bridge. Those criminal penalties and civil liability are established under continuing law.

Energy Industry Infrastructure Task Force

(Section 755.60)

The act creates the Energy Industry Infrastructure Task Force to do both of the following:

(1) Study and make recommendations to the Director of Transportation on future infrastructure projects in districts established by ODOT that are affected by the energy industry; and

(2) Make recommendations to the Director on infrastructure projects in those districts that support the economic development activities in the districts.

The Governor, with the advice and consent of the Senate, must appoint the following members to the Task Force not later than July 31, 2013:

(1) Three representatives of the energy industry;

(2) One representative of the County Commissioners Association of Ohio;

(3) One representative of the Ohio Township Association;

(4) One representative of the County Engineers Association of Ohio;

(5) One representative of ODOT;

(6) One representative of the public nominated by the Director; and

(7) At least one representative of a district established by ODOT.

The Task Force must submit its recommendations to the Director by January 31, 2015. After submitting its recommendations, the Task Force ceases to exist.

ODOT's authority over aviation; ODOT's general duties and powers

(R.C. 4561.01, 4561.06, 4561.07, 4561.08, 4561.09, 4561.12, 5501.03, 5501.17, 5501.31, and 5526.01)

ODOT and aviation

The act requires ODOT to encourage the promotion of aviation research within Ohio, as well as aviation education as required by continuing law. ODOT may furnish engineering or other technical counsel and services to any appropriate government agency that desires such counsel or services in connection with any question or problem concerning the need for, or the location, construction, maintenance, or operation of, airports, landing fields, or other air navigation facilities. Prior law permitted ODOT to offer such assistance only to an appropriate agency of an Ohio county or municipal corporation. The act defines "government agency" to mean a state agency, state institution of higher education, regional port authority, or any other political subdivision of the state, or the federal government or other states.

The act permits ODOT to cooperate with any government agency in any of a number of specified matters relating to airports, landing fields, and other air navigation facilities. These matters include aviation education or research (ODOT also may cooperate with private persons in these areas) and conferring with or holding joint meetings and hearings in connection with any matter arising under the aviation provisions. ODOT also may avail itself of the cooperation, services, records, and facilities of any government agency in the administration and enforcement of those aviation provisions. Prior law permitted ODOT to avail itself of only a regional airport authority or agency of an Ohio political subdivision.

If a government agency requires a state agency to receive and disburse any airport assistance or development and maintenance funds, ODOT may act as that state agency. ODOT may cooperate with any government agency, instead of only the United States and any federal agency as provided in prior law, in the acquisition, establishment, construction, enlargement, improvement, equipment, or operation of airports, landing fields, and other air navigation facilities in this state. ODOT also may accept, give receipt for on behalf of the state and, receive federal funds upon the terms prescribed by applicable federal law. In addition, the act permits each agency of this state, as well as each regional airport authority, county, and municipal corporation as provided in continuing law, to accept, receive, and give receipt for federal funds upon the terms prescribed by applicable federal law.

The act provides that all contracts for the acquisition, establishment, construction, enlargement, improvement, equipment, or operation of airports, landing fields, and other air navigation facilities made by an agency of this state must be made pursuant to applicable state law; provided, when the action is financed wholly or partly with federal funds, the agency of this state may let contracts in the manner prescribed by the appropriate federal authority. This is also the case under continuing law when such a contract is let by a regional airport authority, county, or municipal corporation.

The act provides that aircraft operated by ODOT or its agents are exempt from the continuing prohibition against any aircraft being operated or maintained on any public land or water owned or controlled by the state of Ohio, or by any political subdivision of Ohio, except at those places and under those rules governing and controlling the operation and maintenance of aircraft as are adopted by ODOT.

ODOT's duties and powers

The act requires ODOT, in its research and development program, to consider technologies for improving safety, mobility, aviation and aviation education, and transportation facilities. The requirement is in addition to that specified in continuing law that requires ODOT, in its research and development program, to consider technologies for improving roadways.

The act provides that nothing in the Revised Code provisions that prescribe ODOT's powers and duties may be held to in any manner affect, limit, restrict, or otherwise interfere with the exercise of powers relating to transportation facilities by appropriate federal agencies, counties, municipal corporations, or other political subdivisions or special districts in Ohio authorized by law to exercise those powers. Prior law was more limiting in that it provided that nothing in the provision that requires ODOT to exercise and perform such duties, powers, and functions as are conferred by law on the Director of Transportation, ODOT, the assistant or deputy directors, or ODOT's divisions could be held to in any manner affect, limit, restrict, or otherwise interfere with the exercise of powers relating to transportation facilities by appropriate federal agencies, counties, municipal corporations, or other political subdivisions or special districts in Ohio authorized by law to exercise those powers.

The act permits the Director to enter into contracts with public agencies to administer the research and acceptance of any transportation facilities administered by ODOT, provided the administration of the transportation facilities is performed in accordance with all applicable state and federal laws and regulations with oversight by ODOT. Prior law only permitted the Director to enter into such contracts to administer things such as the design and acceptance of any projects administered by ODOT.

The act specifically permits the Director to appoint additional personnel such as clerks, engineers, inspectors, and technicians as are necessary for ODOT to carry out its duties that are contained in the aviation provisions. The Director also has this power under continuing law to enable ODOT to carry out its duties as specified in the transportation laws.

The act provides that the Revised Code provisions that govern aviation do not prohibit the federal government, any government agency, or any individual or corporation from contributing a portion of the cost of the establishment, construction, reconstruction, relocating, widening, resurfacing, maintenance, and repair of highways and transportation facilities. Continuing law also provides that the transportation laws do not prohibit the federal government or any individual or corporation from contributing a portion of the cost of these activities as they relate to highways.

In the ODOT law that governs professional services for ODOT contracts, the act provides that a professional service includes any other professional service that is determined by the Director or any other designated ODOT official to be necessary to provide assistance to ODOT in furtherance of its statutory duties and powers, in addition to being necessary for the provision of transportation services as provided in continuing law.

Airport Assistance Fund

(R.C. 4561.21)

The act permits up to 10% of the money deposited annually in the continuing Airport Assistance Fund to be spent annually to pay operating costs associated with ODOT's Office of Aviation. All remaining money in the Fund must be spent for maintenance and capital improvements to publicly owned airports as provided in continuing law.

Left turn on red clarification

(R.C. 4511.13)

The act clarifies that the operator of a motor vehicle, when facing a red traffic signal at an intersection, whether a round signal or an arrow, may not turn left unless the turn is being made from a one-way street into a one-way street. This restriction prevents a vehicle, when making a left turn on a red signal at an intersection, from proceeding through a lane carrying oncoming traffic, approaching either from the left or from ahead. Prior law did not contain the "into a one-way street" restriction.

Definition of "bicycle" for vehicle and traffic laws

(R.C. 4501.01 and 4511.01)

The act modifies the definition of "bicycle" for purposes of the vehicle and traffic laws to mean every device, other than a device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which a person may ride, and that has two or more wheels, any of which is more than 14" in diameter. Prior law defined a bicycle as being every device, other than a tricycle that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which any person may ride, and that has two tandem wheels, or one wheel in the front and two wheels in the rear, or two wheels in the front and one wheel in the rear, any of which is more than 14" in diameter.

Midwest Interstate Passenger Rail Compact

(R.C. 4981.36 (repealed) and 4981.361 (repealed))

The act terminates Ohio's participation in the Midwest Interstate Passenger Rail Compact. The Compact and the Midwest Interstate Passenger Rail Commission formed under the Compact were established for the purpose of advancing passenger rail service within the Compact's member states. The ten states that originally enacted legislation joining the Compact are Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, and Wisconsin.

Traveler information program

(R.C. 5501.03)

The act authorizes the Director of Transportation to enter into cooperative or contractual agreements with any individual, organization, or business to create or promote a traveler information program that provides real-time traffic conditions and travel time information by telephone, text message, internet, or other similar means at no cost to the traveler. Under the act, the Director may contract with a program manager, and the program manager is responsible for all costs associated with the development and operation of the traveler information program. Any compensation due to a program manager or vendor may include deferred compensation in an amount determined by the Director. Also, excess revenue must be remitted to ODOT for deposit into the Highway Operating Fund.

Without reference to any particular program, the act establishes that any materials or data submitted to, made available to, or received by the Director, to the extent that the materials or data consist of trade secrets (as defined in the existing Trade

Practices portion of the Ohio Uniform Commercial Code), or commercial or financial information, are confidential and are not public records.

Maintenance of interstate highways

(Section 203.70)

Under the act, the Director of Transportation may remove snow and ice and maintain, repair, improve, or provide lighting upon interstate highways that are located within the boundaries of a municipal corporation. The actions taken by the Director must be adequate to meet the requirements of federal law. When agreed to in writing by the Director and the legislative authority of a municipal corporation and notwithstanding general laws related to competitive bidding, ODOT, as provided by the agreement, may reimburse a municipal corporation for all or any part of the costs incurred by the municipal corporation in maintaining and repairing lighting upon the interstate system, and removing snow and ice from the interstate system.

ODOT reimbursement for relocation of a county water and sewer facility

(R.C. 5501.51)

The act classifies a county-owned or county-operated water and sewer facility as a "utility" for purposes of the existing requirement for ODOT to reimburse a utility for the cost of relocating any of the utility's facilities due to a highway construction project. Continuing law also requires ODOT to reimburse the following utilities when a construction project requires such relocation: (1) publicly, privately, and cooperatively owned utilities subject to the authority of the Public Utilities Commission of Ohio, (2) a cable operator, and (3) an electric cooperative and a municipal electric utility not subject to the authority of the Public Utilities Commission.

Public transportation highway purpose grants

(Section 203.80)

The act authorizes the Director of Transportation to use revenues from the state motor vehicle fuel tax to match approved federal grants awarded to ODOT, regional transit authorities, or eligible public transportation systems, for public transportation highway purposes, or to support local or state funded projects for public transportation highway purposes. "Public transportation highway purposes" include: the construction or repair of high-occupancy vehicle traffic lanes, the acquisition or construction of park-and-ride facilities, the acquisition or construction of public transportation vehicle loops, the construction or repair of bridges used by public transportation vehicles or that are the responsibility of a regional transit authority or other public transportation system,

or other similar construction that is designated as an eligible public transportation highway purpose. Motor vehicle fuel tax revenues may not be used for operating assistance or for the purchase of vehicles, equipment, or maintenance facilities.

Review agreements for federal environmental permits

(Section 755.10)

Under the act, the Director of Transportation may enter into agreements with the United States or any federal department or agency, including, but not limited to, the Army Corps of Engineers, Forest Service, Environmental Protection Agency, and Fish and Wildlife Service. An agreement must be solely for the purpose of dedicating staff to the expeditious and timely review of environmentally related documents submitted by the Director, as necessary for the approval of federal permits. The agreements may include advance payment by the Director for labor and all other identifiable costs of the United States or any federal department or agency providing the services. 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 federal department or federal agency, and the circumstances giving rise to the agreement.

Fee to cover notice costs in proceedings to vacate a road

(R.C. 5553.051)

The act permits a board of county commissioners to establish a fee to cover the actual costs the county incurs in providing required published and mailed notice when vacating a road. The board may require an initial deposit to be paid at the time a petition for vacation of a road is filed or promptly thereafter. The clerk of the board must maintain an accurate and detailed accounting of all funds received under the act and expended in providing the required published and mailed notice.

Joint Legislative Task Force on ODOT Funding

(Section 755.20)

The act creates a six-member Joint Legislative Task Force on Department of Transportation Funding. The Task Force consists of three members of the House Finance and Appropriations Committee, two appointed by the Speaker of the House and one appointed by the Minority Leader of the House, and three members of the Senate Transportation Committee, two appointed by the President of the Senate and one appointed by the Minority Leader of the Senate.

The Task Force must examine the funding needs of ODOT and study the issue of eliminating the Ohio motor fuel tax. Not later than December 15, 2014, the Task Force must issue a report containing its findings and recommendations to the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House. At that time, the Task Force will cease to exist.

Funding for transportation improvement districts (TIDs)

(R.C. 5540.151)

The act repeals the law that prohibited the Ohio Department of Transportation from providing funds to more than five transportation improvement districts (TIDs). A transportation improvement district can be formed by the board of county commissioners of any county for the purpose of financing and managing specified transportation-related projects.

Memorial highway

(R.C. 5533.121)

The act alters the name of the "U.S. Army Staff Sergeant Lester O. Kinney II Memorial Highway" by adding the nickname of the named soldier. The highway (U.S. Highway 22 in Zanesville only) will now be called the "U.S. Army Staff Sergeant Lester O. "Buddy" Kinney II Memorial Highway."

Stop signs at railroad highway grade crossings

(R.C. 4511.61)

The act generally requires ODOT and local authorities to erect stop signs at a railroad highway grade crossing if either: (1) new warning or protective devices that are not active grade crossing warning devices are being installed at the grade crossing and railroad crossbucks were the only warning devices at the grade crossing prior to the installation of the new warning devices, or (2) the grade crossing is constructed after the act's effective date (July 1, 2013) and only nonactive grade crossing warning devices are installed at the grade crossing. In accordance with continuing law, when stop signs are erected under this requirement, the operator of any vehicle, streetcar, or trackless trolley must stop not less than 15 feet but within 50 feet from the nearest rail of the railroad tracks and exercise due care before proceeding across the grade crossing.

There is no requirement to erect stop signs at a railroad grade crossing if the Director of Transportation has exempted the crossing from the requirement because of traffic flow or other considerations or factors.

"Active grade crossing warning device" is defined to mean signs, signals, gates, or other protective devices erected or installed at a public highway-railroad crossing at common grade and activated by an electrical circuit.

DEPARTMENT OF PUBLIC SAFETY

Merger of boards

- Changes the name of the State Board of Emergency Medical Services to the "State Board of Emergency Medical, Fire, and Transportation Services," eliminates the Ohio Medical Transportation Board, and assigns the duties of that Board to the renamed State Board of Emergency Medical, Fire, and Transportation Services.

- Provides that the renamed State Board of Emergency Medical, Fire, and Transportation Services be composed of 15 members of the former State Board of Emergency Medical Services and four former members of the Ohio Medical Transportation Board.

- Requires certain fees and money collected by the renamed State Board of Emergency Medical, Fire, and Transportation Services that the Ohio Medical Transportation Board previously collected to be deposited into the existing Trauma and Emergency Medical Services Fund instead of the existing Occupational Licensing and Regulatory Fund.

- Creates the Medical Transportation Committee of the renamed State Board of Emergency Medical, Fire, and Transportation Services, and also the Critical Care Subcommittee of the Medical Transportation Committee.

Multi-year registration

- Requires the Registrar of Motor Vehicles to adopt rules to allow a trailer or semitrailer to be registered for any number of years, including a permanent registration, rather than for up to five years as under prior law.

- Requires that the annual registration tax ($25), additional registration fees ($11), and any local, permissive motor vehicle taxes must be paid for each year of registration, but specifies that the fees and taxes cannot exceed eight times the annual amount due, regardless of the number of years of registration.

- Specifies that the multi-year period of registration is not transferrable to any other trailer or semitrailer.

- Extends from two years to a maximum of five years the optional multi-year registration generally available for noncommercial motor vehicles; and, requires payment of all annual taxes and fees for each year of registration, but establishes the applicable Registrar or deputy registrar service fee as $5.25 for two years, $8 for three years, and $10 for four or five years.

License plates

- Creates an option for persons to retain the distinctive combination of numbers and letters on certain previously issued license plates upon payment of an additional $10 fee when the registration is renewed and new license plates are issued; allows a deputy registrar who handles the registration renewal application to retain $1 of the $10 fee.

- Specifies that license plates may be made of steel, aluminum, plastic, or any other suitable material, rather than requiring that license plates be made of steel as under prior law.

- Commencing January 1, 2014, permits a company that owns or leases a fleet of apportioned vehicles to apply to the Registrar of Motor Vehicles for the issuance of a special company logo license plate bearing the logo of that company.

Other provisions

- Reduces the fee charged for late vehicle registration renewals from $20 to $10 and extends the grace period from seven days to 30 days.

- Creates the Local Motor Vehicle License Tax Fund and requires all revenue received from local permissive motor vehicle registration taxes to be deposited into the Fund for subsequent distribution to local authorities.

- Redirects certain driver's license revenue from the State Highway Safety Fund (primarily funds the State Highway Patrol) to the existing State Bureau of Motor Vehicles Fund (funds the expenses of the Bureau).

- Provides that a person who holds a current, valid driver's license from another state need pass only vision screening to be issued a driver's license, instead of the regular examination for a driver's license.

- Eliminates the requirement that every deputy registrar's office in each county be open to the public until 6:30 p.m. on at least one night each week.

- Requires the Registrar of Motor Vehicles, as part of the selection process in awarding a deputy registrar contract, to consider the customer service performance record of any person previously awarded a deputy registrar contract.

- Requires that rental fees paid by a deputy registrar for the use of space in a driver's license examining station be paid into the State Bureau of Motor Vehicles Fund, rather than the Registrar Rental Fund.

- Eliminates the Registrar Rental Fund, which previously was used by the Department to pay the rent and expenses of driver's license examining stations.

- Changes the time period that a farm bus may be registered from two 90-day periods in any calendar year to one 210-day period in any calendar year.

- Requires that the fee charged by the State Highway Patrol for the annual inspection of certain commercial buses be paid directly into the State Highway Safety Fund, rather than being paid into the GRF and transferred into the State Highway Safety Fund.

- Permits a duly authorized subordinate acting on behalf of a county sheriff, chief of police, State Highway Patrol trooper, or chief of a fire department to remove an unoccupied motor vehicle, its cargo, or personal property from a motor vehicle accident scene.

- Provides that the Superintendent of the State Highway Patrol must hold the rank of colonel and requires the Superintendent to be appointed from within the eligible ranks of the Patrol.

- Specifies that all ranks of the Patrol below the Superintendent are classified.

- Requires that penalties imposed for failure to pay or forward fees charged for copies of birth records, certifications of birth, and death records, and for the filing of divorce and dissolution decrees, be paid to the Department of Public Safety, rather than the Treasurer of State.

- Requires the Department of Public Safety to forward the penalties to the Treasurer for deposit in the Family Violence Prevention Fund.

- Increases from two to four the number of classic motor vehicle auctions a person may conduct per year without being subject to certain licensing requirements under the Motor Vehicle Dealers Law.

Scrap metal dealers and bulk merchandise container dealers

- Relocates the offense for theft of a special purchase article or bulk merchandise container from the Secondhand Dealer Law to the Criminal Code.

- Incorporates the offense of receiving a stolen special purchase article, or receiving a stolen bulk merchandise container, into the offense of receiving stolen property in the Criminal Code.

- Makes all records, subject to certain exceptions, submitted to any law enforcement agency, railroad police officer, or the Director of Public Safety or the Director's designated representative under the Secondhand Dealer Law not public records for the purposes of the Ohio Public Records Law.

- Requires the Director to make the names and addresses of scrap metal dealers and bulk merchandise container dealers available to the public upon request.

- Prohibits a scrap metal dealer or a bulk merchandise container dealer from purchasing or receiving articles from any person identified as a thief or receiver of stolen property on a list created by law enforcement or made available by the Director of Public Safety.

- Creates a procedure for the removal of the name of an individual from the list of known thieves or receivers of stolen property.

- Removes the prior law requirement that 50% of the fees paid to recover a motor vehicle impounded because it was used in the theft or illegal transportation of metal be paid to the Department of Public Safety.

State Board of Emergency Medical Services and the Ohio Medical Transportation Board

(R.C. 307.05, 307.051, 307.055, 505.37, 505.375, 505.44, 505.72, 4503.49, 4513.263, 4743.05, 4765.02, 4765.03, 4765.04, 4765.05, 4765.06, 4765.07, 4765.08, 4765.09, 4765.10, 4765.101, 4765.102, 4765.11, 4765.111, 4765.112, 4765.113, 4765.114, 4765.115, 4765.116, 4765.12, 4765.15, 4765.16, 4765.17, 4765.18, 4765.22, 4765.23, 4765.28, 4765.29, 4765.30, 4765.31, 4765.32, 4765.33, 4765.37, 4765.38, 4765.39, 4765.40, 4765.42, 4765.48, 4765.49, 4765.55, 4765.56, 4765.59, 4766.01, 4766.02 (repealed), 4766.03, 4766.04, 4766.05, 4766.07, 4766.08, 4766.09, 4766.10, 4766.11, 4766.12, 4766.13, 4766.15, 4766.20 (repealed), 4766.22, and 5502.01; Section 747.10)

The act changes the name of the State Board of Emergency Medical Services to the "State Board of Emergency Medical, Fire, and Transportation Services." It eliminates the Ohio Medical Transportation Board and assigns the duties of that board to the renamed State Board of Emergency Medical, Fire, and Transportation Services. The renamed Board is composed of 15 members of the former State Board of Emergency Medical Services and four former members of the Ohio Medical Transportation Board, although the act contains changes in the qualifications or nominating entities for some of the members.

Modifications to the Board

Several of the positions on the former State Board of Emergency Medical Services continue unchanged on the renamed State Board of Emergency Medical, Fire, and Transportation Services. The act makes the following modifications to positions on the former State Board of Emergency Medical Services that continue on the renamed State Board of Emergency Medical, Fire, and Transportation Services:

(1) One member is a physician certified by the American Academy of Pediatrics or American Osteopathic Board of Pediatrics who is active in the practice of pediatric emergency medicine and actively involved with an emergency medical service organization. The act requires the Governor to appoint this member from a group of six nominees: three persons nominated by the Ohio Chapter of the American Academy of Pediatrics (as specified in prior law) and three persons nominated by the Ohio Osteopathic Association.

(2) Under the act, one member is the administrator of a hospital located in Ohio; prior law specified that this member was required to be the administrator of a hospital that is not a trauma center. The Governor must appoint this member from among three persons nominated by the Ohio Hospital Association, three persons nominated by the Ohio Osteopathic Association, and three persons nominated by the Association of Ohio Children's Hospitals. These nominating entities are three of the four that were specified in prior law. The act provides that the Health Forum of Ohio, the fourth entity specified in prior law no longer may nominate three persons for this position.

(3) Under the act, one member is an adult or pediatric trauma program manager or trauma program director who is involved in the daily management of a verified trauma center; prior law specified that this member was required to be a registered nurse who is in the active practice of emergency nursing. The Governor must appoint this member from among three persons nominated by the Ohio Nurses Association, three persons nominated by the Ohio State Council of the Emergency Nurses Association, and three persons nominated by the Ohio Society of Trauma Nurse

Leaders. Of these three nominating entities, the first two were specified in prior law for this member while the third entity is a new nominating entity specified in the act.

(4) Under the act, one member must be a person who is certified to teach in this state in an emergency medical services training program or an emergency medical services continuing education program and holds a valid certificate to practice as an EMT, advanced EMT, or paramedic. The act eliminates prior language that provided that if the State Board has not yet certified persons to so teach in this state, the person must be qualified to be certified to so teach.

(5) Under the act, one member must be an EMT, advanced EMT, or paramedic, and one member must be a paramedic. ("EMT" is the new term for "EMT-basic" and "advanced EMT" or "AEMT" are the new terms for "EMT-I.") The Governor must appoint these two members from a group of 15 nominees: three EMTs or AEMTs and three paramedics nominated by the Ohio Association of Professional Fire Fighters and three EMTs, three AEMTs, and three paramedics nominated by the Northern Ohio Fire Fighters.

Prior law specified that one member was required to be an EMT-basic, one was required to be an EMT-I, and one was required to be a paramedic. The Governor was required to appoint these members from a group of 18 nominees: three EMTs-basic, three EMTs-I, and three paramedics nominated by the Ohio Association of Professional Fire Fighters and three EMTs-basic, three EMTs-I, and three paramedics nominated by the Northern Ohio Fire Fighters.

(6) Under the act, one member must be an EMT, AEMT, or paramedic, and one member must be a paramedic, and the Governor must appoint these members from among three EMTs or AEMTs and three paramedics nominated by the Ohio State Firefighter's Association.

Prior law specified that one member was required to be an EMT-basic, one member was required to be an EMT-I, and one was required to be a paramedic. The Governor was required to appoint these members from among three EMTs-basic, three EMTs-I, and three paramedics nominated by the Ohio State Firefighter's Association.

(7) Under the act, one member must be appointed by the Governor from among an EMT, an AEMT, or a paramedic nominated by the Ohio Association of Emergency Medical Services or the Ohio Ambulance and Medical Transportation Association. Prior law specified that one member must be appointed by the Governor from among an EMT-basic, an EMT-I, and a paramedic nominated by the Ohio Association of Emergency Medical Services.

New positions on the Board

The act also creates the following new positions on the renamed Board:

(1) One member must be an EMT, an AEMT, or a paramedic, whom the Governor must appoint from among three persons nominated by the Ohio Ambulance and Medical Transportation Association.

(2) One member must be a paramedic, whom the Governor must appoint from among three persons nominated by the Ohio Ambulance and Medical Transportation Association.

(3) One member must be the owner or operator of a private emergency medical service organization whom the Governor must appoint from among three persons nominated by the Ohio Ambulance and Medical Transportation Association.

(4) One member must be a provider of mobile intensive care unit transportation in this state whom the Governor must appoint from among three persons nominated by the Ohio Association of Critical Care Transport.

(5) One member must be a provider of air-medical transportation in this state whom the Governor must appoint from among three persons nominated by the Ohio Association of Critical Care Transport.

(6) One member must be the owner or operator of a nonemergency medical service organization in this state that provides ambulette services whom the Governor must appoint from among three persons nominated by the Ohio Ambulance and Medical Transportation Association.

Elimination of members and terms of office

On July 1, 2013 (the effective date of the act), the following members of the prior State Board of Emergency Medical Services cease to be members of the renamed Board:

(1) The member who is an administrator of an adult or pediatric trauma center;

(2) The member who is a member of the Ohio Ambulance Association;

(3) The member who is a physician certified by the American Board of Surgery, American Board of Osteopathic Surgery, American Osteopathic Board of Emergency Medicine, or American Board of Emergency Medicine, is chief medical officer of an air medical agency, and is currently active in providing emergency medical services;

(4) Of the members of the renamed State Board of Emergency Medical, Fire, and Transportation Services who were EMTs, advanced EMTs, or paramedics and were appointed to the previous Board in those capacities, only the members who are designated by the Governor to continue to be members of the renamed Board will continue to be so; the other persons will cease to be members of the renamed Board;

(5) The member who is a registered nurse and is in the active practice of emergency nursing will cease to be a member of the renamed Board.

Not later than August 30, 2013, the Governor must appoint to the renamed Board an adult or pediatric trauma program manager or trauma program director who is involved in the daily management of a verified trauma center from a group of nine nominees: three persons nominated by the Ohio Nurses Association, three persons nominated by the Ohio Society of Trauma Nurse Leaders, and three persons nominated by the Ohio State Council of the Emergency Nurses Association.

In addition, all members of the former State Board of Emergency Medical Services who do not cease to be members of the renamed State Board of Emergency Medical, Fire, and Transportation Services as specified in the act will continue to be members of the renamed State Board of Emergency Medical, Fire, and Transportation Services, and the dates on which the terms of those continuing members expire remain unchanged.

Effective July 1, 2013, the following members of the former Ohio Medical Transportation Board become members of the State Board of Emergency Medical, Fire, and Transportation Services for the terms specified:

(1) The person who owns or operates a private emergency medical service organization operating in this state, as designated by the Governor, for a term that ends November 12, 2014;

(2) The person who owns or operates a nonemergency medical service organization in this state that provides only ambulette services, for a term that ends November 12, 2014;

(3) The person who is a member of the Ohio Association of Critical Care Transport and represents air-based services, for a term that ends November 12, 2015;

(4) The person who is a member of the Ohio Association of Critical Care Transport and represents a ground-based mobile intensive care unit organization, for a term that ends November 12, 2015.

All subsequent terms of office for these four positions on the State Board of Emergency Medical, Fire, and Transportation Services will be for three years as provided in continuing law governing the State Board.

Transfer procedures

On July 1, 2013, the Medical Transportation Board and all of its functions are transferred to the Department of Public Safety. On that date, the Medical Transportation Board will operate under the Department, which will assume all of the Board's functions. All assets, liabilities, related capital spending authority, and equipment and records related to the Medical Transportation Board's functions are transferred to the Department on that date.

No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer, and all of the Medical Transportation Board's rules, orders, and determinations continue in effect until modified or rescinded by the Department. No action or proceeding pending on July 1, 2013, is affected by the transfer, and any action or proceeding pending on that date will be prosecuted or defended in the name of the Department or the Director of Public Safety.

On or after July 1, 2013, the Director of Budget and Management must take any action with respect to budget changes made necessary by the transfer, including the transfer of cash balances between funds. The Director also may cancel encumbrances and reestablish encumbrances or parts of encumbrances as needed in the fiscal year in the appropriate fund and appropriation item for the same purpose and to the same vendor.

The act provides that these uncodified provisions are exempt from the referendum and therefore take effect immediately (that is, on April 1, 2013, when the act became law).

Disposition of certain fees and money

The act requires certain fees and money collected by the renamed State Board of Emergency Medical, Fire, and Transportation Services to be deposited in the state treasury to the credit of the existing Trauma and Emergency Medical Services Fund. Under prior law, these fees and money were collected by the Ohio Medical Transportation Board, were credited to the still-existing Occupational Licensing and Regulatory Fund, and were required to be used solely to pay the salaries and expenses that the Board incurred in implementing and enforcing the laws governing the Board.

Under continuing law, all money in the Trauma and Emergency Medical Services Fund was used by the Department of Public Safety for the administration and operation

of the Division of Emergency Medical Services and the State Board of Emergency Medical Services, and by the State Board of Emergency Medical Services to make grants.

Limitations on the Board

The act prohibits the State Board of Emergency Medical, Fire, and Transportation Services from administering laws and rules exceeding its statutory authority under Revised Code Chapters 4765. and 4766. In addition, the Board is prohibited from regulating any profession that otherwise is regulated by another board, commission, or similar regulatory entity.

Medical Transportation Committee

The act creates the Medical Transportation Committee of the State Board of Emergency Medical, Fire, and Transportation Services. The Committee consists of members appointed by the Board in accordance with rules adopted by the Board. In appointing members of the Committee, the Board must attempt to include members representing urban and rural areas and various geographical areas of the state, and must ensure that the members have substantial experience in the transportation of patients, including addressing the unique issues of mobile intensive care and air medical services.

Committee members must be Ohio residents, may be members of the Board, and serve without compensation but are reimbursed for actual and necessary expenses incurred in carrying out duties as members of the Committee. The Committee must select a chairperson and vice-chairperson from among its members. A majority of all Committee members constitutes a quorum. No action may be taken without the concurrence of a majority of all members of the Committee. The Committee must meet at the call of the chair and at the direction of the Board, but the Committee cannot meet at times or locations that conflict with Board meetings.

The Committee is required to advise and assist the Board in matters related to the licensing of nonemergency medical service, emergency medical service, and air medical service organizations in Ohio.

Critical Care Subcommittee

The act creates the Critical Care Subcommittee of the Medical Transportation Committee. The membership of the Subcommittee and the conduct of the Subcommittee's business must conform to rules adopted by the State Board of Emergency Medical, Fire, and Transportation Services. The Subcommittee is required to

advise and assist the Committee and Board in matters relating to mobile intensive care and air medical service organizations in Ohio.

Other changes

In conducting investigations of alleged violations of laws and rules governing emergency medical service transportation entities and personnel and complaints alleging such violations, the act eliminates a prior provision that permitted the Ohio Medical Transportation Board to use any method of communication, including a telephone conference call, to receive descriptions of evidence for reviewing allegations and for voting on a suspension. The act also requires the affirmative vote of a majority of the members of the State Board of Emergency Medical, Fire, and Transportation Services to suspend without a hearing a medical transportation-related license the State Board issues. Prior law required the affirmative vote of at least four members of the Ohio Medical Transportation Board to suspend such a license.

The act requires the Department of Public Safety to administer the laws and rules relative to not only trauma and emergency medical services as in prior law, but also any laws and rules relative to medical transportation services.

Multi-year registration

Commercial trailers and semitrailers

(R.C. 4503.103, 4503.11, and 4503.191)

The act requires the Registrar of Motor Vehicles, not later than December 31, 2013, to adopt rules to permit any person who owns or leases a trailer or semitrailer to register it for any number of succeeding registration years, including a permanent registration. This generally replaces a provision of prior law that allowed trailers and semitrailers to be registered for up to five years.

At the time of applying for a multi-year trailer or semitrailer, all annual taxes and fees must be paid. However, the act establishes that the fees and taxes due cannot exceed eight times the annual amounts, which are unchanged by the act. Similarly, any applicable local motor vehicle taxes must be paid based on the number of years of registration, but the amount due cannot exceed eight times the annual amount due. Regardless of the number of registration years, the person pays a single service fee of $3.50 to the Registrar or a deputy registrar.

The following table shows the state fees and taxes under the act for a one year, six year, eight year, or permanent registration. The local fees are permissive and vary from jurisdiction to jurisdiction and are, thus, not included in the table.

Number of registration years	Annual registration tax due	Annual additional tax due	Service fee	Total state fees and taxes
1 year	$25	$11	$3.50	$39.50
6 years	$150	$66	$3.50	$219.50
8 years	$200	$88	$3.50	$291.50
Permanent	$200	$88	$3.50	$291.50

The act specifies that the multi-year period of registration for a trailer or semitrailer is exclusive to the trailer or semitrailer for which the certificate of registration is issued and is not transferable to any other trailer or semitrailer. Also, by rule, the Registrar must determine how the validation stickers will indicate the expiration of the registration period, including a permanent registration.

Noncommercial vehicles

(R.C. 4503.103 and 4503.11)

The act allows any person registering a noncommercial motor vehicle the option of registering for up to five years, rather than an option to register for two years under prior law. As under prior law, a person must pay all annual taxes and fees for each registration year. However, the act requires the applicable service fee for the Registrar or a deputy registrar to be paid as follows: $5.25 for a two-year registration (the same as in prior law), $8 for three years, and $10 for four or five years. There is no refund of multi-year fees or taxes under the act.

License plates

License plate number retention

(R.C. 4503.19 and 4503.192)

The act allows a person who is replacing certain vehicle license plates (known generally as "system assigned" plates) to pay a $10 fee and retain the distinctive combination of letters and numbers on the previously issued plates. A person who is replacing a special license plate that was specifically created in law must pay any required contribution to retain the special plate and also the new $10 fee to retain the system assigned combination of letters and numbers. For example, a person renewing a wildlife license plate (displaying a cardinal) who wishes to retain the system assigned numbers and letters would have to pay the $15 required contribution for the wildlife plate, the $10 required administrative fee, and the new, additional $10 fee to retain the letters and numbers assigned to the plate.

The option to retain a combination of numbers and letters for the new $10 fee is not available to a person who is replacing license plates that are not "system assigned." License plates that are not system assigned include: (1) initial reserve license plates, which are available for an additional $35 payable each time the registration is renewed (R.C. 4503.40, not in the act), (2) personalized special license plates, which are available for an additional $50 payable each time the registration is renewed (R.C. 4503.42, not in the act), and (3) special interest or logo initial reserve or personalized license plates with a contribution and other additional fees due each time the registration is renewed.

Additionally, the act specifies that the new $10 fee does not apply to a person who is replacing a single, duplicate license plate due to the loss, mutilation, or destruction of a license plate.

The act allows a deputy registrar who handles an application to retain the previously issued numbers and letters to retain $1 of the $10 fee. The Registrar must deposit the $10 fee (or $9 that is transmitted to the Registrar if a deputy retains $1) into the State Bureau of Motor Vehicles Fund to be used to pay the expenses of producing license plates and validation stickers.

License plate composition

(R.C. 4503.22)

The act specifies that license plates may be made of steel, aluminum, plastic, or any other suitable material. Prior law required license plates to be made of steel.

Company logo license plates

(R.C. 4503.83)

Commencing January 1, 2014, the act permits the owner or lessee of a fleet of apportioned vehicles to apply to the Registrar of Motor Vehicles for the registration of any apportioned vehicle, commercial trailer, or other vehicle of a class approved by the Registrar for the issuance of company logo license plates. The initial application must be for not less than 50 eligible vehicles. The applicant must provide the Registrar with the artwork for the company logo plate in a format the Registrar designates. The Registrar is required to approve the artwork or return it for modification in accordance with any design requirements the Registrar reasonably imposes.

Upon approval of the artwork and receipt of the completed application and compliance with the act's requirements, the Registrar must issue the appropriate vehicle registration and the appropriate number of company logo license plates with a validation sticker or a validation sticker alone when required by continuing law, except

that no validation sticker is issued for a company logo license plate that is issued for a commercial motor vehicle. In addition to the letters and numbers ordinarily inscribed on license plates, company logo license plates must be inscribed with words and markings requested by the applicant and approved by the Registrar.

A company logo license plate and a validation sticker or, when applicable, a validation sticker alone, is issued upon payment of the regular license tax, any fees generally applicable to the issuance of motor vehicle registrations, any applicable local motor vehicle tax, a Bureau of Motor Vehicles fee of $6, and compliance with all other applicable laws relating to motor vehicle registration. The $6 fee may be charged only when a company logo license plate actually is issued. If a company logo plate is issued to replace an existing license plate for the same vehicle, the general replacement license plate fee does not apply.

The Registrar must deposit the $6 BMV fee, the purpose of which is to compensate the BMV for the additional services required in issuing company logo license plates, in the existing State Bureau of Motor Vehicles Fund.

Vehicle registration late fee

(R.C. 4503.04, 4503.042, and 4503.07)

The act reduces the fee charged for late vehicle registration renewals from $20 to $10 and extends the grace period from seven days to 30 days. Under continuing law, the fee can be waived for good cause shown or for a vehicle that is only used on a seasonal basis and has not been used on public roads or highways since the expiration of the registration, if the application is accompanied by supporting evidence as the Registrar may require. A deputy registrar who collects the late fee retains 50¢ and the rest of the fee is credited to the State Highway Safety Fund.

Local Motor Vehicle License Tax Fund

(R.C. 126.06, 127.14, 4501.03, 4501.031, 4501.04, 4501.041, 4501.042, 4501.043, 4503.42, 4503.45, 4504.19, and 4504.21)

The act creates the Local Motor Vehicle License Tax Fund and requires all revenue received from local permissive motor vehicle registration taxes to be deposited into the Fund for subsequent distribution to local authorities. Prior law required this revenue to be deposited into the Auto Registration Distribution Fund. These local permissive taxes are levied by municipal corporations, counties, townships, and transportation improvement districts in increments of $5.

The act also clarifies that when special reserved and collector's vehicle license plates are issued, all applicable local permissive motor vehicle registration taxes are to be collected, not just two specific such taxes.

Redirection of certain driver's license revenue

(R.C. 4501.06, 4506.08, 4506.09, and 4507.23)

The act redirects certain driver's license revenue from the State Highway Safety Fund to the existing State Bureau of Motor Vehicles Fund. The revenue that is redirected is some or all of the revenue that is collected when the following are issued or given: a commercial driver's license (CDL) temporary instruction permit, a CDL, a restricted CDL, a renewal of a CDL, a CDL waiver for farm-related service industries, CDL skills tests, a driver's license temporary instruction permit, a driver's license, a duplicate or renewal of a driver's license, a motorcycle operator's endorsement, and a motorized bicycle license or duplicate of such a license.

All of the money in the State Bureau of Motor Vehicles Fund is used to pay the expenses of the Bureau of Motor Vehicles, while the vast majority (over 90%) of the money in the State Highway Safety Fund is used to pay the expenses of the State Highway Patrol.

Tests of new residents licensed in other jurisdictions

(R.C. 4507.05(D))

Under the act, a person who possesses a valid and current driver's license or motorcycle operator's license or endorsement issued by another jurisdiction recognized by Ohio is exempt from the regular examination for obtaining an Ohio driver's license or motorcycle operator's endorsement if:

(1) The person submits to and passes the usual vision screening;

(2) The person surrenders to the Registrar of Motor Vehicles or deputy registrar the person's driver's license issued by the other jurisdiction; and

(3) The person complies with all other applicable requirements for issuance of an Ohio driver's license, driver's license with a motorcycle operator's endorsement, or restricted license to operate a motorcycle.

If the person does not comply with all of the requirements specified above, the person must submit to the regular examination for obtaining a driver's license or motorcycle operator's endorsement in order to obtain such a license or endorsement. Prior law provided that such a person was exempt from obtaining a temporary

instruction permit but was required to submit to the regular examination in obtaining a driver's license or motorcycle operator's endorsement.

Deputy registrar hours and selection

(R.C. 4503.03)

The act eliminates the requirement that every deputy registrar's office in each county be open to the public until 6:30 p.m. on at least one night each week. In general, deputy registrar services are governed by a contract with the Registrar of Motor Vehicles. With the approval of the Director of Public Safety, the Registrar must adopt rules governing the terms of the deputy registrar contracts, but the Revised Code establishes certain required provisions, including requirements related to hours of operation. The act retains a requirement for at least one deputy registrar office in each county to be open for at least four hours each weekend.

As part of the selection process in awarding a deputy registrar contract, the Registrar of Motor Vehicles must consider the customer service performance record of any person previously awarded a deputy registrar contract.

Deputy registrar rental fees

(R.C. 4507.011)

The act requires the rental fees that are paid by deputy registrars who are assigned to driver's license examining stations be deposited by the Director of Public Safety into the State Bureau of Motor Vehicles Fund rather than the Registrar Rental Fund, as in prior law. The act then eliminates the Registrar Rental Fund. Under prior law, rental fees deposited into the Registrar Rental Fund could only be used by the Department of Public Safety to pay the rent and expenses of the driver's license examining stations.

Rental fees from deputy registrars who are assigned to Bureau of Motor Vehicles locations are paid to the Registrar and deposited into the State Bureau of Motor Vehicles Fund. Thus, under the act, all rental fees paid by deputy registrars are deposited into the State Bureau of Motor Vehicles Fund, rather than split amongst two separate funds.

Farm bus registration period

(R.C. 4503.04)

The act permits a farm bus to be registered for one 210-day period from the date of issuance of the license plates in any calendar year for a fee of $10. Prior law permitted

a farm bus to be registered for not more than two 90-day periods in any calendar year for a fee of $10 for each 90-day period.

Commercial bus safety inspection fee

(R.C. 4501.06 and 4513.53)

The State Highway Patrol conducts annual safety inspections of certain commercial buses (school and church buses generally are not inspected under this program) and is authorized to charge a fee of up to $200 for each bus inspected. By rule of the Department of Public Safety, the fee currently is set at $100 for each bus inspected. The act requires that these fees be paid directly into the State Highway Safety Fund.

Under prior law, the fees first were paid into the state treasury to the credit of the General Revenue Fund (GRF). Following an annual determination and certification by the Director of Public Safety of the amount of fees collected, the Director of Budget and Management then was authorized to transfer cash up to the amount certified from the GRF to the State Highway Safety Fund.

Clearing of motor vehicle accident scenes

(R.C. 4513.66)

The act permits a duly authorized subordinate acting on behalf of certain public officials to remove an unoccupied motor vehicle, its cargo, or any personal property from an accident scene located on a highway, street, or property ordinarily used for vehicular travel. The officials that may authorize a subordinate include a county sheriff; chief of police of a municipal corporation, township, or township or joint police district in which the accident occurred; a State Highway Patrol trooper; or the chief of the fire department having jurisdiction where the accident occurred.

The act also extends the existing immunity from liability that applies to public officials to duly authorized subordinates acting on behalf of those officials. That immunity from liability applies to any injury, death, or loss to person or property that results from the removal, including any loss involving a private tow truck or towing company authorized to perform the removal. Continuing law, which the act does not change, provides that the immunity does not apply if a removal causes or contributes to the release of a hazardous material or to structural damage to the roadway. Continuing law also specifies that a private tow truck operator or towing company is not immune if the operator or company performs the removal in a reckless or willful manner.

Superintendent and ranks of the State Highway Patrol

(R.C. 5503.01 and 5503.03)

The act provides that the Superintendent of the State Highway Patrol must hold the rank of colonel and requires the Superintendent to be appointed from within the eligible ranks of the Patrol. The act also provides that all ranks of the Patrol below the level of Superintendent are classified positions. The result is that the Superintendent is an unclassified position and all other ranks of the Patrol are classified positions. Prior law permitted the Superintendent to classify members of the Patrol.

Late payment penalty for copies of public documents

(R.C. 3705.242)

The act requires that a 10% penalty for failure to pay or forward fees charged for any of the following must be paid to the Department of Public Safety and forwarded to the Treasurer of State for deposit in the Family Violence Prevention Fund: (1) copies of birth records, (2) copies of certifications of birth, (3) copies of death records, (4) filings of divorce decrees, and (5) filings of dissolution decrees. Prior law required the penalty to be paid directly to the Treasurer for deposit in the Family Violence Prevention Fund.

In order to obtain any of the above documents or submit any of the above filings, continuing law requires a person to pay a fee to the Director of Health, a person authorized by the Director, a local commission of health, or a local registrar of vital statistics. As specified above, a penalty equal to 10% of the fees due is assessed if the underlying fees are not paid.

Classic motor vehicle auctions

(R.C. 4517.021)

In general, continuing law requires any person who engages in the business of selling new or used motor vehicles to be licensed as a motor vehicle dealer or salesperson. A person who engages in the business of motor vehicle auctioning must be licensed as a motor vehicle auction owner, and a motor vehicle auction owner must use a licensed auctioneer to conduct motor vehicle auctions. The Bureau of Motor Vehicles issues licenses to motor vehicle dealers, salespersons, and motor vehicle auction owners.

The motor vehicle dealer, salesperson, and auction owner licensing provisions do not apply to a person when auctioning classic motor vehicles (motor vehicles 26 years old or older) under certain conditions. One prior condition was that a person could hold

not more than two auctions of classic motor vehicles per year that lasted no more than two days in order to remain exempt from the motor vehicle dealer, salesperson, and auction owner licensing provisions. The act permits a person to hold four auctions without becoming subject to those licensing provisions.

Scrap metal dealers and bulk merchandise container dealers

(R.C. 2913.01, 2913.02, 2913.51, 4737.04, and 4737.99)

Theft or receipt of stolen property

Prior law located in Revised Code Chapter 4737. prohibited a person, with purpose to deprive the owner of a special purchase article or bulk merchandise container, from knowingly obtaining or exerting control over the special purchase article or bulk merchandise container in any of the following ways: (1) without the consent of the owner or person authorized to give consent, (2) beyond the scope of the express or implied consent of the owner or person authorized to give consent, (3) by deception, (4) by threat, or (5) by intimidation. A person who violated this prohibition was guilty of a felony of the fifth degree for the first offense and a felony of the third degree for any subsequent offense.

The existing offense of theft in the Criminal Code contains a parallel prohibition that applies to property in general. The offense of theft contains a complicated penalty structure with the particular penalties depending on the value of the property stolen and sometimes the status of the victim or whether a particular type of property was stolen. In general, the offense is a misdemeanor of the first degree. If the value of the property is $1,000 or more but less than $7,500, it is a felony of the fifth degree. If the value of the property is $7,500 or more but less than $150,000, it is a felony of the fourth degree. If the value of the property is $150,000 or more but less than $750,000, it is a felony of the third degree. If the value of the property is $750,000 or more but less than $1,500,000, it is a felony of the second degree. If the value of the property $1,500,000 or more, it is a felony of the first degree. A parallel structure, with different values, exists when the victim is an elderly or handicapped person.

The act relocates to the Criminal Code the prohibition and penalty for stealing special purchase articles or bulk merchandise containers. The penalty appears to be subject to the value enhancements in the existing theft law for stolen special purchase articles or bulk merchandise containers that are valued above $7,500, or $1,000 if the victim of the offense was an elderly or handicapped person.

The Secondhand Dealer Law also prohibits a person from receiving, purchasing, or selling a special purchase article or a bulk merchandise container except as in accordance with that Law. A person who violates this prohibition is guilty of a felony of

the fifth degree for the first offense and a felony of the third degree for any subsequent offense. The act retains this penalty and prohibition but adds to the Criminal Code offense of receiving stolen property penalties relating to receipt of a special purchase article or bulk merchandise container. Under the act, for property valued less than $7,500, the offense is a felony of the fifth degree. For property valued at $7,500 or more but less than $150,000, the offense is a felony of the fourth degree. For property valued at $150,000 or more, the penalty is a felony of the third degree.

Required records and the Ohio Public Records Law

Continuing law requires every scrap metal dealer to maintain a record book or electronic file, in which the dealer must keep an accurate and complete record of all articles purchased or received by the dealer in the course of the dealer's daily business. Under continuing law, until the registry developed by the Director of Public Safety is operational, a dealer must maintain the record for each article purchased or received for a minimum period of one year after the dealer receives the article. Once the Director's registry is operational, continuing law requires a dealer to maintain such records for a period of 60 days after the date the dealer purchased or received the article.

Under continuing law, a dealer must keep all required records open for inspection by a representative of any law enforcement agency, a railroad police officer, and the Director of Public Safety or the Director's designated representative during all business hours, as well as provide a copy of these records to such individuals upon request. Continuing law also requires a scrap metal dealer or bulk merchandise container dealer to prepare a daily electronic report of all retail transactions that occurred during the preceding day and electronically transfer these records for inclusion in the Director's registry following certain criteria. Under the act, any records submitted to any law enforcement agency, railroad police officer, or the Director or the Director's designated representative are not public records for the purposes of the Public Records Law. However, under the act, the names and addresses of scrap metal dealers and bulk merchandise container dealers must be made available to the public by the Director upon request.

List of known thieves or receivers of stolen property

Under continuing law, a scrap metal dealer or bulk merchandise container dealer is prohibited from purchasing or receiving articles from any person identified on the list of known thieves or receivers of stolen property, as provided by the local law enforcement agency. Also, under continuing law, the Director of Public Safety must make the electronic lists prepared by local law enforcement agencies available through an electronic searchable format for individual law enforcement agencies and for dealers.

The act adds that a dealer also is prohibited from purchasing or receiving articles from any person who appears on a list made available by the Director of Public Safety.

Additionally, the act creates a procedure by which an individual may apply to have the individual's name removed from the list of known thieves or receivers of stolen property. Under the act, an individual whose name appears on such a list is authorized to request that the individual's name be removed from the list by filing an application with the law enforcement agency responsible for preparing the list. A law enforcement agency, upon receiving the application, must remove the applicant's name from the list of known thieves and receivers of stolen property if both of the following apply:

(1) The individual has not been convicted of or pleaded guilty to a misdemeanor that is a theft offense within three years immediately prior to the date of the application;

(2) The individual has not been convicted of or pleaded guilty to a felony that is a theft offense within six years immediately prior to the date of the application.

Impoundment fees

Continuing law authorizes a person to recover a motor vehicle used in the theft or illegal transportation of metal from impoundment at the end of an impound term upon payment of fees. The act removes the requirement that 50% of these fees must be remitted to the Department of Public Safety to offset the costs of operating the Department's registry for scrap metal and bulk merchandise container dealers.

Definitions and category codes

The act amends the definition of "burnt wire." Prior law provided that a "burnt wire" was any metal that has been smelted, burned, or melted. Under the act, a "burnt wire" is any *coated* metal *wire* that has been smelted, burned, or melted, and adds the result of the action being the removal of the manufacturer's or owner's identifying marks.

The act adds "electronic scrap" to the list of category codes that identify the recyclable materials a scrap metal dealer receives. Under the act, "electronic scrap," includes any consumer or commercial electronic equipment such as computers, servers, routers, video displays, and similar products.

- Segregates commercial activity tax revenue attributable to selling motor vehicle fuel used on public highways from other commercial activity tax revenue based on taxpayers' reports, and credits such motor fuel-related revenue to a separate fund.

- Extends through the FY 2014-FY 2015 biennium the existing reductions in the motor fuel dealers' prompt payment and shrinkage allowances that applied during FY 2008-FY 2013 (1% and 0.5%, respectively).

Commercial activity tax revenue from motor fuel sales

(R.C. 5751.02, 5751.051, and 5751.20; Sections 757.20, 812.20.10, and 812.20.20)

The act segregates commercial activity tax (CAT) revenue attributable to sales of motor fuel used for propelling vehicles on public highways from other taxable gross receipts and requires the Tax Commissioner and Director of Budget and Management to credit the tax attributable to those receipts, minus administrative costs, to a separate fund. Accordingly, CAT revenue arising from such fuel sales will no longer be available for distribution to the General Revenue Fund (GRF) and to some local governments and school districts to partially reimburse them for the earlier legislated repeal of local tangible personal property taxes.

Under continuing law, the CAT is levied on the basis of each taxpayer's taxable gross receipts. On December 7, 2012, the Ohio Supreme Court held that spending motor fuel-related CAT revenue on nonhighway purposes violates the constitutional provision prohibiting money derived from excises relating to motor vehicle fuel from being spent on nonhighway purposes (Ohio Constitution, Article XII, Section 5a).[3] Under prior law, all revenue from the CAT was credited to the GRF and to two other funds to provide tangible personal property tax replacement payments to some local governments and school districts. The Court enjoined CAT motor fuel revenue from being spent for those purposes after December 7, 2012.

The act requires every CAT taxpayer, beginning July 1, 2013, to indicate on the taxpayer's return the portion of the taxpayer's receipts, if any, that are attributable to motor fuel used to propel vehicles on public highways. The Department of Taxation must publicize this requirement to taxpayers. If a taxpayer reporting taxable gross receipts attributable to the sale of motor fuel reports the CAT on a quarterly basis, the

[3] *Beaver Excavating Co. v. Testa*, 134 Ohio St.3d 565 (2012).

taxpayer may no longer estimate its taxable gross receipts for a calendar quarter and then reconcile its actual taxable gross receipts at the end of the year, as all quarterly taxpayers currently may do. Under this estimation procedure, if a taxpayer's estimated taxable gross receipts fall between 95% and 105% of its actual taxable gross receipts for each quarter, the taxpayer avoids the imposition of interest and penalties on any additional tax due. The act's change applies immediately.

Under continuing law, CAT revenue is initially deposited in the Commercial Activities Tax Receipts Fund. The act creates the Commercial Activity Tax Motor Fuel Receipts Fund to receive motor fuel-related CAT revenue. On or before February 20, May 20, August 20, and November 20 of each year, the Tax Commissioner, after deducting an amount from revenue in the Commercial Activities Tax Receipts Fund to cover the Department's administrative costs, must transfer from the amount remaining in the Commercial Activities Tax Receipts Fund a proportionate amount of the remainder of the revenue attributable to CAT motor fuel revenue to the Commercial Activity Tax Motor Fuel Receipts Fund. The first such transfer must occur by November 20, 2013. The act does not specify how money in the Commercial Activity Tax Motor Fuel Receipts Fund is to be spent.[4]

To address the disposition of motor fuel-related CAT taxes imposed since the Supreme Court's decision, the act requires the Department to determine the amount of such taxes that are remitted between December 7, 2012, the date of the Court's decision, and June 30, 2013. The Tax Commissioner must estimate and certify this amount to the Director of Budget and Management on or before June 25, 2013. The Director must transfer that amount from the GRF to the Commercial Activity Tax Motor Fuel Receipts Fund by June 30, 2013. Before November 20, 2013, the Commissioner must calculate a reconciled amount and certify the difference to the Director, who must transfer the reconciled amount from the GRF to the Commercial Activity Tax Motor Fuel Receipts Fund, or vice versa if the reconciled amount is less than the amount previously estimated.

Continuation of the motor fuel evaporation and shrinkage allowance

(Section 757.10)

Ohio law imposes a motor fuel excise tax of 28¢ per gallon on motor fuel dealers. The codified law governing the motor fuel excise tax provides that a motor fuel dealer filing a complete and timely monthly tax report with payment is entitled to deduct the tax due on 3% of the fuel gallonage the dealer received, minus 1% of the fuel gallonage

[4] H.B. 59 of the 130th General Assembly, the main operating budget, addresses this issue; see Section 757.20 of H.B. 59 of the 130th General Assembly.

sold to retail dealers.[5] This deduction is to cover the costs of filing the report and to account for evaporation, shrinkage, and other losses. The last three transportation appropriations acts reduced the 3.0% deduction for fiscal years 2008 through 2013 to 1.0% (minus 0.50% of gallonage sold to retail dealers). The act extends through the FY 2014-FY 2015 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.[6] The last three transportation appropriations acts reduced the refund percentage to 0.5% for fiscal years 2008 through 2013. The act extends through the FY 2014-FY 2015 biennium the uncodified 0.5% retail dealer shrinkage refund of the taxes paid on the fuel received by a retail dealer.

MISCELLANEOUS

Horse racing

- Permits the State Racing Commission, through December 31, 2013, to issue a temporary permit to conduct live horse-racing meetings at a location where other permits to conduct live horse-racing meetings have been issued.
- States that the permits must be issued to a permit holder for a period not to aggregate more than one year from the first date of issuance.
- Permits the Commission to adopt rules under the Administrative Procedure Act to establish the temporary permit procedures.
- During calendar year 2013, allows an otherwise eligible temporary permit holder to apply to the State Lottery Commission for a video lottery sales agent license at the location where the temporary permit holder was previously issued a permit to conduct live horse racing meetings and to electronically televise simulcasts of horse races at that location.

[5] R.C. 5735.06, not in the act.

[6] R.C. 5735.141, not in the act.

- Adjusts the payment schedule related to payments from the Casino Operator Settlement Fund to the municipality or township in which a horseracing track is located or will be located.

Service station bonding requirement repealed

- Repeals a provision of law that generally required a service station property owner or lessee to file an annual $3,000 bond with the municipal corporation or county in which the service station was located to pay the costs of repair and restoration if the service station was determined to be an abandoned service station.

- States that the repeal does not cancel or otherwise terminate a bond that is in effect on the repeal's effective date.

- Adjusts the persons that receive notice of the finding that a service station is abandoned.

- Removes the ability of the municipal corporation or county to bring an action on the bond to recover costs of repair or removal and restoration of an abandoned service station, but retains the ability for the municipal corporation or county to bring an action to recover those costs.

Control of state agency travel expenses

- Requires state agencies to control all their travel expenses, not just their nonessential travel expenses.

- Permits a state agency, as an additional method of travel expense control, to use a state-contracted rental vehicle provider for employee vehicle travel exceeding 100 miles.

Other provisions

- Requires the Director of the Ohio Public Works Commission to appoint from among the Commission's employees a deputy to act as Director when the Director is absent or temporarily unable to carry out the duties of office.

- Specifies that federal money received by the state for fiscal stabilization and recovery purposes is to be used in accordance with the Buy-U.S. and Buy-Ohio preferences established in state law, but only to the extent permitted by federal law.

- Regarding port authorities created on or before July 9, 1982, does the following:

--Authorizes such a port authority to loan money to a governmental agency for the acquisition, construction, furnishing, and equipping of real or personal property;

--Authorizes such a port authority to charge, alter, and collect rentals or other charges for the use of a port authority facility; and

--Authorizes any governmental agency to cooperate with such a port authority in the acquisition or construction of port authority facilities through required agreements between the governmental agency and the port authority.

- Makes certain technical corrections.

Horse racing

Temporary racing permits

(Section 737.10; R.C. 3769.04, not in the act)

Notwithstanding any provision of the Racing Law, and through December 31, 2013, the act permits the State Racing Commission to issue a temporary permit to conduct live horse-racing meetings at a location where other permits to conduct live horse-racing meetings have been issued. The permits must be issued to a permit holder for a period not to aggregate more than one year from the first date of issuance. The Commission can adopt rules under the Administrative Procedure Act to effectuate this provision and to establish the procedures and conditions to apply for a temporary permit.

Ongoing law that the act notwithstands generally sets out the procedure, required information, and fees for a person who desires to hold or conduct a horse-racing meeting, wherein the pari-mutuel system of wagering is allowed.

Additionally, the act allows a temporary permit holder during calendar year 2013 that is otherwise eligible to become a video lottery sales agent to apply to the State Lottery Commission for a video lottery sales agent license at the location where the temporary permit holder previously was issued a permit to conduct live horse racing meetings.

Finally, the act permits a temporary permit holder to electronically televise simulcasts of horse races at the location where the temporary permit holder was previously issued a permit to conduct live horse racing meetings.

Payments related to racetracks

(Sections 601.10, 601.11, and 812.30)

The act adjusts the payment schedule related to the location of a racetrack. To the extent that sufficient cash is available, within three months after the receipt of moneys into the Casino Operator Settlement Fund, the Director of Budget and Management must pay $1 million to the municipality or township in which each commercial racetrack is located, including a municipality or township to which a racetrack is to relocate as specified in the memorandum of understanding of February 17, 2012, between the Office of the Governor, State of Ohio, and Penn National Gaming, Inc., pertaining to racing permit transfers, but excluding the previous municipality or township of each moved track and excluding a municipality or township in a county with a population between 1,100,000 and 1,200,000 in the most recent federal decennial census (Franklin County). Additionally, within six months after these first payments are made, the Director of Budget and Management must pay an additional $1 million to each of these municipalities and townships.

If, after either of the payments referenced above, a municipality or township loses a racetrack as a result of the racetrack permit holder's decision to relocate to another municipality or township, the municipality or township losing the racetrack becomes eligible for a payment from the Racetrack Facility Community Economic Redevelopment Fund after all of the communities that have already lost a racetrack permit holder's racetrack at the time the first payments are made from the Casino Operator Settlement Fund have each been awarded up to $3 million for the initial loss of such racetracks. Such a municipality or township is not entitled to more than the sum of $3 million minus any payments made by the Director of Budget and Management under these provisions. The Director of Budget and Management may establish any necessary appropriation items in the appropriate funds and agencies in order to make any required payments.

These provisions are effective immediately (that is, on April 1, 2013, when the act became law).

Under prior law, the Director of Budget and Management was required to make the first payment described above, totaling $6 million, by December 31, 2012, and the second payment, totaling $6 million, by June 30, 2013.

Service station bond

(R.C. 3791.11 (repealed), 3791.12, 3791.13, and 3791.99; Section 803.10)

Repealed bond requirement

The act generally repeals a provision of law that prohibited a service station property owner and any lessee from operating the service station without annually filing a bond.

The bond was required to be in the amount of $3,000 for each service station to assure the repair or removal of the service station and its appurtenances and restoration of the property. The bond was filed with the municipal corporation or county where the station was located and was conditioned upon the repair or removal of the service station and restoration of the property if the service station was determined to be an abandoned service station. If the amount of the bond exceeded the costs of repair or removal and restoration, the excess was returned to the depositor. The bonding requirement did not apply to a person who leased and operated a service station under a contract with a supplier of gasoline and petroleum products.

The act specifies that the repeal of the bond requirement does not cancel or otherwise terminate a bond that is in effect on the repeal's effective date (July 1, 2013). Such a bond continues in effect and expires according to its terms. Upon expiration of the bond, the depositor is not required to renew the bond, and any amount posted must be returned to the depositor.

The act also removes the criminal penalty attached to the failure to file a bond.

Definitions

The act recodifies the definitions of "service station" and "abandoned service station" that were in the repealed law, and therefore continues the terms' use in other provisions of ongoing law.

Notice

Due to the repeal of the bond requirements, the act makes some general conforming changes. Under the act, the municipal corporation or county, as applicable, must send written notice of the place and date of a hearing that is scheduled to determine if a service station is an abandoned service station, together with a copy of an inspector's report, and information that the service station may be ordered repaired or removed if it is determined to be abandoned, to all persons listed on the records of the county recorder as an owner of the affected property. Under prior law, the notice was sent to all persons listed on the bond. Continuing law requires notice to be sent to all

persons listed in the records of the county recorder or county clerk of courts as holding a lien on the affected property.

Action to recover costs

When a municipal corporation or county enters and repairs or removes an abandoned service station and its appurtenances and restores the property as provided in ongoing law, the act permits that entity to bring an action to recover the costs of repair or removal and restoration, plus the costs of the suit. The owner of the property and any lessee, other than a person leasing and operating the service station under a contract with a supplier of gasoline and other petroleum products, are jointly and severally liable for the costs.

Under prior law, when a municipal corporation or county remediated an abandoned service station, it could bring an action on the bond to recover the costs, plus the costs of the suit. If the costs exceeded the amount collected on the bond, the owner of the property and any lessee, were jointly and severally liable for the deficiency.

Control of state agency travel expenses

(R.C. 126.503)

The act requires a state agency to control all its travel expenses. Under prior law, a state agency was required to control only its nonessential travel expenses.

Under continuing law, state agencies are expected to achieve control of their travel expenses by employing methods outlined in the law. As an additional method of travel expense control, the act permits, but does not require, a state agency to use a state-contracted rental vehicle provider for employee vehicle travel exceeding 100 miles. By contrast, the other methods of controlling travel expenses, as outlined in continuing law, are required for state agencies. These required methods are (1) complying with any travel directives issued by the Director of Budget and Management, (2) using, when possible, the online travel authorization and expense reimbursement process, (3) conducting meetings, whenever possible and in compliance with the Open Meetings Law, by using conference calls, teleconferences, webinars, or other technological tools, (4) using fleet vehicles for official state travel whenever possible, and (5) following restrictions set by the Department of Administrative Services regarding mileage reimbursement.

Deputy for Ohio Public Works Commission

(R.C. 164.05)

The act requires the Director of the Ohio Public Works Commission to appoint from among the Commission's employees a deputy with the necessary qualifications to act as Director when the Director is absent or temporarily unable to carry out the duties of office. Under continuing law, the Director is authorized to retain the services of or employ financial consultants, engineers, accountants, attorneys, and other employees as the Director determines are necessary to carry out the Director's duties, and to fix the compensation for their services.

Federal stabilization and recovery money subject to Buy-US and Buy-Ohio preferences

(Section 701.20)

The act specifies that federal money received by the state for fiscal stabilization and recovery purposes is to be used in accordance with the preferences established in Ohio law for products and services made or performed in the U.S. and Ohio, but only to the extent that complying with the preferences is permitted by federal law.[7] The Director of Administrative Services adopts rules under the Administrative Procedure Act prescribing criteria and procedures for giving preferences to products produced or mined in the U.S. and in Ohio. Contrary to what seems to be assumed by the act, services are not mentioned in the statutory preferences that authorize the rule-making, but services do seem to be mentioned in the rules.[8]

Port authorities

(R.C. 4582.06 and 4582.171)

R.C. Chapter 4582. governs port authorities. R.C. 4582.01 to 4582.20 apply exclusively to port authorities in existence on July 9, 1982 (referred to as pre-1982 port authorities). R.C. 4582.21 to 4582.59 apply exclusively to port authorities created after July 9, 1982, and to any port authority in existence on that date if all subdivisions that created the port authority elect to operate under those sections (referred to as post-1982 port authorities). Many provisions in R.C. 4582.01 to 4582.20 that apply to pre-1982 port

[7] The American Recovery and Reinvestment Act of 2009 (ARRA) also has fiscal stabilization and recovery purposes and is defined in Section 801.20 of the act. Section 701.20, however, refers more generally to "federal law," and not just to the ARRA.

[8] R.C. 125.09(C) and 125.11(B), not in the act.

authorities are identical or substantially similar to provisions in R.C. 4582.21 to 4582.59 that apply to post-1982 port authorities; however, there are some differences.

The act makes several changes to the provisions of law applicable to pre-1982 port authorities and, by doing so, makes that law consistent with the law governing post-1982 port authorities. In general, the act authorizes a pre-1982 port authority to do both of the following:

(1) Loan money to a governmental agency for the acquisition, construction, furnishing, and equipping of real or personal property; and

(2) Charge, alter, and collect rentals or other charges for the use of a port authority facility.

Further, the act authorizes any governmental agency to cooperate with a pre-1982 port authority in the acquisition or construction of port authority facilities through required agreements between the governmental agency and the port authority.

Technical corrections

(R.C. 4505.11 and 5503.04)

The act makes a technical change to the law regarding salvage title for abandoned vehicles.

The act corrects an outdated reference to the Trauma and Emergency Medical Services Grants Fund, which previously was renamed the Trauma and Emergency Medical Services Fund.

HISTORY*

ACTION	DATE
Introduced	02-12-13
Reported, H. Finance & Appropriations	02-27-13
Passed House (58-36)	02-28-13
Reported, S. Transportation	03-13-13
Passed Senate (27-6)	03-13-13

* The biennial transportation appropriations act, as enacted by Am. Sub. H.B. 51, was originally introduced as H.B. 35 on February 5, 2013. It was reported by the House Finance and Appropriations Committee as Sub. H.B. 35 on February 27, 2013, and passed the House on February 28, 2013 (62-32). The Senate Transportation Committee did not report Sub. H.B. 35 but amended H.B. 51 to make appropriations and provide authorization for specified programs generally related to transportation and public safety.

ACTION	DATE
House refused to concur in Senate amendments (1-88)	03-13-13
Senate requested conference committee	03-13-13
House acceded to request for conference committee	03-13-13
Senate agreed to conference committee report (27-6)	03-20-13
House agreed to conference committee report (63-28)	03-21-13

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